

## SOIL CONSERVATION AND RIVERS CONTROL AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill amends the Soil Conservation and Rivers Control Act 1941.

The amendments contained in *clauses 2 to 4* are being made to meet difficulties in connection with the procedure for the preparation by Catchment Boards of classification lists for rating purposes. These difficulties have been brought to light by two recent decisions by Magistrates on appeals against classification lists.

*Clause 2* amplifies and re-enacts the provisions which are now contained in subsections (1) to (3) of section 102 of the principal Act, and which relate to the general classification of lands for the purpose of Catchment Board rates. The opening part of the new subsection (1) does not appear in the present legislation. It provides that, for the purpose of financing the construction and maintenance of all works for which the Board of the district is responsible, and for the purposes of the principal Act other than the making of an administrative rate, all lands in the district that are liable to be rated under the principal Act for the purposes for which the rate is to be levied shall be so classified as to provide a basis of rating that is equitable as between ratepayers and as between groups of ratepayers. The only change made by the new subsection (2) is that it requires the benefit from works for the maintenance of which the Board is responsible to be taken into account in classifying the land. Subsections (2A) and (2B) contain new provisions. Subsection (2A) defines how direct and indirect benefit to land is to be assessed. Subsection (2B) directs that, where works already exist for the benefit of some or all of the same lands, the Board shall in the classification apply the method and extent of compensation or adjustment approved by the Minister and the Council under section 128 of the principal Act as amended by *clause 4* of this Bill. The new subsection (3) repeats the existing subsection (3) with only consequential verbal amendments. *Clause 2 (2)* saves all things done under the existing legislation which could have been done under the new legislation.

*Clause 3*: Section 103 of the principal Act, as set out in section 16 of the Soil Conservation and Rivers Control Amendment Act 1952, provides that, on the hearing of any appeal against a classification of land for rating purposes, the Magistrate may confirm the classification list or cause the classification list or any detail therein to be amended. *Clause 3* amends the provision so as to require that the Magistrate shall either confirm or amend the list to give effect to his decision upon any appeal. The purpose of the amendment is to make it clear that the power of the Magistrate is restricted to confirming or amending the list, and does not include the power of rejecting the list wholly. In the recent cases it was held that the powers of the Magistrate are not so restricted under the present provision.

*Clause 4* amplifies and re-enacts the provisions contained in section 128 (4) of the principal Act. The existing provision which directs that, before the Catchment Board proceeds to execute any works for the purpose of carrying out its scheme or any part thereof, it shall submit plans and details of the works to the Minister and the Council for their approval is extended by providing that, where works already exist for the benefit of some or all of the same lands, the Board shall set forth and describe in the plans and details the method by and extent to which it is proposed that compensation or adjustment in connection with the classification of lands for rating purposes shall be made in respect of those works. The existing prohibition against executing the works otherwise than in accordance with the plans approved by the Minister and the Council is extended—

- (a) By providing that, in a case where works already exist for the benefit of some or all of the same lands, the prohibition shall extend to the making of the classification:
- (b) By giving the Minister and the Council power jointly to impose conditions connected with their approvals which must be complied with by the Catchment Board.

*Clause 5*: On 5 November 1953 the Local Government Commission approved a final scheme under the Local Government Commission Act 1953 providing for the constitution under the principal Act of the Marlborough Catchment District comprising the whole of the County of Awatere, the whole of the Borough of Blenheim, and parts of the counties of Marlborough, Waimea, Kaikoura, and Amuri. *Clause 5* refers the scheme back to the Commission for further consideration, and authorizes the Commission to hold a further public inquiry in relation to the scheme, to receive any relevant evidence submitted, and make such recommendations in relation to the scheme or any part thereof as it thinks fit.

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*Hon. Mr Goosman*

## SOIL CONSERVATION AND RIVERS CONTROL AMENDMENT

### ANALYSIS

Title.	4. Schemes of works to be prepared by Boards and approved by Minister and Council.
1. Short Title.	5. Local Government Commission to review final scheme for constitution of Marlborough Catchment District.
2. General classification of land.	
3. Appeal in respect of classification list.	

### A BILL INTITULED

AN ACT to amend the Soil Conservation and Rivers Control Act 1941. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Soil Conservation and Rivers Control Amendment Act 1954, and shall be read together with and deemed part of the Soil Conservation and Rivers Control Act 1941 (hereinafter referred to as the principal Act). Short Title. 1941, No. 12

2. (1) Section one hundred and two of the principal Act is hereby amended by repealing subsections one to three, and substituting the following subsections: General classification of land.

“(1) Subject to the provisions of section one hundred and one of this Act, for the purpose of financing the construction and maintenance of all works for which the Board of the district is responsible, and for the purposes of this Act other than the making of an administrative rate, all lands in the district that are liable to be rated

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under this Act for the purposes for which the rate is to be levied shall be so classified as to provide a basis of rating that is equitable as between ratepayers and as between groups of ratepayers. The Board may from time to time appoint one or more fit persons who shall, 5 subject to any directions which the Board may give from time to time, so classify all such lands.

“(2) Subject to the provisions of subsection *one* of this section, all such lands shall be classified according to the degree of direct and indirect benefit received or 10 likely to be received from works carried out or to be carried out by the Board or for the maintenance of which the Board is responsible; and there shall be not less than two nor more than six classes named A, B, C, D, E, and F respectively, and where, in the opinion of the 15 Board, any land cannot reasonably be classed as receiving or being likely to receive any benefit direct or indirect from the works, that land shall be placed in another class named Class G:

“Provided that where in the opinion of the Board, 20 because of the relationship between the costs of any benefit and the valuation of the land which benefits, or for other good reason, urban land may not equitably be placed in the same class as rural land, the land which benefits may be placed in a higher or a lower class. 25

“(2A) For the purposes of this Act,—

“(a) In respect of works for the protection of land from flood or erosion or for the conservation of soil or water, the degree of direct benefit shall be assessed by reference to the frequency, 30 depth, severity, and likelihood of flooding and erosion, and to the likelihood, frequency, and extent of damage to land and improvements thereto, and to the improvement of drainage, each factor being assessed in relation to the 35 actual and potential uses of the land, and by reference to the advantages accruing from and the responsibility for any soil and water conservation works included in the scheme; 40 and indirect benefit shall be assessed by reference to the establishment or preservation of economic units of land, the protection or

establishment of water, sewerage, drainage, electrical, gas, and other services, and of works, services, and amenities to which rates from the lands may be applied, and of communications, and of any other property, service, or amenity within or benefiting the lands being classified; and

“(b) In respect of other works, direct and indirect benefit shall be assessed by such other standards as may from time to time be specified by regulations made under this Act and in the absence of regulations as the Board shall determine.

“(2B) Where works already exist for the benefit of some or all of the same lands, the Board shall in the classification apply the method and extent of compensation or adjustment approved by the Minister and Council under section one hundred and twenty-eight of this Act, and these shall not be subject to appeal or to amendment on or in connection with any appeal.

“(3) The classification shall also name the proportions in which the rates shall be imposed on the several classes; but lands classified as Class G lands shall not be liable to bear any proportion of the rates.”

(2) Where any classification has been prepared or partly prepared under any provision of the principal Act that is repealed by this section, the classification may be completed under the provisions of the principal Act as modified by this Act, and anything done under any provision so repealed which could have been done under the provisions of the principal Act as modified by this Act shall have effect as if it had been done under the last mentioned provisions.

3. Section one hundred and three of the principal Act, as set out in section sixteen of the Soil Conservation and Rivers Control Amendment Act 1952, is hereby amended by repealing subsection six, and substituting the following subsection:

Appeal in  
respect of  
classification  
list.  
1952, No. 38

“(6) On the hearing of any such appeal the Magistrate shall either confirm the classification list or amend the classification list or any detail therein in such manner as he thinks reasonable to give effect to his decision upon any appeal, and shall sign the list as so amended and every amendment made by him.”

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Schemes of works to be prepared by Boards and approved by Minister and Council.

4. Section one hundred and twenty-eight of the principal Act is hereby amended by repealing subsection four, and substituting the following subsection:

“(4) Before the Board proceeds to execute any works for the purpose of carrying out its scheme or any part thereof, it shall submit plans and details of the works to the Minister and the Council for their approval, and shall, where works already exist for the benefit of some or all of the same lands, set forth and describe in the plans and details the method by and extent to which it is proposed that compensation or adjustment in connection with the classification of lands for rating purposes shall be made in respect of those works. The Minister and the Council may withhold their approval until such alterations as they may require are made in the plans and details; and it shall not be lawful for the Board to execute the works or (in a case where works already exist for the benefit of some or all of the same lands) to make the classification, save in accordance with the plans and details approved by the Minister and the Council, and with such conditions as may be prescribed under this section jointly by the Minister and the Council.

Local Government Commission to review final scheme for constitution of Marlborough Catchment District. 1953, No. 110

5. (1) Notwithstanding anything in the Local Government Commission Act 1953, the reorganization scheme that was finally approved by the Local Government Commission on the fifth day of November, nineteen hundred and fifty-three, providing for the constitution of a Marlborough Catchment District under the principal Act is hereby referred back to the Commission for further consideration.

(2) The Local Government Commission, in further considering the scheme, may hold a further public inquiry and may hear such further evidence submitted as the Commission considers relevant, and the Commission may recommend that the scheme be proceeded with in whole or in part or be not proceeded with or may decide to consider whether some alternative proposal should be investigated or may make such other recommendation in relation to the scheme or any part thereof as in the circumstances it thinks fit.