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Hutt Valley Drainage Act 1967

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Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
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Schedule

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An Act to consolidate and amend the Hutt Valley Drainage Act 1948 and its amendments**1 Short Title**

This Act may be cited as the Hutt Valley Drainage Act 1967.

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

Board means the Hutt Valley Drainage Board constituted under this Act

condensing water means any water used in any trade, industrial or commercial process, or operation, in such a manner that it cannot take matter into solution or suspension

constituent authority means the local authority of any local district the whole or any part of which is for the time being comprised within the district of the Board

contributing authority means a constituent authority which is for the time being liable to pay any contribution in accordance with section 58

domestic sewage means liquid wastes, including matters in suspension and in solution therein, discharged from premises used solely for residential purposes, or liquid wastes of the same character discharged from other premises; but does not include any solids, liquids, or gases which may not be lawfully discharged into public sewers, nor any trade wastes or noxious matters

drainage district or **district** means the Hutt Valley Drainage District constituted under this Act

Engineer or **Engineer to the Board** means the Chief Engineer for the time being of the Board, and includes any person for the time being appointed by the Board to perform the duties of the Chief Engineer, howsoever designated

local authority means the Council of a city, borough, or county

local district means the district of a city, borough, or county

main sewer means a sewer conveying, or designed or intended to convey, sewage from the whole or any part of a sewerage reticulation system to any other main sewer or main drain or to any outfall sewer or to treatment works or to any other point of disposal; and includes all sewers and drains carrying discharge from a pumping station and also includes all manholes, valves, fittings, measuring chambers, pumping stations, storage tanks, and other erections and structures appurtenant to or forming part of any main sewer or main drain; but does not include any pumping station or sewer which the Board, after consult-

ation with the constituent authorities, determines shall not be a main sewer or part of a main sewer

main sewerage works means all main sewers, main drains, manholes, measuring chambers, pumping stations, storage tanks, outfall sewers, treatment works, and all other similar works and other structures appurtenant thereto, used or intended to be used for or in the process of or in connection with the disposal of sewage, together with any storm-water overflow chamber used or intended to be used for relief of the system in wet weather

measuring chamber means any manhole or chamber together with any measuring or metering device used or intended to be used for the determination of rates or volumes of flow

noxious matters means, in relation to a sewerage system, any solid, liquid, or gaseous matter, or any combination or mixture of such matters, which by themselves or in combination with any other matters in the system may, either immediately or in the course of time, interfere with the free flow of the contents of the system, or damage any part of the system, or become prejudicial to health, or affect prejudicially the safety of any person; and means, in relation to a watercourse or tidal waters, any solid, liquid, or gaseous matter, or any combination or mixture of such matters which may become prejudicial to health, or affect prejudicially the safety of any person, or, by odour, colour, or appearance, be offensive or objectionable, or be toxic to fish or animals, or affect the growth of plant life or vegetation

pretreatment works means any works, structures, equipment, or machinery used or intended to be used for a variation of the quality of trade wastes, or for the removal of noxious matters from any liquid prior to the discharge of such trade wastes or liquid into any sewerage system

public sewer means a sewer forming part of a sewerage system controlled by the Board or by any constituent authority

quality, in relation to sewage and trade wastes, means the nature, composition, constitution, character, or attributes thereof or of any ingredient thereof

sampling chamber means any manhole or chamber provided to facilitate the taking of samples of liquids or gases

Secretary means the Secretary for the time being of the Board, and includes any person for the time being appointed by the Board to perform the duties of the Secretary, howsoever designated

sewage means all domestic sewage, and all water-borne wastes from commercial or industrial undertakings; but does not include surface or subsoil water led into a sewerage reticulation system

sewer means any pipeline or culvert, above or below ground level, used or intended to be used to convey sewage

trade premises means any premises from which any trade wastes, condensing water, or noxious matters are being or may be discharged

trade wastes means any liquid, with or without matters in suspension or in solution therein, which is being or may be discharged in the course of any trade, business or industry or any commercial process or operation; but does not include condensing water or surface water which is discharged directly into a surface-water drain

trade wastes drain means any pipeline, channel, culvert, or ditch conveying or intended to convey trade wastes, with or without condensing water, to any public sewer or to any storm-water drain or through an outfall sewer to any watercourse, tidal waters, or other place of disposal

treasurer means the treasurer for the time being of the Board, and includes any person for the time being appointed by the Board to perform the duties of the treasurer, howsoever designated

watercourse includes all rivers, streams, and passages through which water flows; but does not include closed drains and sewers.

- (2) For the purpose of this Act, the terms **occupier owner** and **property** shall have the meanings respectively assigned to them by section 2 of the Municipal Corporations Act 1954, and the terms **rateable property** and **rateable value** shall have the meanings respectively assigned to them by section 2 of the Rating Act 1925.
- (3) Where, for the purposes of this Act, it is necessary to ascertain or calculate the rateable value or the population of any area, such value or population, as the case may be, shall be ascertained or calculated as at 1 April in the preceding calendar year.

Section 2(1) **main sewer**: amended, on 1 March 1979, by section 2 of the Hutt Valley Drainage Amendment Act 1978 (1978 No 10 (L)).

Drainage district

3 Hutt Valley Drainage District

- (1) For the purposes of this Act there shall continue to be a district, to be known as the Hutt Valley Drainage District.
- (2) The district shall comprise the cities of Lower Hutt and Upper Hutt, the boroughs of Petone and Eastbourne, and those parts of the County of Hutt as are more particularly described in the Schedule.

4 Alteration of boundaries

- (1) The Governor-General may from time to time, by Order in Council, on the petition of the Board, alter the boundaries of the district so as to include therein or exclude therefrom any area that in his opinion should be included in or excluded from the district, as the case may be.

- (2) The Board shall publish notice of any such petition at least once in a daily newspaper circulating in the district. Every such notice shall state the purpose of the petition, describe the area to which the petition relates, and specify a date (being a date not earlier than 1 calendar month after the date on which such notice is first published) before which all objections shall be lodged with the Minister of Internal Affairs, and a copy thereof with the Board. Notice of such petition shall also be given by the Board to the local authority or local authorities any part of whose area is affected by the petition.
- (3) If any objection to the proposed alteration is lodged as aforesaid, the Governor-General may appoint any person or persons to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, to inquire into and report upon the said proposals.
- (4) The Governor-General, in making such alteration of boundaries, may make such alteration in the number of members of the Board as will maintain equitable representation on the Board of all areas then included within the district.
- (5) Notwithstanding anything in this section, section 15 of the Local Government Commission Act 1961 shall apply in respect of any petition under this section.

Drainage board

5 Hutt Valley Drainage Board

- (1) There shall continue to be, for the district, a drainage board, to be known as the Hutt Valley Drainage Board, which shall be the same board as that constituted under the Hutt Valley Drainage Act 1948 and existing under the same name at the passing of this Act.
- (2) The Board shall be a body corporate with perpetual succession and a common seal, and may purchase or otherwise acquire, take on lease, hold, dispose of, and alienate real and personal property, and sue and be sued, and do and suffer all such acts and things as bodies corporate may lawfully do and suffer.
- (3) The Board shall not dispose of any land without first offering it to the local authority in whose area it is situated upon the same terms and conditions as would be applicable to any other person.
- (4) The Board is hereby declared to be a local authority within the meaning of the Public Works Act 1981, the Local Authorities Loans Act 1956, and the Waters Pollution Act 1953, and, subject to the express provisions of this Act, the provisions of those Acts shall extend and apply to the Board.

Section 5(4): amended, on 1 February 1982, pursuant to section 248(1) of the Public Works Act 1981 (1981 No 35).

6 Members of Board

- (1) The Board shall consist of—
 - (a) 6 persons to be appointed by the Lower Hutt City Council:

- (b) 3 persons to be appointed by the Upper Hutt City Council:
 - (c) 2 persons to be appointed by the Petone Borough Council:
 - (d) 1 person to be appointed by the Eastbourne Borough Council:
 - (e) 1 person to be appointed by the Hutt County Council as a representative of those parts of the County of Hutt which are within the drainage district.
- (2) No person shall be appointed to the Board unless he is a member of the constituent authority which intends to appoint him.
- (3) A constituent authority may, by resolution, appoint any qualified person to be the deputy of any of its representatives to attend meetings of the Board or of committees of the Board, and to exercise and perform the powers and functions of that representative. Any such appointment may in a like manner be revoked at any time.
- (4) In addition to the power contained in subsection (3), if, by reason of sickness or other unavoidable cause, any member is unable to attend a meeting of the Board, the Mayor or chairman, as the case may be, of the constituent authority which that member represents may, by writing under his hand, appoint a qualified person to attend that meeting as the deputy of such representative and there to exercise and perform the powers and functions of that representative.

Section 6(1): replaced, on 9 October 1971, by section 2(1) of the Hutt Valley Drainage Amendment Act 1971 (1971 No 4 (L)).

Section 6(1)(a): amended, on 14 September 1973, by clause 2(a) of the Hutt Valley Drainage Board Notice 1973 (SR 1973/220).

Section 6(1)(b): amended, on 14 September 1973, by clause 2(b) of the Hutt Valley Drainage Board Notice 1973 (SR 1973/220).

Section 6(1)(e): amended, on 14 September 1973, by clause 2(c) of the Hutt Valley Drainage Board Notice 1973 (SR 1973/220).

Section 6(1)(e): amended, on 14 September 1973, by clause 2(d) of the Hutt Valley Drainage Board Notice 1973 (SR 1973/220).

7 Appointment of members

After each triennial general election of members of constituent authorities and on a day not later than 31 January next following that election, each constituent authority shall hold a meeting which shall proceed to appoint its representatives on the Board.

Section 7: replaced, on 20 August 1971, by section 3 of the Hutt Valley Drainage Amendment Act 1971 (1971 No 4 (L)).

7A Review or representation

- (1) The Board may from time to time review the representation on the Board of the constituent authorities and, if it thinks fit, request the Minister of Internal Affairs to change the representation of the constituent authorities or of any of them.

- (2) The Minister shall refer every such request to the Local Government Commission to be dealt with in accordance with section 24 of the Local Government Commission Act 1967.
- (3) If that Commission recommends under subsection (3) of that section that the request be agreed to the Minister may, by notice published in the *Gazette*, give effect to the request by making such amendments to subsection (1) of section 6 of this Act as may be necessary.
- (4) If by any such notice increased representation is given to any constituent authority the Minister may, by the notice, fix a time within which the additional representative or representatives are to be appointed.
- (5) If by any such notice representation is taken away from any constituent authority the representative or representatives of that constituent authority shall retire from office on the day appointed in that behalf by the notice.
- (6) If by any such notice a reduction is made in the number of representatives to which any constituent authority is entitled, a sufficient number of those representatives shall retire on the day appointed in that behalf by the notice so that the representation of that constituent authority may conform to the notice. The representative or representatives so to retire from office shall, in default of agreement among all representatives of the constituent authority, be determined by the constituent authority.
- (7) Every notice under this section shall take effect on the date of its publication in the *Gazette* or on such other date as may be specified therein.

Section 7A: inserted, on 20 August 1971, by section 3 of the Hutt Valley Drainage Amendment Act 1971 (1971 No 4 (L)).

8 Term of office of members

- (1) Every member of the Board shall come into office on the day following that on which he is appointed.
- (2) Subject to any notice under section 7A, every member of the Board shall, unless he sooner vacates office under section 10, continue in office until his successor comes into office.

Section 8: replaced, on 20 August 1971, by section 3 of the Hutt Valley Drainage Amendment Act 1971 (1971 No 4 (L)).

9 Insurance of Board members

- (1) The Board may from time to time enter into contracts of insurance insuring members of the Board against loss from personal accident arising out of and in the course of the exercise and performance of their powers and duties as members of the Board, and may pay the premiums payable in respect of those contracts.
- (2) The Board may pay the net proceeds received by it under any such contract of insurance to the member affected or to his personal representatives, as the case may be.

10 Vacancies

- (1) The office of a member of the Board shall become vacant if he—
 - (a) resigns his office by writing under his hand delivered to the Secretary or chairman of the Board, or dies, or is ousted of his office; or
 - (b) is absent without leave from 4 consecutive ordinary meetings of the Board; or
 - (c) ceases to have the qualification by virtue of which he was appointed by the local authority:
provided that he shall not thereby go out of office until his successor has been duly appointed.
- (2) Every person who does any act as a member of the Board after his office has become vacant under this section, commits an offence and is liable on conviction to a fine not exceeding \$100.
- (3) Any vacancy occurring under this section shall be deemed an extraordinary vacancy.

Section 10(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

11 Filling of extraordinary vacancies

In the event of an extraordinary vacancy occurring the appropriate constituent authority shall forthwith appoint a member to fill the vacancy.

12 Ouster of office

- (1) Upon proof in the first instance, by affidavit or otherwise, that any member of the Board is or has become incapable under this Act of holding his office, any office of the District Court in the district may grant a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of the same.
- (2) If on the return of such summons it appears to the court, on affidavit or oral evidence on oath, that such person is incapable under this Act of holding the said office, the court may adjudge such person to be ousted of the same, and such person shall be ousted of office accordingly.
- (3) In any such proceeding the District Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases, and the procedure of such court shall, so far as applicable, apply generally to proceedings had under this section.
- (4) No matter in respect of a disputed appointment shall be heard by the District Court under this section.
- (5) No question which may be tried under this section shall be tried in the High Court; and no proceedings in the District Court under this section shall be removable into the High Court, by certiorari or otherwise.

Section 12(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 12(3): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 12(4): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 12(5): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 12(5): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

13 Chairman of Board

- (1) At its first meeting in each calendar year the Board shall elect one of its members to be the chairman of the Board.
- (2) At every meeting for the election of chairman the Secretary shall preside while the chairman is being elected; or if there shall be no Secretary, then some person appointed by the Board, not being a member of the Board shall so preside, and in the case of an equality of votes shall determine the election by lot in such manner as the Board determines.
- (3) The chairman shall come into office on his election and shall hold office until the election of his successor.
- (4) The chairman may resign his office by writing under his hand delivered to the Secretary, and in such case, or in the case of his ceasing from any cause to be a member of the Board, his office shall become vacant, and the Secretary shall forthwith convene a meeting of the Board for the election of a new chairman.
- (5) The Board may from time to time appoint one of its members to be a deputy chairman either for a specified period or until the next annual meeting of the Board at which a chairman is to be elected.

14 Chairman's allowance

[Repealed]

Section 14: repealed, on 30 March 1985, by section 39(3) of the Local Government Amendment Act 1985 (1985 No 60).

15 Committees

- (1) The Board may from time to time appoint standing or special committees consisting of 2 or more persons, and may relegate to any such committee any matters for consideration, inquiry, management, or regulation; and may delegate to any such committee any of the powers and duties conferred or imposed upon the Board by this Act, except the power to borrow money, to make a rate, to make a bylaw, to institute an action, or to make assessments upon contributing authorities.
- (2) The Board may appoint a member of any committee to be the permanent chairman thereof, and such power may be exercised by the committee where the

Board, on the appointment of the committee, does not appoint a chairman. Any committee may from time to time appoint a deputy chairman to act in the absence of the chairman.

- (3) Any person may be appointed to a committee under this section notwithstanding that he is not a member of the Board.
- (4) The Board may at any time, and from time to time, discharge, alter, continue, or reconstitute any committee or discharge any member of a committee, and, if it thinks fit, appoint another member in his stead.
- (5) Every committee shall, unless sooner discharged by the Board, be deemed to be discharged on the coming into office of the members appointed at the first general appointment of the whole Board after the appointment of the committee.
- (6) Every committee to which any powers or duties are delegated as aforesaid may, without confirmation by the Board, exercise or perform them in like manner and with the same effect as the Board could itself have exercised or performed them.
- (7) Every such committee shall be subject in all things to the control of the Board, and shall carry out all directions, general or special, of the Board given in relation to such committee or its affairs.
- (8) The Board may fix the quorum of any committee appointed by it, and in default of its doing so the committee may fix the quorum.
- (9) Subsections (5), (6), (8), and (9) of section 16 (relating to meetings of the Board) shall, with the necessary modifications, apply to every meeting of a committee.

16 Meetings of Board

- (1) Meetings of the Board shall be held at such times and places as the Board may from time to time appoint.
- (2) The chairman or the Secretary shall give at least 2 clear days' notice in writing to each of the members of the time and place from time to time appointed for holding meetings, and the members shall attend those meetings without further notice of each meeting.
- (3) A special meeting of the Board shall be a meeting called pursuant to a resolution of the Board, or to a requisition in writing delivered to the Secretary and signed by the chairman or by not less than 3 members of the Board, specifying the time and place at which the meeting is to be held and the business to be transacted at the meeting:

provided that no special meeting shall be held unless at least 2 clear days' notice in writing thereof and of the business to be transacted at the meeting has been given to every member of the Board.
- (4) At any meeting of the Board 6 members shall form a quorum.

- (5) A meeting shall be duly constituted if a quorum is present, whether or not any member present is entitled to vote or exercises his votes.
- (6) No business shall be transacted at any meeting of the Board unless at least a quorum of members is present for the whole of the time during which the business is transacted.
- (7) The chairman shall preside at every meeting of the Board at which he is present. If at any meeting of the Board the chairman is not present, the deputy chairman shall preside; and if the deputy chairman also is not present or there is no deputy chairman, the members present shall appoint one of their number to preside at that meeting. The deputy chairman or person so appointed shall have and may exercise and perform in any such case all the powers and functions of the chairman for the purposes of the meeting.
- (8) At any meeting of the Board the person presiding shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.
- (9) Every act of the Board and every question before any meeting of the Board shall be done and determined by a majority of the votes of the members present and voting thereon.

17 Proceedings not invalid by irregularities, etc

No act or proceeding of the Board or of any committee or of any person acting as a member of the Board shall be invalidated in consequence of there being a vacancy in the number of the Board at the time of such act or proceeding, or of the subsequent discovery that there was some defect in the election or appointment of any person so acting, or that he was incapable of being such a member.

18 Allowances to members

- (1) The Board is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951 and there may be paid to members of the Board and of any committee of the Board travelling allowances in accordance with that Act which shall apply accordingly.
- (2) Where any maximum annual allowance or remuneration is determined under section 214B or section 214C of the Local Government Act 1974 in respect of the chairman, chairmen of standing or special committees, or members of the Board, there may, subject to the conditions of that determination and sections 214K and 214L of that Act, be paid to each of those persons such annual allowance or remuneration, not exceeding that maximum allowance or remuneration, as the Board determines.
- (3) Where any actual annual allowance or remuneration is determined under section 214B or section 214C of the Local Government Act 1974 in respect of the chairman, chairmen of standing or special committees, or members of the Board, there shall, subject to the conditions of that determination and sections 214K and 214L of that Act, be paid to each of those persons the annual allowance or remuneration so determined.

Section 18(2): replaced, on 30 March 1985, by section 39(2) of the Local Government Amendment Act 1985 (1985 No 60).

Section 18(2): amended (with effect on 30 March 1985), on 14 August 1986, by section 15(1) of the Local Government Amendment Act (No 3) 1986 (1986 No 50).

Section 18(3): replaced, on 30 March 1985, by section 39(2) of the Local Government Amendment Act 1985 (1985 No 60).

Section 18(3): amended (with effect on 30 March 1985), on 14 August 1986, by section 15(1) of the Local Government Amendment Act (No 3) 1986 (1986 No 50).

19 Rules as to proceedings of Board or committees, etc

The Board may from time to time, by resolution, make, alter, and rescind rules, not inconsistent with this Act, for all or any of the following purposes:

- (a) regulating the proceedings of the Board and any committee, and the conduct of meetings thereof respectively:
- (b) regulating the adjournment and postponement of meetings of the Board, and the manner in which resolutions may be amended, revoked, or altered:
- (c) prescribing the form and the mode and time of service of notices of meetings:
- (d) regulating debates:
- (e) providing for the calling of special meetings and the notice to be given to members:
- (f) providing for the notice to be given to members of extraordinary business to be transacted at any ordinary meeting:
- (g) directing minutes to be kept of all proceedings of the Board, and prescribing the mode of confirmation, inspection, and custody of them:
- (h) providing for the custody of documents and the custody and use of the common seal, and prescribing the mode and form of attestation of documents:

provided that no resolution made or passed under this paragraph shall affect any person acting in good faith and taking, or to take, any estate, interest, or advantage under any document having, or about to have, the common seal affixed thereto:
- (i) prescribing the powers and duties of its officers and employees:
- (j) prescribing the forms of, and in connection with, any proceedings of the Board:
- (k) concerning anything incidental to any of the matters referred to in this section.

20 Offices

- (1) The Board may from time to time provide and maintain public offices, within or without the district, with furniture for the same, for holding its meetings and

transacting its business, and for the use of its officers and employees and for any other purposes, and may purchase or take on lease land, or buildings, or parts of buildings, for such purposes, or may cause buildings to be erected on any land belonging to the Board, or may add to, alter, or improve any such building.

- (2) The Board may also from time to time enter into such arrangements as it thinks fit with any constituent authority for the use, on such terms and conditions as may be agreed upon, of portion of the offices of that constituent authority for any of the purposes referred to in subsection (1).

21 Officers and employees

- (1) The Board may from time to time, by resolution, appoint an Engineer, a Secretary, a treasurer, and such other officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary for the efficient exercise and performance of its powers and functions under this Act.
- (2) Officers and employees of the Board may be paid, out of the funds of the Board, such salaries and allowances (including allowances and travelling expenses in respect of their attendance at any meeting or conference approved by the Board), as the Board from time to time determines.
- (3) Instead of the appointment of a full-time Engineer, Secretary, or treasurer, or such other officers and employees of the Board, the Board may enter into an arrangement with any constituent authority for the appointment of officers of that constituent authority to be officers of the Board.
- (4) Any person may hold 2 or more of such offices.
- (5) *[Repealed]*
- (6) Every person appointed to receive any money payable to the Board shall give to the Board sufficient approved security for the faithful execution of his office and the due accounting for all money received by him on behalf of the Board:

provided that, in place of or in addition to taking such security from any officer, the Board may provide against any losses that may arise in the event of his dishonesty by taking out a guarantee policy and paying the premiums thereon.

Section 21(5): repealed, on 1 January 2004, by section 76 of the Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17).

22 Acting officers

During the absence from duty of any officer of the Board by reason of illness, leave of absence, or other cause the duties and powers of such officer may be performed and exercised by an acting officer appointed by the Board, and any such appointment may be either general or for some occasion only.

23 Power to acquire land and erect dwellings for employees

- (1) The Board may from time to time—

- (a) acquire land and erect dwellings thereon for occupation by persons in the employment of the Board:
 - (b) erect, on any land vested in the Board, not being land held in trust for any special purpose, dwellings for occupation by persons in the employment of the Board:
 - (c) purchase, either within the drainage district or adjacent thereto, land with dwellings thereon, for occupation by persons in the employment of the Board:
 - (d) purchase dwellings for removal to any land vested in the Board so that they may be made available for occupation by persons in the employment of the Board:
 - (e) convert any building for the purpose of residential occupation by any person in the employment of the Board:
 - (f) alter, enlarge, repair, and improve any dwelling erected or acquired by the Board from time to time pursuant to the provisions of this section:
 - (g) advance money to any person in the employment of the Board, upon such security and conditions as the Board thinks fit, to enable him to erect a dwelling on any land of which he is the owner or to acquire land with a suitable dwelling already erected thereon, and provide for the repayment of any such advance with interest by instalments.
- (2) The Board may dispose of any dwelling and the land appurtenant thereto to any person in the employment of the Board by way of sale or lease, or upon any tenancy.
 - (3) If any dwelling acquired or erected or converted by the Board for the purposes of this section is no longer required for such purposes, the Board may sell, let, exchange, or otherwise dispose of it in such manner and on such terms as the Board thinks fit.
 - (4) The purposes specified in subsection (1) shall be deemed to be purposes for which the Board may borrow money under section 70.

Sewage disposal

24 General duty of Board

Subject to the provisions of this Act and to the powers hereby created, it shall be the general duty of the Board to provide for the disposal of sewage from the district and for the adequate and efficient maintenance of all main sewerage works from time to time vested in the Board.

25 Control and construction of main sewerage works

- (1) The Board shall have and shall be deemed to have always had the sole control of the management, operation, and maintenance of all main sewerage works within the drainage district.

- (2) The Board shall also have and shall be deemed to have always had the sole right to construct main sewerage works within the drainage district.
- (3) Notwithstanding anything in subsection (1), the Board may by resolution permit any constituent authority or any person to exercise control of the management, operation, and maintenance of a main sewerage work, but subject to such terms and conditions as the Board may by resolution impose.
- (4) Notwithstanding anything in subsection (2), the Board may by resolution issue a permit to any constituent authority or person to construct any main sewerage work in accordance with plans and specifications prepared or approved by the Board and at the expense of the constituent authority or person concerned, and the Board may in like manner and at the like expense manage, operate, and maintain any such main sewerage work, or may permit the constituent authority or person concerned to manage, operate, and maintain the same, but subject to such terms and conditions as the Board may by resolution impose.
- (5) The Board may at any time by resolution cancel any permit issued to any constituent authority or person under the provisions of subsection (3) or subsection (4) to control or to construct any main sewerage work.
- (6) If the Board shall, pursuant to the provisions of subsection (3) or subsection (4), permit any constituent authority or person to control or to construct any main sewerage work, the Board shall during the continuance of the permit indemnify and keep indemnified the constituent authority or person concerned in respect of all actions, suits, claims, and demands whatsoever that may be issued against the constituent authority or person concerned in its capacity as owner of the main sewerage work affected.
- (7) The Board shall, if so required by resolution of the contributing authority concerned, acquire all or any of the main sewerage works owned by the contributing authority which may for the time being be under the control of the Board pursuant to subsection (1); and in any such case the contributing authority shall transfer to the Board the property in and the title to the main sewerage works to which the resolution of the contributing authority relates. If no agreement is reached as to the consideration for any transfer pursuant to this subsection, the consideration shall be determined by arbitration under section 83.
- (8) Notwithstanding anything to the contrary in this section, the Board may at any time acquire from any contributing authority, and any contributing authority may transfer to the Board, the property in and the title to any main sewerage work owned by the contributing authority. If no agreement is reached as to the consideration for any transfer pursuant to this subsection, the consideration shall be determined by arbitration under section 83.
- (9) If the Board assumes liability for, or indemnifies a contributing authority against, payment of the balance of money for the time being owing under the security of any loan raised for the construction of the main sewerage works affected, in full or partial satisfaction of the price agreed upon or fixed by arbi-

tration, as the case may be, that action shall not constitute or be deemed to constitute borrowing for the purposes of Part 1 of the Local Authorities Loans Act 1956.

- (10) Any question which may arise between the Board and any contributing authority as to whether any existing sewer is or is not a main sewer or a main drain or as to whether any other drainage works are or are not main sewerage works shall be determined by arbitration under section 83.
- (11) Nothing in this section shall apply to the Borough of Eastbourne until the Board has, at the request of the Eastbourne Borough Council, resolved to provide for the disposal of sewage from that borough.

26 Construction of main sewers, etc

The Board may construct, maintain, and operate, within or without the district, all such main sewerage works and other works and things as may in the opinion of the Board be advisable for the efficient drainage of the district.

27 Restrictions on discharge of sewage into Wellington Harbour

- (1) It shall not be lawful for the Board, without the consent in writing of the Wellington Harbour Board, and then only in such manner and on such conditions as are approved by the harbour board, to discharge, or permit to be discharged, any sewage, refuse, sludge, effluent, or other matter in or on to any place within the limits of Wellington Harbour or under the jurisdiction of the Wellington Harbour Board, or in or on to any place where it might be carried, by the wind or tide or otherwise, within the limits of the harbour or in or on to any place under the jurisdiction of the harbour board. Any consent granted by the harbour board under this subsection may, subject to the provisions of subsection (2), be withdrawn by the harbour board at any time:

provided that nothing contained in this subsection shall nullify or affect any consent heretofore granted by the Wellington Harbour Board in respect of the discharge of any sewage, refuse, sludge, effluent, or other matter into Wellington Harbour.

- (2) If the Board and the Wellington Harbour Board are unable to agree as to the method of disposal of any sewage, refuse, sludge, effluent or other matter, or as to any other question in respect of drainage in which the powers and duties of the Board and the harbour board conflict, the difference shall be determined by arbitration under the Arbitration Act 1996, and this subsection shall be deemed to be a submission within the meaning of that Act.

Section 27(2): amended, on 1 July 1997, pursuant to section 20 of the Arbitration Act 1996 (1996 No 99).

28 Protection of sewer and works

- (1) If any person proposes to erect any building or to carry out any works over, under, or within such distance of any sewer or other structure owned by or

under the control of the Board, that such sewer or structure may be injuriously affected, that person shall notify the Board in writing of his intentions and shall carry out or shall permit the Board to carry out (at the expense in either case of that person) such works for the protection of the Board's sewer or other structure as the Board may deem necessary for the purpose; and in the event of any damage being caused to any sewer or structure of the Board as a result of or consequent upon any failure by any such person to inform the Board of his proposals or to carry out all necessary protective works, the cost of repair or reinstatement of the works of the Board so damaged, and all other costs and expenses whatsoever incurred by the Board in connection therewith, shall be a debt due by that person to the Board recoverable on demand.

- (2) The remedies conferred by subsection (1) shall be without prejudice to and shall not derogate from nor limit the powers, rights, or other remedies of the Board.
- (3) Every local authority within the drainage district, before granting a building permit to any person who proposes to erect any building or carry out any works over, under, or within 50 feet (or 33 feet if no blasting is to be done and no special circumstances or unusual conditions exist) of the line of any sewer forming part of the main sewerage works of the Board, or within a similar distance of any other structure under the control of the Board, shall require that person to produce for its inspection the consent in writing of the Board to such erection or works; and any permit so granted shall be subject to compliance with any conditions for safeguarding such sewer or other structure which the Board may prescribe, and to payment of all costs and expenses which the Board may incur in any way incidental thereto.
- (4) Failure to comply with any such condition or requirement shall be an offence under section 81, and, though the condition may be embodied in a permit issued by the local authority, action thereon may be taken by the Board, and the local authority shall be under no obligation to see that any such condition is complied with.
- (5) The Board shall supply each local authority affected with a plan or plans showing the location of the sewers or structures referred to in subsection (1).
- (6) The term **sewer**, where used in this section, shall be deemed to include any sewer which the Board proposes to construct as portion of its main sewerage system and the location of which is shown on any map or plan relating to any operative or proposed district scheme under the Town and Country Planning Act 1953.

29 Diversions, etc, of sewers

- (1) If any person proposes to erect any building or to carry out any works in such a location and at such levels that the diversion, alteration, or replacement of any of the sewers or other structures of the Board appears to be essential to the construction of any such building or works, that person shall notify the Board of

his proposals, and if the Board is satisfied that it is practicable for its sewer or structure to be diverted, altered, or replaced without material interference with the services for which it is responsible and that it is reasonable that this be done, it may enter into an agreement with that person as to the manner and condition under which the sewer or structure shall be diverted, altered, or replaced.

- (2) The cost of so diverting, altering, or replacing the sewer or other structure of the Board, and all other costs which the Board may incur in any way incidental thereto, shall be paid to the Board by that person.

30 General powers of Board

- (1) The Board may, from time to time, in addition to its powers under the Public Works Act 1981, by itself, its surveyors, engineers, agents, officers, and employees, exercise all or any of the following powers, and may execute, do, or cause to be executed or done any of the following acts, matters, or things:

- (a) break up the soil of any roads, streets, ways, or footpaths, excavate and sink trenches, and make and construct tunnels and subways for the purpose of laying down, making, constructing, altering, cleansing, maintaining, or repairing main sewers or main drains:

provided that before interfering with any such road, street, way, or footpath the Board, except in cases of emergency, of which the Board shall be the sole judge, shall give 1 week's notice in writing to the local authority having control thereof and shall in any case with all convenient speed reinstate and make good any road, street, way, or footpath that may be broken up or, at the option of the local authority, pay to it the cost of such reinstatement and making good, and shall indemnify such local authority in respect of any action, suit, claim, or demand arising directly or indirectly out of the work of the Board under this section:

provided also that the Board shall not interfere with any State highway within the meaning of the Government Roding Powers Act 1989, without the prior consent of the Agency, which may be granted subject to such conditions, whether as to reinstatement or payment of any cost of reinstatement or otherwise, as the Agency thinks fit:

- (b) without any previous payment, tender, or deposit—
- (i) enter upon and use any land, other than land occupied as a garden or ornamental shrubbery, for the purpose of taking any earth, stone, clay, or similar material therefrom:

provided that, in the case of any land having the status of a public domain or public reserve within the meaning of section 2 of the Reserves and Domains Act 1953, this power shall not be exercised without the consent of the authority controlling the public domain or public reserve, as the case may be, which consent shall not be unreasonably or arbitrarily withheld:

provided also that, in respect of land which does not have the status of a public domain or public reserve, this power shall not be exercised unless the occupier of the land which it is intended be entered upon has been given at least 24 hours' notice of the intention to do so:

- (ii) enter upon and use any land adjacent to the site of any sewer or drain authorised to be constructed under this Act, or while it is in course of construction, or when it is actually constructed, for the purpose of making temporary roads or approaches to any works, or temporarily storing any materials for any works, or for the purpose of altering, renewing, repairing, maintaining, or cleansing any sewer, drain, or other works under the control of the Board; and
 - (iii) enter upon any land or premises within or upon which it is proposed that any works shall be executed under this Act, or any land and premises adjacent thereto, and make an inspection, survey, and examination thereof, and for that purpose to bore in that land:
- (c) make or construct main sewers, or any part of them, upon or under any land or buildings, subject to the following conditions:
- (i) a plan and description of such main sewers showing how they affect any such land or buildings, shall be deposited for public inspection at the office of the Board and at the office of the constituent authority in whose local district the work is to be carried out:
 - (ii) the Board shall give notice in writing to the local authority concerned and to the occupier, and also to the registered owner for the time being of the land or buildings of the intention to construct the main sewers and shall refer in the notice to the plan and description, and state where they are on view. In the case of unoccupied land or buildings, where the address of the registered owner is not known, the notice may be served by being affixed in a conspicuous place on the land or to the building:
 - (iii) if within 1 month after the notice is given the registered owner or occupier serves on the Board a written objection to the proposed work, the Board shall appoint a day for hearing the objection, and shall give notice of the hearing to the objector; and
 - (iv) the Board shall hold a meeting on the day so appointed, and may, after hearing any person making the objection, if present, determine to abandon the work proposed, or to proceed with the work with or without such alterations or modifications as the Board thinks fit:

- (d) erect and use any building, structure, machinery, manhole, and other entrance, light and lamp hole, ventilating grid, and other works and things of every description in connection with drainage and sanitation in, upon, or under any public or private street or public place within or without the district:
 - (e) carry any ventilating shaft, pipe, or tube up or upon any external wall of any building, whether private or public, and affix them thereto, provided that the mouth of every such shaft, pipe, or tube shall be at least 6 feet higher than any windows situated within a distance of 30 feet therefrom, and, where attached to a house, shall be higher than the eaves or parapet thereof:
 - (f) during the construction of its works use any private drain or watercourse within or without the district to carry water from the works:
 - (g) treat and deal with, in such manner as the Board thinks fit, all sewage, refuse, and other matter, whether for the purpose of deodorising, disinfecting, or destroying the same, or of converting the same into an organic fertiliser or other marketable product and selling or otherwise dealing in the same, and shall not be liable, except in compensation under section 31, for any nuisance or injury necessarily created or caused in so doing; and in particular, and without restricting the Board's general powers, it shall have power to treat sewage, refuse, and other matter by any treatment process, septic tanks, or electricity, and, unless prohibited by the Governor-General by Order in Council from so doing, may ship sewage sludge, and discharge it into the sea except within the limits of Wellington Harbour or in any place where it might be carried, by wind or tide or otherwise, within the limits of Wellington Harbour:
 - (h) acquire and operate ships, boats, barges, and other equipment for the purpose of removing, handling, or disposing of sewage sludge, refuse, or similar matter.
- (2) The Board shall have power to acquire by licence permission to use any land for the purposes for which land may be acquired; and any land acquired by it may be let or leased by the Board by public auction, or public tender, or private contract, as it deems proper, for such term or terms, at such rent or rents, and on and subject to such terms and conditions in every respect, as the Board thinks fit.
- (3) The Board shall have power to take or otherwise acquire such easements over any land as it thinks fit in connection with any of its works; and shall also have and be deemed always to have had power to grant to any person such easements as it thinks fit over any land owned by the Board on such terms and conditions as it thinks proper.

Section 30(1): amended, on 1 February 1982, pursuant to section 248(1) of the Public Works Act 1981 (1981 No 35).

Section 30(1)(a) second proviso: amended, on 1 August 2008, pursuant to section 47(1)(c) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30(1)(a) second proviso: amended, on 1 August 2008, pursuant to section 116(3)(a) of the Government Rounding Powers Act 1989 (1989 No 75).

Section 30(1)(c)(ii): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 30(1)(c)(iii): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

31 Compensation for land taken or damaged

Every person having any estate or interest in any land which has been taken, or over which an easement has been taken, under the authority of this Act for any works, or injuriously affected thereby, or suffering any damage from the exercise of any of the Board's powers under this Act, shall be entitled to full compensation for the same from the Board. Such compensation may be claimed and shall be determined in the manner provided by the Public Works Act 1981.

Section 31: amended, on 1 February 1982, pursuant to section 248(1) of the Public Works Act 1981 (1981 No 35).

32 Powers of contributing authorities to connect sewers

For the purpose of carrying off any sewage from any part of its district, every contributing authority may from time to time connect sewers at such points and in such manner as the Engineer to the Board may specify, so as to discharge, either directly or indirectly, into such main sewers as the Board may have constructed or taken over for the service of the district concerned:

provided that before connecting any such sewer the contributing authority shall submit to the Board complete plans and specifications thereof; and the Engineer to the Board shall be satisfied that the sewer or sewers referred to in the plans and specifications are fit and proper to be so connected and to form part of the general drainage system of the Board and that the sewage to be discharged through the same into the main sewer will be of such volume as to be within the capacity of such main sewer having regard to the volume of other sewage which may reasonably be discharged into that main sewer.

33 Works to be efficiently done

In making any connection pursuant to section 32 the contributing authority shall cause it to be done in a skilled, efficient, and workmanlike manner, and shall ensure that the efficiency and construction of the main sewers are in no way impaired or endangered; and that in every case the connection is made in such manner as the Engineer to the Board directs.

34 Connection of sewer in different districts

The Board may permit any local authority outside the district to connect any sewer within the area of that local authority with any sewer vested in or controlled by the Board on such terms as may be agreed upon between the Board and that local authority.

35 Reticulation work

- (1) The Board may, with the consent and at the cost of any local authority, undertake and carry out the drainage reticulation of the whole or any portion of the district of that local authority within the drainage district, or with the like consent and cost undertake and carry out inspections, repairs, maintenance, alterations, or improvements to any existing drainage-reticulation works in the whole or any portion of the local district.
- (2) The Board may undertake and carry out, maintain, and operate drainage works, whether in relation to storm water or sewage, for the benefit of any areas within or adjacent to the district, and may enter into and enforce agreements with local authorities and other persons for the payment of the whole or any portion of the costs of the construction, maintenance, or operation of any such works.

36 Watercourses

Subject to section 27, the Board may utilise any natural watercourse within the district for the discharge of storm-water overflows from its main sewers, but so that the discharge from any such watercourse into any harbour or any other place under the control of the Wellington Harbour Board, or into any river under the control of the Hutt River Board, shall not be or become a nuisance.

37 Surface-water drains

The Board may enter into and carry out contracts with any constituent authority for the construction of drains for the removal of surface water or for the alteration or improvement of such drains or of any natural watercourse or channel within the district of the constituent authority which the constituent authority is empowered to construct.

*Trade wastes***38 Discharge of trade wastes into sewers**

Except as otherwise provided in section 40, no trade wastes shall be discharged from any premises within the drainage district into any watercourse or tidal waters except through a main sewer.

39 Information to be supplied to Board

Every person in occupation of trade premises within the drainage district shall submit to the Board such details as the Board may require regarding the vol-

ume and quality of trade wastes, noxious matters, and condensing water (or liquid which the person concerned may consider to be condensing water) which are being or may be discharged from the premises, so as to enable the Board to carry out its obligations under this Act; and he shall also submit to the Board such information as it may specify as to the means and location of disposal of such liquids. All such details and information as the Board may require shall be supplied within 1 month after receipt of notice from the Board. Any person who may hereafter propose to operate any trade premises within the drainage district shall in a like manner submit such information as the Board may specify before he commences any process or operation which will or may result in the discharge of trade wastes, noxious matters, or condensing water.

40 Exemption from requirement to discharge trade wastes through main sewer

- (1) Any occupier of trade premises may at any time apply to the Board for exemption from the provisions of section 38 in respect of the whole or any part of the trade wastes discharged or to be discharged from the said trade premises; and the Board may, subject to the provisions of this section, grant or refuse the application, and, if it grants the application, may impose such conditions as it thinks fit.
- (2) Every applicant shall submit with his application for exemption such information as the Board may consider relevant; and shall further supply on the request of the Board or of any officer of the Board duly authorised in that behalf, any additional information which may be necessary to enable the Board to give full consideration to the application.
- (3) An application for exemption shall be granted by the Board if there is no public sewer of sufficient capacity so located that it would be reasonable for the Board to require discharge to that public sewer of trade wastes discharged or to be discharged from the trade premises concerned and if, in the opinion of the Board, trade wastes in respect of which the application for exemption is made are of such quality, or, prior to discharge from the trade premises concerned, are being or will be purified or treated at the expense of the occupier to such a degree or in such a manner, that their discharge to a watercourse or to tidal waters will not prejudicially affect such watercourse or tidal waters.
- (4) Any exemption from the provisions of section 38 which may be granted by the Board under the authority of this section may be withdrawn by the service of reasonable notice (being not less than 3 months) on the occupier of the trade premises concerned if it appears to the Board at any time that the grounds upon, or the circumstances under, which any such application was granted no longer exist or may have ceased to exist on the expiry of the period specified in the notice or that the occupier has committed or permitted or suffered a breach of any of the conditions imposed by the Board in the grant of exemption.

- (5) Any exemption granted by the Board under this section may at any time, by notice, be withdrawn by the Board if the Minister of Health for any reason directs such withdrawal.
- (6) As from the date of the expiry of any notice of withdrawal given under subsection (4) or subsection (5), the occupier of the trade premises concerned shall, in respect of those premises, comply with the provisions of section 38 and with all other provisions of this Act relating to the pretreatment and disposal of trade wastes and noxious matters.
- (7) In all cases in which the Board may have granted an exemption under the provisions of subsection (1), and in all cases in which it may have withdrawn its consent, the Board shall give notice of the action which it has taken to the constituent authority concerned and, where appropriate, to the Wellington Harbour Board.
- (8) The right of any person at common law arising from any nuisance or pollution, and the provisions of any Act relating to nuisance or pollution, shall not be prejudiced or affected by reason only of any exemption granted by the Board under the provisions of subsection (1), or by reason of any approval or consent given by the Board, with or without conditions, pursuant to this section.

41 Trade wastes drains

- (1) After the passing of this Act, no trade wastes drain shall be connected to a public sewer or main sewerage work within the drainage district, nor shall any trade wastes drain connected to a public sewer or main sewerage work within the drainage district be altered or extended, without the prior consent of the Board; and in granting any such consent the Board may impose such conditions as it deems necessary.
- (2) The cost of construction or alteration or extension of any trade wastes drain as aforesaid, and the cost of connecting the drain to a public sewer or to a main sewerage work, shall be borne by the occupier of the trade premises concerned: provided that no occupier shall be liable for the cost of the construction of any trade wastes drain for more than a reasonable distance from a public sewer to the nearest boundary of the land on which the trade premises concerned are situated.
- (3) Should any dispute arise as to any such liability it shall be referred to arbitration in accordance with section 83.

42 Treatment of trade wastes

- (1) Every occupier of trade premises from which trade wastes are discharged either directly or indirectly into any public sewer shall, prior to discharge pretreat the

trade wastes, at his own expense, to such degree as the Board from time to time may require:

provided that the Board shall not require pretreatment of trade wastes to any extent greater than is necessary to ensure that on discharge into any such sewer the trade wastes are of such quality that the capital, operational, and maintenance costs of further treatment to whatever degree may be necessary to meet the reasonable requirements of the Board will be no greater than the costs of treatment to a like degree of the same volume of domestic sewage.

- (2) If it appears to the Board that any trade wastes are of such quality that they are not likely to damage or obstruct any public sewer or any of the Board's main sewerage works or to render unduly difficult the treatment of domestic sewage with which they may become intermingled, the Board shall, on application for the purpose by the occupier of the trade premises concerned, grant permission to him to discharge those trade wastes into such sewers under the control of the Board as shall be specified by the Board, subject to compliance by that occupier with the provisions of this Act, and to payment by him of such charges, and compliance by him with such requirements, as may be set forth in the bylaws for the time being of the Board, and to compliance by him with such additional requirements (if any) as the Board may reasonably decide to impose, having regard to any special circumstances or unusual factors involved.
- (3) The Board may enter into agreements with occupiers of trade premises whereby the Board may undertake, at the cost of the occupier concerned, to design, construct, operate, or maintain works for the pretreatment of any such trade wastes as aforesaid.
- (4) If the Board in exercise of its power under subsection (1) requires any occupier of trade premises to pretreat trade wastes, and if the Board pursuant to the provisions of subsection (3) enters into an agreement with any occupier of trade premises to design, construct, operate, or maintain works for the pretreatment of trade wastes, then any net profits which may result from the operations of the Board in connection with such pretreatment (after taking into account the cost of design, construction, operation, and maintenance of the works and all incidental expenses) shall not be treated as part of the general funds of the Board so that the benefit thereof may accrue to the contributing authorities, but shall be so dealt with that, after repayment of all capital, operational, maintenance, and other charges whatsoever, including an equitable contribution to general administrative charges of the Board, any balance of net profits available can be allocated by the Board to the occupiers of trade premises concerned in the creation of the profits, in such manner as the Board may from time to time, by resolution, decide; and the Board shall so allocate any such balance of net profits.

43 Treatment and disposal of noxious matters

- (1) No person shall discharge any noxious matters from any part of the district into any sewer or into any watercourse or into tidal waters or in or on to any place within the limits of the Wellington Harbour or under the jurisdiction of the Wellington Harbour Board or in or on to any place where they might be carried, by the wind or tide or otherwise, within the limits of the harbour or in or on to any place under the jurisdiction of the harbour board, or within 3 miles of any foreshore within or contiguous to the drainage district or to any point of disposal on land.
- (2) The treatment, prior to disposal, of all noxious matters discharged within or from the drainage district shall be the responsibility of and shall be carried out at the cost of the person responsible for the discharge of such noxious matters as aforesaid:

provided that the Board may enter into agreements with persons responsible for the discharge of noxious matters whereby the Board may undertake, at the cost of the persons concerned, to design, construct, operate, and maintain pretreatment works for the conversion of the said matters into non-noxious matters, and for the subsequent acceptance of the products of that treatment process into a public sewer or main sewerage work.

44 Treatment of petroleum, etc

Every person in control of any premises within the drainage district from which petroleum products or any explosive or inflammable matters may be discharged into any public sewer or into a watercourse or into tidal waters shall install, and operate effectively, an intercepting chamber of such form as the Board may specify or approve. Compliance with the requirements of a licence for the time being in force under the Explosives Act 1957 or the Dangerous Goods Act 1957 shall be deemed to be compliance with the provisions of this section.

45 Appeals against Board's decisions concerning trade wastes

- (1) Any person affected by any decision of the Board pursuant to section 40 or section 42, or by any direction or order of the Board given or made pursuant to any bylaw made under section 48, may, within a period of 21 days after being given notice thereof, appeal against the decision, direction, or order to a Judge of the High Court at Wellington, and the procedure prescribed by section 61 shall, with the necessary modifications, apply in respect of any such appeal.
- (2) On any appeal under this section the court may determine all questions of fact in issue, and in arriving at its decision shall not be bound or limited by any opinion, belief, resolution, or decision which the Board may have reached or taken on the matter.

- (3) On any such appeal the court shall have the like jurisdiction, rights, and powers as are vested in the court in the case of an appeal from the decision of a District Court Judge under the District Court Act 2016.
- (4) On any such appeal if the applicant and the Board so agree or a Judge on the application of either party so orders, each of the parties shall appoint a technical assessor to sit with the Judge for the purpose of hearing and adjudicating on the appeal; and, where assessors are so appointed, the decision of the Judge and at least 1 assessor shall be the decision of the court.

Section 45(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 45(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 45(3): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

46 Inspection and sampling

- (1) Any authorised officer or agent of the Board may from time to time enter upon any premises believed to be trade premises, at any time when such premises are in operation, for the purpose of determining whether trade wastes or noxious matters or condensing water are being discharged from the premises, and may inspect the processes and operations being carried out thereon, and any plant or equipment used therewith, and may take measurements and samples of any solid, liquid, or gaseous matter or any combination or mixture of such matters being discharged therefrom, and may require the supply of information relating to those processes, the quantities and kinds of chemicals used in any period, the amount of liquids, gases or other matter being discharged from the premises, and the quantity and quality of matter in suspension or in solution in such liquids:

provided that where any such officer or agent proposes to take any sample as aforesaid he shall, immediately before so doing, inform the occupier or some responsible servant or agent of the occupier of his intention to do so.

- (2) Any information so supplied, and the results of the analysis of any samples so taken, shall be treated as confidential by the Board, unless it is necessary for the Board, for the purposes of this Act, to submit the information or results to any government department or to the Wellington Harbour Board or to a local authority, or to use them as evidence in any proceedings.
- (3) No legal proceedings shall be instituted, and no charges for pretreatment of trade wastes shall be assessed if they are based upon any sample taken by any authorised officer or agent of the Board, unless at the time of taking the sample he shall have delivered a portion thereof to the occupier of the trade premises affected or his agent and after analysis of the portion retained shall have supplied the occupier with details of the result of the analysis.

*Bylaws***47 General bylaws**

- (1) The Board may from time to time make bylaws for all or any of the following purposes:
 - (a) to regulate the management and use of inlet appliances giving access, directly or indirectly, to the main sewers and main drains of the Board, including grids, and to regulate or prohibit the use of any such inlet appliances in any manner likely to cause damage, injury, or blockage to any of the main sewers or main drains or other works of the Board:
 - (b) regulating sanitary plumbing and drainage throughout the whole of the district, except in respect of outfall or treatment works in the area of a local authority which is not for the time being a contributing authority in respect of that area:
 - (c) protecting from damage, injury, or misappropriation any property belonging to the Board or controlled by it and situated within or without the district:
 - (d) regulating and controlling methods of connecting sewerage reticulation works with a main sewer or main drain:
 - (e) prescribing charges to be paid in respect of connections to any sewer of the Board by persons and authorities other than local authorities.
- (2) The Board may, by any bylaw made under this section, provide a penalty for every breach thereof which shall be in the discretion of the court imposing the penalty, but which shall in no case exceed the sum of \$100 for a single offence or the sum of \$10 for every day during which the offence has continued.
- (3) Any bylaw made by the Board under this section shall, within the district, override any bylaws on the same subject made by any constituent authority.
- (4) Any constituent authority may, with the consent of the Board, undertake within its own area the enforcement and administration of any bylaws made by the Board under this section, and in such cases all fines imposed for breaches of the Board's bylaws within the area of such constituent authority shall, subject to section 73 of the Public Finance Act 1989, be paid to the constituent authority and be dealt with by it as if they were fines imposed in respect of breaches of the bylaws of that constituent authority.

Section 47(4): amended (with effect on 1 July 1989), on 26 July 1989, pursuant to section 87 of the Public Finance Act 1989 (1989 No 44).

48 Trade wastes bylaws

- (1) In addition to the powers conferred on it by section 47, the Board may make bylaws in respect of the discharge of any trade wastes, or trade wastes of any particular quality, from trade premises into any public sewer, or into any storm-water drain or through an outfall sewer to any watercourse, tidal waters, or

other place of disposal, and any such bylaws may provide for all or any of the following matters:

- (a) requiring notice to be given of the volume, quality, and manner and rate of discharge of any trade wastes being discharged from the trade premises at the time of the coming into force of the bylaws:
- (b) requiring notice to be given of the volume, quality, and manner and rate of discharge of any trade wastes intended to be discharged from the trade premises before any new drain or any extension of an existing drain is connected for the discharge of trade wastes therefrom, or before any increased, new, or different use is made of any drain which is at the time of the notice used for the disposal of any liquid therefrom, and providing for the notice to be deemed an application for the consent of the Board:
- (c) determining the period or periods of the day during which trade wastes may be discharged from trade premises into any sewer:
- (d) requiring the exclusion from liquid discharged with trade wastes of condensing water or a proportion of condensing water:
- (e) requiring that, before any trade wastes enter a sewer, the amount of any noxious matter in the trade wastes shall be reduced to the extent prescribed by the bylaws:
- (f) determining the maximum quantity or quantities of trade wastes which may, without the consent of the Board, be discharged from any trade premises into a sewer on any one day, and the highest rate at which the trade wastes may, without any such consent, be discharged from any trade premises into the sewer:
- (g) regulating the temperature of trade wastes at the time at which they are discharged into a sewer and defining the degree of acidity or alkalinity to which the trade wastes must conform when discharged:
- (h) requiring the occupiers of trade premises from which trade wastes are discharged into a sewer to pay to the Board such charges, at such scales or rates and at such times as may be specified in that behalf in the bylaws, for the reception of trade wastes into any sewer, and for the disposal thereof, regard being had to the quality or volume or the quality and volume of the trade wastes so discharged and to any additional expense incurred or likely to be incurred by the Board in connection with the reception or disposal of the trade wastes:

provided that any constituent authority may, in pursuance of any bylaws of the constituent authority relating to trade wastes and by resolution in that behalf duly notified to the Board, accept liability for such period as the resolution may determine for the due and punctual payment to the Board of the charges payable by the occupiers of all trade premises within the local district of the constituent authority in substitution for the

liability of the several occupiers for payment of such charges to the Board:

- (i) making provision for the treatment of trade wastes, either before or after discharge into a sewer, by the Board; and prescribing the scale of charges in respect of any such treatment payable to the Board by the occupiers of trade premises from which the trade wastes are discharged:
 - (j) requiring the provision and maintenance, by and at the expense of the occupiers of the trade premises concerned, of such measuring chambers, sampling chambers, manholes, or other apparatus or devices as will enable samples of what is passing into any sewer from the premises to be taken at any time:
 - (k) requiring the provision and maintenance, by and at the expense of the occupier of the trade premises concerned, of such meters as may be required to measure the volume and rate of discharge of any trade wastes being discharged from the premises into any sewer, and for the testing of such meters:
 - (l) requiring the provision and maintenance, by and at the expense of the occupier of the trade premises concerned, of screens, grease traps, silt traps, or other means of preventing or controlling the discharge of solids, oils, or grease from the trade premises.
- (2) Any bylaws made under this section may apply generally throughout the drainage district or within any specified part or parts thereof, and may be so made as to apply to any specified trade premises or to any specified class or classes of trade premises.
 - (3) Section 20 of the Waters Pollution Act 1953 shall not apply to any bylaws made under this section if they are made in accordance with section 49; but, where the owner or occupier of any trade premises within the drainage district serves on the Board a written request to be registered and states his name and postal address, it shall be the duty of the Board to enter his name and address in a register to be kept by it, and so long as his name appears in the register, the Board shall cause to be sent to him a copy of the proposed bylaws at the same time as it is required by the said section 49 to forward a copy to the constituent authorities.
 - (4) If the Board makes any trade wastes bylaws in accordance with subsections (2) to (6) of section 20 of the Waters Pollution Act 1953, those bylaws may be made by ordinary resolution of the Board notwithstanding the provisions of subsection (1) of the said section 20 or of section 49 of this Act.

49 Form of making bylaws

Except as otherwise provided by this Act, bylaws of the Board shall be made in the following manner and subject to the following conditions:

- (a) they shall be made only by special order made in the manner provided for the making of special orders by a borough council under the Municipal Corporations Act 1954:
- (b) a copy of any proposed bylaw shall be sent by the Board to each of the constituent authorities at least 21 days before the date of the meeting of the Board at which the resolution making the proposed bylaw is to be submitted for confirmation:
- (c) they may be amended before confirmation of the special order making them:
- (d) they shall have the common seal of the Board affixed to them:
- (e) they shall be sent to the Minister of Health within 7 days after the making of the special order:
- (f) subject to paragraph (g), they shall come into force on a day to be named in the bylaws or in the special order making them, being a day not earlier than 3 months after the making of the special order in the case of bylaws made under paragraph (a) of subsection (1) of section 47 or section 48, and not earlier than 1 month after the making of the special order in the case of bylaws made under paragraphs (b), (c), (d), or (e) of subsection (1) of section 47:
- (g) they may within 3 months after the making of the special order be in whole or in part disallowed or amended by the Minister of Health by notice in the *Gazette*.

General provisions in respect of works

50 Government works not to be interfered with

- (1) Nothing in this Act shall—
 - (a) authorise the Board to interfere with any public work executed or carried on by or under the control of the Government without the previous consent and approval of the Minister of the Crown having control of that work; or
 - (b) prejudice or affect any power or authority vested in the Crown, or in the Governor-General or in any Minister or other person on behalf of the Crown or the Governor-General under any Act authorising the erection, construction, carrying on, or maintenance of any work.
- (2) In giving any consent and approval under subsection (1) the Minister may impose such conditions as he thinks fit for the protection and safety of the public works.

Section 50(1)(a): amended, on 1 April 1988, by section 8 of the Ministry of Works and Development Abolition Act 1988 (1988 No 42).

Section 50(2): amended, on 1 April 1988, by section 8 of the Ministry of Works and Development Abolition Act 1988 (1988 No 42).

51 Abatement of nuisances created by Board

- (1) Where any nuisance within the meaning of section 29 of the Health Act 1956 is created by the Board in the exercise of any powers conferred on it by this Act, the local authority of the local district in which the nuisance exists or of any local district any part of which is affected by the nuisance may, with the concurrence of the Director-General of Health, by notice in writing to the Board, require the Board to abate the nuisance and specify the works to be done in order to abate the nuisance and the time within which they shall be done.
- (2) If the Board considers the requirements specified in any such notice to be unreasonable or impracticable or unnecessary it may, within 7 days after service of the notice on the Board, apply to the District Court at Lower Hutt for an order setting aside or modifying the notice. Pending the hearing of the application, the notice shall be deemed to be suspended.
- (3) On the hearing of the application, the court, whose decision shall be final, shall determine whether the notice should or should not be set aside or modified, and, if the notice is not set aside, the time within which the Board must comply with the notice or, as the case may be, with the notice as so modified.
- (4) If the Board within the time specified in any such notice, or, in the case of an application to the court, within the time specified in the order of the court, fails to comply with the notice or order, the local authority may, without further notice to the Board, cause the nuisance to be abated, and for that purpose may enter on any land or premises of the Board by its employees or agents and execute or cause to be executed thereon such works as may be necessary.
- (5) All expenses reasonably incurred by the local authority in the abatement of a nuisance under subsection (4) shall be recoverable by the local authority from the Board.
- (6) Nothing in this section shall operate to relieve the Board from liability under any rule of law for any nuisance within the meaning of section 29 of the Health Act 1956, nor derogate from the provisions of section 31 of this Act.

Section 51(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

52 Commencement of actions not to stop works

If any action is commenced or prosecuted touching or concerning the right, title, or interest of any owner or proprietor of or in any lands taken or injuriously affected by anything done pursuant to this Act or in execution of the powers or authorities conferred by this Act, such action shall not impede, delay, or hinder the Board from proceeding in the execution of the powers vested in it by this Act.

53 Penalty for damaging sewer or drain

Any sewer or drain constructed, controlled, operated or maintained by the Board shall be deemed to be the property of the Board, and any person doing

any act whereby such sewer may be damaged or its efficiency impaired commits an offence and is liable on conviction to a fine not exceeding \$100, without prejudice to the right of the Board to recover damages by action for any trespass or damage to the sewer.

Section 53: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

54 Entry on premises for inspection

- (1) The Board and its officers and employees may enter any land or premises for the purpose of examining as to the existence of any nuisance thereon affecting the functions of the Board or as to the breach of any provisions of this Act or the bylaws of the Board (with power to examine any drain or other sanitary apparatus or appliances), or for the purposes of enforcing the provisions of this Act and the bylaws, or for the purpose of executing, providing, or doing any works, materials, or things which the Board is authorised or empowered to execute, provide, or do under or by virtue of this Act or the bylaws.
- (2) Every owner or occupier of land or premises who refuses to permit or allow the Board or any of its officers or employees to enter thereon for any of the purposes referred to in subsection (1) or for the performance of anything which it or he is empowered or required to do under this Act, and every person who obstructs the Board or any of its officers or employees in the exercise of any of the powers referred to in the said subsection (1), commits an offence and is liable on conviction to a fine not exceeding \$100 for each such offence.

Section 54(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

55 Contracts for works

The Board may from time to time enter into such contracts as it thinks fit for the execution of any works directed or authorised by this Act to be done by the Board or for furnishing materials or for any other thing necessary for the purposes of this Act.

56 Cooperative contracts

- (1) The Board may from time to time make any contract for work or labour to be done on a cooperative system to any value or amount without calling for public tenders, or carry out any work or employ labour without the intervention of a contractor.
- (2) The Board shall keep at its offices a list of the rates of wages and the hours of labour to be paid and observed on works which are to be done on the cooperative system or which the Board resolves to conduct without the intervention of a contractor.
- (3) Such list shall be based on the rates of wages and hours of labour generally accepted as usual and fair in the trade or class of labour to which they relate, and shall at all reasonable times be open to public inspection.

*Financial provisions***56A Interpretation**

For the purposes of sections 57 to 60, unless the context otherwise requires—

design capacity means the rate of flow of sewage provided or to be provided in the main sewerage system of the Board to serve the district of 1 or more constituent authorities within the district of the Board as may be determined from time to time by the Board

water usage for a constituent authority means the amount of water used annually by that constituent authority within the district of the Board from 1 November of each year to 31 October in the succeeding year both days inclusive, the said 31 October being that in the immediately preceding calendar year. The said amount of water shall be the sum of the following amounts:

- (a) the bulk water so supplied in the said period as assessed by the Wellington Regional Water Board, adjusted to such extent as may be necessary by virtue of the fact that bulk water is supplied by a constituent authority to another constituent authority; and
- (b) water supplied from private wells so used in the same period as assessed by the Wellington Regional Water Board:

provided that if in the opinion of the Board significant amounts of water are being used from the above sources but are not being discharged directly or indirectly into the Board's main sewerage works the Board may reduce the figure as assessed as it thinks fit and the net figure so assessed shall be the water usage of that constituent local authority.

Section 56A: inserted, on 1 March 1979, by section 3 of the Hutt Valley Drainage Amendment Act 1978 (1978 No 10 (L)).

57 Annual estimate of proposed expenditure

- (1) The Board shall, on or before 15 April in each year, cause an estimate to be prepared of the proposed expenditure of the Board for the ensuing year showing—
 - (a) the permanent appropriations for payment of interest and the creation of a sinking fund or for periodical repayments on account of loans for works serving or intended to serve the local districts or portions thereof of 1 or more of the contributing authorities or on account of any other loans raised by the Board for the purposes of this Act;
 - (b) the sum or sums that may be required for carrying out, operating or maintaining in good order the works authorised to be constructed by this Act and any other works vested in or controlled by the Board and in respect of works serving or intended to serve the local districts or portions thereof of 1 or more of the contributing authorities:

- (c) the sum or sums that may be required for the administrative costs of the Board, which shall be deemed to include the cost of engineering investigations of the Board and of engineering and general administration:
 - (d) any sums already available for such purposes:
 - (e) the additional sums required.
- (2) Any deficiency or surplus at the end of any year shall be carried forward as a debit or credit, as the case may be, into, and calculated or allowed for in making and assessing, the next year's requirements.

58 Contributions by contributing authorities

The constituent authorities shall be liable to pay to the Board in respect of its estimated expenditure the contributions assessed in accordance with the provisions of section 60.

59 Assessment of contributions

- (1) The Board shall, on or before 15 May in each year, hold a meeting at which the estimates shall be settled and at which the contributions payable by the contributing authorities for the current year commencing on 1 March then last past shall be assessed.
- (2) Written notice shall forthwith be given by the Board to each of the contributing authorities showing—
- (a) the amount at which the contributing authority is assessed for the current year; and
 - (b) the amount paid or payable to the Board during the preceding year ending with the last day of February pursuant to bylaws made under section 48(1)(h) for charges made in respect of trade wastes discharged from premises within the district of each contributing authority; and
 - (c) a copy of the estimates of the expenditure of the Board for the current year.

Section 59: replaced, on 1 March 1979, by section 4 of the Hutt Valley Drainage Amendment Act 1978 (1978 No 10 (L)).

60 Calculation of assessments

- (1) The contribution of each constituent local authority referred to in section 59 shall be calculated and assessed as follows:
- (a) one-third of the total proposed expenditure of the Board for the ensuing year shall be charged and assessed to the constituent authorities so that each constituent authority pays a proportion of such amount equal to the proportion which its water usage bears to the total combined water usage of all constituent authorities:
 - (b) a further one-third of the total proposed expenditure of the Board for the ensuing year shall be charged and assessed to the constituent authorities

so that each constituent authority pays a proportion of such amount equal to the proportion which its design capacity bears to the total combined design capacity of all constituent authorities:

- (c) the remaining one-third of the total proposed expenditure of the Board for the ensuing year shall be charged and assessed to the constituent authorities so that each constituent authority pays a proportion of such amount equal to the proportion which its population within the district of the Board bears to the total combined population of all constituent authorities within the district of the Board.
- (2) The amount of trade waste charges paid or payable to the Board in respect of trade wastes discharged within the district of a contributing authority as notified to that authority in terms of section 59(2)(b) shall be credited against the amount that contributing authority is required to pay to the Board in terms of the notice given to it under section 59(2)(a).

Section 60: replaced, on 1 March 1979, by section 4 of the Hutt Valley Drainage Amendment Act 1978 (1978 No 10 (L)).

61 Appeal against estimate or assessment

If any contributing authority is dissatisfied with such estimate or assessment, it may, within 28 days after notice of the assessment has been given to it, appeal to a Judge of the High Court at Wellington against the estimate or assessment. Such appeal shall be commenced by notice of appeal being given to the Registrar of that court, who shall fix a day for the hearing thereof, and the contributing authority appealing shall give notice in writing to the Board and to each of the other contributing authorities stating the date when the appeal is to be heard and the grounds of the appeal, and thereupon the whole of such estimate and assessment shall be deemed to be set aside, and the estimate of the contribution to be paid by every contributing authority shall be settled by the Judge, whose decision shall be final and binding upon the Board and all the contributing authorities.

Section 61: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

62 Jurisdiction of District Court

The Board may, notwithstanding that the amount sought to be recovered is in excess of the jurisdiction of the District Court, sue for and recover the amount of any such contribution in any such court as a debt.

Section 62 heading: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 62: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

63 Production of documents to be evidence

The production in any court of documents purporting to be—

- (a) a copy of the said estimate of expenditure; and

- (b) a copy of the said notice to each contributing authority purporting to be pursuant to a resolution of the Board,—

shall be sufficient evidence of the liability of each contributing authority therein mentioned to pay to the Board the respective amount therein and thereby shown to be assessed as its contribution to the Board for the purposes of this Act, in the absence of proof to the contrary.

64 Payment of assessments

- (1) Each contributing authority shall pay to the Board the amount of the assessment as set out in the notice given to it pursuant to section 59 in 3 equal instalments, to be paid respectively not later than the last day of each of the months of May, August, and November in the financial year to which the assessment relates.
- (2) If any such instalment is not paid in accordance with the provisions of subsection (1), each contributing authority in default shall be liable for and shall pay interest on any and every amount so remaining unpaid, until payment thereof, at the rate which is for the time being charged by the bankers of the Board for money owing to them by the Board or which would be chargeable if money were owing, as the case may be.
- (3) If any appeal against any assessment has been lodged under section 61, the amount fixed by the court shall be substituted for the amount of the assessment but nothing in this subsection or in the said section 61 shall absolve the contributing authorities or any of them from liability to pay the instalment or instalments from time to time falling due after the date of the assessment and before the decision of the court.
- (4) If any such instalment is not paid in accordance with the provisions of subsection (1), interest shall accrue in terms of subsection (2) notwithstanding that an appeal has been lodged.
- (5) If on any such appeal an adjustment is made of the amount of any such assessment and accordingly of any instalment in respect thereof, the Board shall, forthwith upon receipt of the decision of the court, adjust the assessment, and shall give credit for any amount overpaid by any contributing authority on any instalment, or, as the case may be, require the contributing authority to pay to the Board the amount of any increase of any such assessment payable in accordance with the decision of the court together with interest calculated at the rate fixed by subsection (2) on the amount of any such adjustment unpaid within 30 days from the date of the demand thereof by the Board.

65 Powers of contributing authorities in respect of payment

Every contributing authority shall, in respect of its assessment of contribution to the Board in every year, have the following powers:

- (a) it may pay the amount out of its ordinary revenue or funds:

- (b) instead of exercising the power contained in paragraph (a), or to the extent to which its payment thereunder is less than the amount of its assessment, it may make and levy a separate rate on that portion of the rateable property within its area which is within the defined part or parts of the district in respect of which any portion of the assessment is made calculated to produce that portion of the assessment or the balance thereof, as the case may be, and interest thereon (if any) and the costs of and incidental to its collection:
- (c) the power to make and levy a rate conferred by paragraph (b) may be exercised by a contributing authority in addition to all other powers which it has under any other Act and notwithstanding any provision in any Act limiting or in any way affecting its power to rate:
- (d) it may classify the rateable properties within its local district or the portion thereof within the drainage district and make and levy a rate on a sliding scale according to such classification. The provisions of the Land Drainage Act 1908 shall, with the necessary modifications, apply to such classification and rate.

66 Powers of Board to recover contributions in case of default

- (1) If any such contributing authority, after notice of the said assessment is delivered to it, fails or neglects to pay any instalment thereof or any part of such instalment for a period of 30 days after the day on which it should be paid, or the interest on any such instalment, it shall be lawful for the Board, in addition to any other powers or remedies given by this Act, to make, levy, and collect the rates authorised to be made, levied, and collected by section 65 and to pay or retain the amount of such assessment and interest and all costs and charges to which it has been put by reason of such default or neglect.
- (2) The contributing authority so in default shall, on request, hand over and supply to the Secretary of the Board correct lists of rateable properties, rate records, assessment rolls, and all other documents and books of any and every kind necessary, or considered so by the Board or its officers, for the purpose of enabling the Board to so make, levy, and collect such rate.
- (3) Such contributing authority and its officers and employees shall give every assistance to the Board and its officers so to make, levy, and collect such rate.
- (4) For the purpose of enabling the Board to collect and recover the amount of such contribution or assessment, interest, and costs, any Judge of the High Court shall, on application by or on behalf of the Board have the same power, with the necessary modifications, with reference to such contributing authority as he would have under the Local Authorities Loans Act 1956, if default had been made by that authority in payment of any principal or interest due on any debenture by it, and also full power to order, authorise, and empower the Board and its officers to make, levy, and collect such rate in the same way and to the same extent as such contributing authority so in default would be entitled to do.

Section 66(2): amended, on 1 April 1968, pursuant to section 176(2) of the Rating Act 1967 (1967 No 123).

Section 66(4): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

67 Reserve funds for replacement, etc

- (1) The Board may from time to time set aside, out of its general revenue, any money to form a fund or funds for the repair, renewal, replacement, or improvement of any of its property, plant, fixtures, machinery, or appliances, or for the purpose of purchasing additional property, plant, fixtures, or appliances of the class for which the fund or funds is or are so established.
- (2) The Board must pay all money set aside into 1 or more separate bank accounts, and may invest any part of it in accordance with the Trusts Act 2019.
- (3) Separate accounts shall be kept by the Board of all money paid to or received by it in respect of each fund or funds.

Section 67(2): replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

68 Superannuation and other benefits for employees

- (1) The Board is hereby declared to be a local authority for the purposes of the National Provident Fund Act 1950 and section 6 of the Finance Act (No 2) 1941.
- (2) The Board may from time to time, by way of subsidy, pay such sums as it thinks fit to the funds of any sick, death, or funeral benefit society, or other similar institution established by its employees, or any section of them, the benefits of which are confined to such employees and their dependants.

69 Unauthorised expenditure

The Board may in every financial year out of the General Fund Account expend for purposes not authorised by any Act or law for the time being in force any sum or sums not amounting in the whole to more than 1% of its gross receipts for that year, exclusive of loan money, nor, in any case, to more than \$1,500.

Section 69: amended (with effect on 1 March 1974), on 12 September 1974, by section 2 of the Hutt Valley Drainage Amendment Act 1974 (1974 No 4 (L)).

70 Borrowing powers

- (1) The Board may from time to time borrow by way of special loan such sums as are necessary for carrying out the purposes of this Act.
- (2) Special loans may be raised by the Board under the Local Authorities Loans Act 1956 and, notwithstanding anything in section 34 of that Act, without the prior consent of the ratepayers.
- (3) Under the provisions of this section the Board may raise a loan for an authorised purpose for the benefit of a defined part or parts of the district (whether called by a distinctive name or not), and in any case the portion of every local

district within the defined part or parts shall, without limiting the meaning of the expression “legal subdivision” as used in section 27 of the Local Authorities Loans Act 1956, be deemed to be a legal subdivision.

- (4) Notwithstanding anything to the contrary in the Local Authorities Loans Act 1956, a loan may be raised by the Board for the benefit of defined parts of the district, although such parts may not together form 1 continuous area.

Accounts

71 Money to be paid into bank

- (1) All money received for or on behalf of the Board, or by an officer or employee of the Board shall, as soon as practicable after it has come into the hands of any of them, be paid into such bank account or accounts of the Board as the Board from time to time determines.
- (2) All money shall be paid by the Board in cash, or by cheque or withdrawal notice, signed by a responsible officer of the Board whom the Board by resolution from time to time so appoints, and countersigned in each case by any member or other officer of the Board whom the Board from time to time, by resolution, authorises in that behalf:

provided that it shall be lawful for money to be paid by the Board by cheque bearing a facsimile of the signature of either or both of the persons authorised pursuant to this subsection to sign and countersign cheques, and every cheque bearing such facsimile shall be deemed to have been duly signed and countersigned in accordance with this section.

- (3) Every payment of money by the Board shall be authorised by a prior resolution of the Board or shall be submitted to the Board for confirmation at its first ordinary meeting after the date of payment.

Section 71(2): replaced, on 20 October 1978, by section 7 of the Hutt Valley Drainage Amendment Act 1978 (1978 No 10 (L)).

72 Accounts

The Board shall provide and keep books of accounts and shall enter therein full and correct accounts of all money received and expended by it under this Act and the several purposes for which money has been received and expended.

73 Accounts to be open to inspection

- (1) The books of accounts referred to in section 72 shall at all reasonable times be open to inspection by any member of the Board or of any constituent authority or any person appointed by it, who may take copies of or extracts from the books.
- (2) Every person commits an offence and is liable on conviction to a fine not exceeding \$10 who, having the custody of the books of accounts, fails or refuses or neglects, on the reasonable demand of any member of the Board or of

any constituent authority or any person appointed by it, to permit him to inspect or take copies of or extracts from the books.

Section 73(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

74 Accounts to be kept in accordance with requirements of Auditor-General

- (1) The Board shall keep such accounts and keep them in such manner, as may be prescribed by the Auditor-General, but so always that—
 - (a) a General Account shall be kept and credited with all money not required by or under this Act to be carried to any other account, and debited with expenditure which is not required by or under this or any other Act to be charged, or which is not otherwise properly chargeable, against any other account; and
 - (b) separate accounts shall be kept and credited with all money raised or levied for, or appropriated or allocated to, or held in trust or received for, any special purpose, and debited with expenditure properly chargeable against such accounts.
- (2) The decision of the Auditor-General as to whether or not any expenditure is properly chargeable against any such account shall be final.

Section 74 heading: amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

Section 74(1): amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

Section 74(2): amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

75 Preparation of accounts

As soon as practicable after the end of every financial year ending with the last day of February, the treasurer shall prepare the accounts of the Board for that financial year, including an abstract of all the transactions in the accounts referred to in section 74 in respect of that year, together with the following statements:

- (a) a statement of the assets and liabilities of the Board as at the end of that financial year:
- (b) a statement of the public debt of the Board showing the total debt of the Board under the head of each loan raised and the sinking fund in the hands of the Sinking Fund Commissioners to provide for the repayment of each such loan.

76 Audit of accounts

The Auditor-General shall be the auditor of the Board, and shall have the same duties and powers in respect of the money and accounts of the Board, and of every person dealing therewith, as if the Board were a local authority within the meaning of the definition of that term in the Public Finance Act 1977.

Section 76: amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

Section 76: amended, on 1 April 1978, by section 160(1) of the Public Finance Act 1977 (1977 No 65).

77 Abstract of accounts

The treasurer shall forthwith after such audit make out a full abstract of the accounts for the year as audited and send a copy thereof to each contributing authority.

78 Board may establish imprest account

- (1) Notwithstanding the provisions of section 71, the Board may, by resolution, establish an imprest account which shall be kept at such bank as the Board from time to time appoints.
- (2) The imprest account may be held jointly in the names of and be operated on by the treasurer and 1 other person appointed in that behalf by the Board, or may, with the express approval in writing of the Auditor-General, but not otherwise, be in the sole name of and be operated on by the treasurer or any other approved officer of the Board. Where the imprest account is held jointly in the names of the treasurer and 1 other person, that other person shall be either a responsible officer of the Board or a member of the Board.
- (3) The Board shall from time to time, by resolution, fix the maximum amount that may be held at any time in the imprest account, not exceeding \$150 in any case where the imprest account may be operated on by 1 person acting alone, and not exceeding such amount as the Auditor-General may approve in any other case.
- (4) Money in the imprest account shall be available only for the payment of salaries and wages and emergency expenditure. A statement of every payment made from the account shall be submitted to the Board for confirmation at its first ordinary meeting after the date of payment.
- (5) The payment of money out of the imprest account for any purpose not authorised by subsection (4) shall be misappropriation of the funds of the Board.

Section 78(2): amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

Section 78(3): amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

Miscellaneous provisions

79 Recovery of fines

- (1) All fines imposed by this Act or by any bylaw made by the Board under the authority of this Act or any other Act may be recovered in accordance with Part 3 of the Summary Proceedings Act 1957.

- (2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act or any bylaw made under it ends on the date that is 12 months after the date on which the offence was committed.

Section 79(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 79(1) proviso: repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 79(2): inserted, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

80 Liability for rates

Any main sewer (excluding any pumping station) the property of the Board, whether or not the land on or in which it is situated is vested in the Board, shall be deemed not to be rateable property for the purposes of the Rating Act 1967.

Section 80: replaced, on 1 April 1968, by section 176(1) of the Rating Act 1967 (1967 No 123).

81 Offences

Any contributing authority or other person doing anything contrary to the provisions of this Act or of any bylaw made by the Board under the authority of this Act or any other Act, or omitting or failing to perform any duty imposed on it or him by or arising under this Act or under any such bylaw, commits an offence, and, in cases where no other penalty is provided, shall be liable on conviction to a fine not exceeding \$100; and whenever such act or omission is of a continuing nature a further offence shall be deemed to have been committed on each day on which it has continued; and whenever power is given by this Act or by any such bylaw to order anything to be done or omitted, an offence shall be deemed to have been committed on each day on which any contributing authority or other person has disobeyed or failed to comply with any such order; and in all cases in which property is damaged, destroyed, or lost, or pecuniary loss is suffered by reason of an offence, the court may add to the fine compensation for any loss which the Board may have sustained:

provided that such compensation shall not, except as to the amount thereof, relieve such contributing authority or other person of any civil liability in respect of its or his act or omission.

Section 81: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

82 Governor-General may extend time fixed by Act for exercising powers, etc

At any time before or after the day appointed for the holding of any meeting of the Board or for the doing of any act, matter, or thing by this Act, or by any bylaw made by the Board under this Act or any other Act, required to be done on or before a day certain, it shall be lawful for the Governor-General to extend the time allowed or to fix a later day for the holding of such meeting or for the doing of any such act, matter, or thing as aforesaid, notwithstanding that the

day may have passed on which the same ought to have been held or done; and to adopt or cause to be adopted such measures as may be necessary to remove any obstacle of a technical or formal nature by which the carrying out of the provisions of this Act may be impeded, and to supply any deficiency which may be required to be supplied in order to enable the said provisions to be carried out.

83 Arbitration

- (1) Any dispute or difference between the Board and any constituent authority or person which in terms of this Act is to be determined by arbitration shall (subject to any specific provisions relating thereto),—
 - (a) if the parties agree upon a single arbitrator, be referred to that arbitrator:
 - (b) if the parties agree that the dispute or difference involves questions principally relating to engineering matters, but they cannot agree upon a single arbitrator, be referred to an engineer nominated for the purpose by the President for the time being of the New Zealand Institution of Engineers, or, if the President is Engineer or consulting Engineer to the Board or to the local authority or person concerned, then by the Vice-President for the time being of that institution:
 - (c) in any case not provided for by paragraph (a) or paragraph (b), be referred to 2 arbitrators, one to be appointed by the Board and one by the other party concerned, or to an umpire appointed by such arbitrators.
- (2) The relevant provisions of the Arbitration Act 1996 shall apply to any arbitration under this section, and this section shall be deemed to be a submission within the meaning of that Act.

Section 83(2): amended, on 1 July 1997, pursuant to section 20 of the Arbitration Act 1996 (1996 No 99).

84 Service of notices, etc

- (1) In any case in which it is provided by this Act or by any bylaw made by the Board under this Act or any other Act, that an order may be made upon or notice given to any person requiring him to do or abstain from doing anything, or where any notice is required by this Act or any other Act or by any such bylaw to be given or sent to any person, such order or notice shall be delivered to such person either personally or by posting it by registered letter addressed to that person at his last known place of abode or business in New Zealand. A notice so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.
- (2) If such person is absent from New Zealand, the order or notice may be delivered as aforesaid to his agent in New Zealand. If he is deceased, the notice may be delivered as aforesaid to his personal representative.
- (3) If such person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representative, and

the order or notice relates to any land, work, material, building, or other structure, the order or notice, addressed to the owner or occupier of such land, work, material, building, or other structure as the case may require, may be served on the occupier thereof, or left with some inmate of his abode; or, if there is no occupier, may be placed on some conspicuous part of such land, work, material, building, or other structure. It shall not be necessary in any such notice to name the occupier or owner of such land, work, material, building, or other structure.

- (4) In all cases other than those provided for in subsection (3), if the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representative, the order or notice shall be delivered in such manner as may be directed by an order of the court.
- (5) Notwithstanding anything in the foregoing provisions of this section, the court may in any case make an order directing the manner in which any order or notice is to be delivered, or dispensing with the delivery thereof.
- (6) This section shall not apply to orders or notices served in proceedings in the court.
- (7) Every order or notice required to be sent or served by the Board shall be signed as provided by section 86.
- (8) In all cases in which any matter or thing is required to be published, advertised, or inserted by the Board in a newspaper generally circulating in the district, the said newspaper shall be such newspaper as the Board from time to time appoints in that behalf, or, if there is no Board at the time when that matter or thing ought to be advertised, the said newspaper shall be such as the Secretary appoints in that behalf.
- (9) Any order or notice made or given by the Board before the passing of this Act shall be deemed to have been validly and lawfully given, notwithstanding that such order or notice may not have been made or given in compliance with the requirements of this section.
- (10) In this section the expression **the court** means—
 - (a) in any case where any order or notice relates to any sum of money not exceeding \$4,000, or to any property the value of which does not exceed the sum of \$14,000, the District Court:
 - (b) in any other case, the High Court.

Section 84(10)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 84(10)(b): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

85 Service of legal proceedings on Board

Any summons, writ, notice, or other legal proceeding requiring to be served on the Board may be served by being left at the public office for the time being of

the Board or by delivering the same personally to the chairman or Secretary for the time being of the Board.

86 Authentication of documents by Board

Every order, notice, or other document requiring authentication by the Board may, unless otherwise provided, be signed by any 2 members or by the Secretary, and need not be under the common seal of the Board.

87 Certain enactments not affected

Except as expressly provided in this Act, nothing in this Act shall derogate from any of the provisions of the following enactments:

- (a) the Fisheries Act 1908:
- (b) the Harbours Act 1950:
- (c) the Shipping and Seamen Act 1952:
- (d) the Health Act 1956:
- (e) the Waters Pollution Act 1953.

88 Repeals and savings

- (1) The following enactments are hereby repealed:
 - (a) the Hutt Valley Drainage Act 1948:
 - (b) the Hutt Valley Drainage Amendment Act 1949:
 - (c) the Hutt Valley Drainage Amendment Act 1953:
 - (d) the Hutt Valley Drainage Amendment Act 1958:
 - (e) the Hutt Valley Drainage Amendment Act 1964.
- (2) All actions, matters, and proceedings commenced under any of the provisions hereby repealed and pending or in progress at the passing of this Act, may be continued, completed, and enforced under this Act.

Schedule

s 3(2)

That portion of the County of Hutt bounded by a line commencing at the north-western corner of the Borough of Petone, being the northern corner of Subdivision 7, Maungaraki Maori Reserve, and proceeding north-easterly generally along the western and northern boundaries of Section 41, the north-western boundaries of Section 40, both of Normandale Settlement, and the north-western boundaries of Sections 329, 330, and 331, Hutt District; thence easterly generally along the northern and eastern boundaries of the said Section 331, the northern boundary of Section 328, Hutt District and its production across a public road, along the western and northern boundaries of Sections 333, 335, 431, 430, and 202 to the south-western corner of Section 200A all of Hutt District; thence north-easterly generally along the north-western boundaries of Sections 200A, 200, and 198, the north-western and north-eastern boundaries of Section 197, the northern boundary of Section 196A, the western and northern boundaries of Section 196 all of Hutt District and the production of the last-mentioned boundary to the right bank of the Hutt River, up that right bank to and along the north-western and north-eastern boundaries of Section 172, the north-western boundaries of Sections 110, 111, 112, 113, 114, and 182 all of Hutt District to the northernmost corner of the last-mentioned section; thence southerly and south-westerly generally along the north-eastern, eastern, and south-eastern boundaries of the said Section 182, the south-eastern boundary of Section 181 to and along the north-western side of National State Highway No 2 to the south-western boundary of Section 112, across the said highway and along the last-mentioned boundary to the easternmost corner of Section 111, along the south-eastern boundaries of Sections 111, 110, 296, and 222, the eastern and south-eastern boundaries of Section 221, the eastern boundaries of Section 124, the eastern and south-eastern boundaries of Section 218 and the south-eastern boundary of Section 148, all the aforesaid sections being of Hutt District, to the Wallaceville Road; thence westerly generally along the northern side of that road to the north-western boundary of Section 150, Hutt District; thence south-westerly along that boundary and the north-western boundaries of Sections 152, 154, 156, 158, 160, 162, and 164, the western boundary of Section 166, the north-eastern and north-western boundaries of Section 168, the north-western boundary of Section 283, the north-eastern and western boundaries of Section 286 to the southernmost corner of Section 206, all the aforesaid sections being of Hutt District; thence north-westerly along the north-eastern side of No 1 Line to a point in line with the south-eastern boundary of Section 251, Hutt District; thence southerly generally to and along that boundary, the north-eastern and eastern boundaries of Section 247 and the eastern and southern boundaries of Section 235 to the eastern boundary of Section 234 all of Hutt District, being a point on the boundary of the City of Lower Hutt as described in the *Gazette*, 1957, at page 2199; thence south-westerly generally along the south-eastern boundaries of that city, being the eastern boundary of Section 234, the eastern and southern boundaries of Sections 233 and 232, the southern boundary of Section 231, all of Hutt District, the south-eastern boundaries of Lot 1, DP 14660, and Lot 2, DP 17433, the southern boundaries of Section 2, Block XV, Belmont Sur-

vey District, Section 440, Hutt District, Lots 126, 168, 170, 171, 172, 173, 174, 175, 176, and 177, DP 16690, the production of the last-mentioned boundary across Seddon Street, the southern boundaries of part Section 18, Waddington Settlement, and its production across Judd Crescent and Lots 76 and 77, DP 16551 to the north-eastern corner of Lot 1, DP 4581, the eastern and southern boundaries of that lot to its westernmost corner, a right line to the easternmost corner of Section 27, Hutt District, the south-eastern boundary of that section, part of the south-eastern boundary of Section 23, Hutt District, the northern, eastern, and southern boundaries of Lot 3, DP 7866, the southern boundary of Lot 1, DP 18406, the eastern boundaries of Sections 238 and 239, Hutt District, the eastern and southern boundaries of Section 240, Hutt District, to the eastern side of the Lower Hutt - Wainuiomata Road; thence southerly generally along the eastern side of that road for distances of 4.39 links, 85.3 links, 144.15 links, and 369.38 links, to a road angle; thence south-westerly along the half-angle intersection to the generally western side of the Lower Hutt - Wainuiomata Road; thence southerly along that side of the said road and along the south-eastern boundary of Section 77, Hutt District, to its southernmost corner being a point on the boundary of the City of Lower Hutt aforesaid; thence south-westerly along a right line to the boundary corner of Lot 3, DP 12030, defined by peg XXVIII on DP 3298; thence westerly generally along the southern boundary of Lot 3 aforesaid to a point on the production of the north-western boundary of Lot 2, DP 10393, and along a right line to the northernmost corner of that lot; thence westerly along the eastern and southern boundaries of that lot and the abutment of Howard Road as defined on DP 13855 to its westernmost point, along a right line to the north-eastern corner of Lot 1, DP 7260, along the northern boundary of that lot to the south-eastern side of Eastern Bays Marine Drive; thence south-westerly and easterly along that side and the northern side of the Eastern Bays Marine Drive, to the south-eastern corner of closed road as defined on SO Plan 18368; thence southerly along the production of the eastern boundary of that closed road to the high-water mark as defined on DP 2041; thence westerly along that high-water mark, to and along the mean high-water mark of Port Nicholson as defined on DP 10694 to and north-westerly along the north-western side of the Eastern Bays Marine Drive, portion of which is defined on DP 2041, to the southernmost corner of Section 4, Block XVI, Belmont Survey District; thence northerly generally along the south-western boundary of that section and the south-western and western boundaries of Section 5, Block XVI aforesaid, to and along the mean high-water mark, being the boundaries of the land reclaimed from Port Nicholson as shown on SO Plan 19810, to a point in line with the south-western side of Marine Parade; thence north-westerly along a right line towards the said south-western side of Marine Parade to a point on the right bank of the Hutt River; thence southerly and north-westerly down the right bank of the Hutt River and along the high-water mark of Port Nicholson, crossing the mouth of the Korokoro Stream, to a point in line with the north-eastern boundary of Section 19, Harbour District; thence northerly generally to and along that boundary, the eastern and northern boundaries of that part of Section 78, Hutt District, contained and described in certificate of title, Volume 348, folio 181, Wellington Registry, the western boundary of Section

39, Maungaraki Settlement and the western boundaries of Subdivisions 3, 6, 4, 5, and 7, Maungaraki Maori Reserve to the northern corner of the last-mentioned subdivision being the point of commencement and excluding therefrom the City of Lower Hutt, the City of Upper Hutt, and the Borough of Petone.

Reprints notes

1 *General*

This is a reprint of the Hutt Valley Drainage Act 1967 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Trusts Act 2019 (2019 No 38): section 161

Land Transfer Act 2017 (2017 No 30): section 250

District Court Act 2016 (2016 No 49): section 261

Criminal Procedure Act 2011 (2011 No 81): section 413

Land Transport Management Amendment Act 2008 (2008 No 47): section 47(1)(c)

Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17): section 76

Public Audit Act 2001 (2001 No 10): section 52

Arbitration Act 1996 (1996 No 99): section 20

Government Roadway Powers Act 1989 (1989 No 75): section 116(3)(a)

Public Finance Act 1989 (1989 No 44): section 87

Ministry of Works and Development Abolition Act 1988 (1988 No 42): section 8

Local Government Amendment Act (No 3) 1986 (1986 No 50): section 15(1)

Local Government Amendment Act 1985 (1985 No 60): section 39(2), (3)

Public Works Act 1981 (1981 No 35): section 248(1)

District Courts Amendment Act 1979 (1979 No 125): section 18(2)

Judicature Amendment Act 1979 (1979 No 124): section 12

Hutt Valley Drainage Amendment Act 1978 (1978 No 10 (L))

Public Finance Act 1977 (1977 No 65): section 160(1)

Hutt Valley Drainage Amendment Act 1974 (1974 No 4 (L))

Hutt Valley Drainage Board Notice 1973 (SR 1973/220)

Hutt Valley Drainage Amendment Act 1971 (1971 No 4 (L))

Rating Act 1967 (1967 No 123): section 176(1), (2)

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Hutt Valley Drainage Act 1967

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