

# Kaituna River District Act 1926

Local Act 1926 No 19  
Date of assent 11 September 1926

## Contents

		Page
	Title	2
1	Short Title	2
2	Interpretation	2
3	General powers of Board	4
4	Special powers	4
5	Board to give notice before exercising certain powers	7
6	Failure to send notice or hear objection	7
7	Board to approve of drains and other works	8
8	Obstruction of flow of waters	8
9	Property, works, &c, vested in Board	9
10	Penalty for damaging property or doing act in contravention of the Act	9
11	Penalty for failing to comply with Board's order	9
12	Receipt of order or notice	9
13	Board may enter on lands	10
14	Purchase of lands in lieu of compensation	10
15	Board may sell or lease lands	10
16	Notice to be given to local authority of works likely to interfere with road, &c	11
17	Notice to be given by Drainage Board before construction of new work	11
18	Saving of work under construction and of maintenance	11
19	If no objection to notice, work may proceed	11
20	Section 73(2) of River Boards Act 1908, not to deprive Board of jurisdiction	12
21	Ratepayers and their voting-powers	12
22	Special powers of rating	14
23	Separate rates	15
24	Classification of lands	16
25	Properties may be classified as a whole or may be divided into parts for classification	18

26	Appeals against classification	18
27	Board may adjust anomalies in classification	19
28	Separate accounts to be kept	19
29	Rating to be on acreage basis	19
30	Raising special loans	20
31	Person on ratepayers roll not entitled to vote if exempted from rates	21
32	Petition for amendment of classification	21
33	Cost of raising loan to be paid out of preliminary expenses	22
34	On payment of \$2,000 by Arawa District Trust Board towards Maketu outlet Native lands owned by members of Arawa Tribe not to be rated	22
35	When works affect railways, consent of Minister required	23
36	Power to make by-laws	23

---

**An Act to make Provision for the Improvement of the Waterways of the Kaituna River and its Tributaries, and for the Protection from Damage by Water of certain Lands in the Auckland District.**

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

**1 Short Title**

This Act may be cited as the Kaituna River District Act 1926.

**2 Interpretation**

In this Act, if not inconsistent with the context,—

**District or river district** means the Kaituna River District as particularly described in the Schedule to The Kaituna River District Amendment Act 1959

Section 2 was amended, as from 4 September 1959, by repealing and substituting the definitions of the expressions “district” or “river district”, “River Board”, and “watercourse”, as well as inserting the definitions “drain” and “drainage works” pursuant to section 2 Kaituna River District Amendment Act 1959 (1959 No 6(L)).

**Drain** means every passage, natural or artificial watercourse, or channel above or under the ground through which water flows continuously or otherwise except a navigable river

Section 2 was amended, as from 4 September 1959, by repealing and substituting the definitions of the expressions “district” or “river district”, “River Board”, and “watercourse”, as well as inserting the definitions “drain” and “drainage works” pursuant to section 2 Kaituna River District Amendment Act 1959 (1959 No 6(L)).

**Drainage works** means drainage works of any sort, including the making of drains for receiving water in its natural flow on or from any hills or other sloping land, and diverting the same to prevent its overflow onto any other land on a lower level, as well as drains for carrying off water from any lands and the installation, maintenance, and repair of pumps or other machinery to facilitate the flow or control or disposal of water in or through any drains

Section 2 was amended, as from 4 September 1959, by repealing and substituting the definitions of the expressions “district” or “river district”, “River Board”, and “watercourse”, as well as inserting the definitions “drain” and “drainage works” pursuant to section 2 Kaituna River District Amendment Act 1959 (1959 No 6(L)).

**Local authority** means any Council, Board, Trustees, Commissioners, company, body, or persons empowered to make and levy rates

**Low-lying land** means land of which the greater portion is not more than three feet above the level of high-water mark of ordinary spring tides

**Protection works** includes all banks, drains, erections, and other works constructed to prevent damage to land by water

**River** and **stream** include all artificial channels and drains constructed by the River Board

**River Board** means the Tauranga County Council

**River-works** means the undertaking of the River Board, and includes all land, works, assets, and other things owned or in course of construction by or under the control of the River Board

**Tidal land** means any parts of the bed, shore, or banks of a tidal water which are covered and uncovered by the flow and ebb of the tide at ordinary spring tides

**Tidal water** means any part of the sea or of a river within the ebb and flow of the tide at ordinary spring tides

**Valuation roll** means the valuation roll made under The Valuation of Land Act 1951

The reference to The Valuation of Land Act 1925 was substituted, as from 1 January 1952, by a reference to The Valuation of Land Act 1951 by section 50(1) Valuation of Land Act 1951 (1951 No 19).

**Waste land** means land the capital value of which does not exceed two dollars per acre

The words “two dollars” were substituted, as from 10 July 1967, for the words “one pound” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**Watercourse** includes all rivers, streams, and channels, natural or artificial, through which water flows, and notwithstanding that water flows through such channels intermittently.

Section 2 was amended, as from 4 September 1959, by repealing and substituting the definitions of the expressions “district” or “river district”, “River Board”, and “watercourse”, as well as inserting the definitions “drain” and “drainage works” pursuant to section 2 Kaituna River District Amendment Act 1959 (1959 No 6(L)).

### 3 **General powers of Board**

The River Board shall have full power, subject to the provisions in respect to local authorities herein contained, to execute all such works and do all such things as may, in its opinion, be necessary to—

- (a) Effectively prevent or minimize the flooding of the district either by surface water or floods and freshes in the Kaituna River or any of its tributaries; or
- (b) Improve the land in the district by lowering the surface level of the water of the Kaituna River or any of its tributaries.

### 4 **Special powers**

In particular, and without restricting the general powers hereby given, the River Board shall, subject to the provisions in respect to local authorities herein contained, have and possess the following powers, that is to say:—

- (a) It may from time to time divert wholly or in part any drain, stream, or river, or close up any outlet or inlet to

or from the same, or make any fresh outlet or inlet to or from the same.

- (b) It may from time to time make, maintain, alter, or discontinue in, on, over, through, or across any land within the district such overflow or other channels as it may consider necessary for the purpose of carrying out its operations.
- (c) It may purchase from any local authority or ratepayer within the district any portion of the protection works erected by such local authority or ratepayer, without purchasing the land on which such protection work is erected, and with or without any easement over the land on which such protection works are erected, or any machinery or other assets of such local authority or ratepayer which in the opinion of the River Board are or are likely to be required for the efficient carrying-out of its operations under this Act. In such case the following provisions shall apply:—
  - (i) If the River Board and such local authority or ratepayer cannot agree as to the price to be paid for such protection works, machinery, or assets, which price shall be such part of the sum actually paid by such local authority or ratepayer for such protection works, machinery, or assets as represents the value to the River Board thereof as part of its undertaking, the dispute shall be referred to the determination and award of two arbitrators and their umpire, pursuant to and so as to have all the incidents and consequences of an arbitration under The Arbitration Act 1996.
  - (ii) In case such purchase is made from a local authority the River Board, in lieu of paying for such protection works, machinery, or assets, may either take over and assume, as substitute for such local authority, the liability for a proportionate part or the whole, as the case may be, of the special loan out of which the protection works, machinery, or assets were paid for by such local authority, but subject always to the consent of the

- lender; or may issue debentures to such local authority on the same terms as to redemption and rate of interest as such local authority has contracted for in respect of such special loan; and any such local authority is hereby authorized to accept any such debentures in payment for such protection works, machinery, or assets.
- (iii) In case such purchase is made from a ratepayer the River Board, in lieu of paying for such protection works, machinery, or assets, may issue debentures to such ratepayer for such period, on such terms, and at such rate of interest as the River Board and such ratepayer shall agree.
  - (iv) Nothing herein contained shall authorize the River Board to issue any debentures, save in accordance with subsections 2, 3, and 4 of section twenty-six and subsections 1 and 2 of section twenty-seven of the Local Bodies' Loans Act 1913.
- (d) It may purchase any low-lying, tidal, or waste land, whether within the river district or within three miles of the boundaries thereof, that can, in its opinion, be advantageously reclaimed in the course of its operations, and may reclaim the same.
  - (e) It may order the occupier, or in case there is no occupier, then the owner, of any land on the bank of any river or stream within its jurisdiction to remove anything whatsoever, whether in such river or stream or (except in the case of buildings) within half a chain from the nearest margin of such river or stream, which obstructs or impedes the free flow of such river or stream, or damages or is likely, in its opinion, to damage the bed or banks thereof, or which has constricted or will be likely, in its opinion, to constrict the channel of such river or stream in such manner as to impede the free flow of the water. For the purposes of this paragraph the jurisdiction of the River Board shall extend for the space of one mile beyond the up-stream boundary of the district.

- (f) It may, where it considers it expedient for the satisfactory carrying-out of its operations either on land owned, held, or occupied by it, or, subject to the consent of the owner, on any other land, plant or sow such trees, shrubs, or grasses, or otherwise take such steps as it may think desirable to check or prevent sand-drifts and minimize the damage resulting therefrom, or to carry out any other of its authorized objects whatsoever.
- (g) No person shall do anything to destroy or damage any such trees, shrubs, grasses, or other works referred to in paragraph (f) hereof, or any fences or other protection in connection therewith, or any trees, shrubs, *Phormium tenax*, or grasses referred to in section 15 of this Act.

The reference to “The Arbitration Act 1996” in paragraph (c.)(i.) was substituted, as from 1 July 1997, for a reference to “The Arbitration Act 1908” pursuant to section 18 Arbitration Act 1996 (1996 No 99).

## **5 Board to give notice before exercising certain powers**

- (1) Before exercising its powers under paragraphs (a), (b), and (e) of section 7 hereof, or under paragraphs (c), (d), and (f) of section seventy-six of the River Boards Act 1908, the River Board shall send to the occupier, or, if there is no occupier, then the owner, of any land, drain, or other work affected, one month’s notice of its intention to exercise any of the powers conferred upon it by any such paragraph.
- (2) Such notice shall specify in general terms the work contemplated by the River Board, and shall name a time and place where it will hear any objection to such work.
- (3) The decision of the River Board, after hearing any such objection, or if such occupier or owner shall not appear, shall be final.

## **6 Failure to send notice or hear objection**

- (1) The omission to send any notice or hear any objection mentioned in the last preceding section shall not render illegal the exercise by the River Board of any of its powers referred to in that section.
- (2) Nothing in section 5 of this Act shall apply in respect of the carrying-out by the River Board of any urgent work to meet

any emergency, or in respect of the carrying-out by the River Board of any work or scheme of operations in regard to which the River Board has obtained, or is moving to obtain, the consent of the ratepayers as hereinafter provided to the raising of a special loan.

**7 Board to approve of drains and other works**

- (1) No person and no local authority, save as herein provided, either within the district or within two miles beyond the up-stream boundary, shall cause, or shall in any case where the River Board shall have notified its intention in the manner provided by section 5 permit, any drain or drains to empty into any river or stream or into any drain or drains under the control of the River Board, or shall make or erect in or adjoining such river or stream any lock, tide-gate, bridge, ferry, wharf, or other works, which drains, erections, or works might prejudicially affect the effective carrying-out of the River Board's operations, unless and until the River Board shall have approved thereof.
- (2) In case any such local authority desires to make, erect, or maintain all or any of the matters in this section mentioned it shall give not less than fourteen days' notice to the River Board, and therewith shall supply particulars of the work proposed to be made, erected, or maintained.

**8 Obstruction of flow of waters**

- (1) Unless with the written consent of the River Board, no person and no local authority, save as herein provided, shall make, erect, or maintain anything that will obstruct or will be likely to obstruct the free flow of flood-waters over any land within the district, or that will within the district obstruct or impede, or be likely to obstruct or impede, the free flow of the waters of the Kaituna River or its tributaries or any watercourse.
- (2) In case any such local authority desires to do all or any of the matters in this section specified it shall give not less than fourteen days' notice to the River Board, and therewith shall supply particulars of the work proposed to be carried out.



**9 Property, works, &c, vested in Board**

Every protection-bank, drain, overflow-channel, tidal or flood gate, or box, or valve, or lever, or other appliance, or any other work, property, or thing whatsoever carried out, acquired, constructed, or maintained by the River Board, shall be deemed to be the property of the River Board.

**10 Penalty for damaging property or doing act in contravention of the Act**

Any person doing any act whereby anything specified in the last preceding section may be damaged or its efficiency impaired, or doing any act, work, or thing forbidden by the provisions of this Act, shall be liable to a penalty of two hundred dollars.

The words “two hundred dollars” were substituted, as from 10 July 1967, for the words “one hundred pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**11 Penalty for failing to comply with Board’s order**

Any person failing to comply with any order that the River Board is hereby empowered to make, within fourteen days from the receipt thereof, shall be liable to a fine of ten dollars per day for every day during which such order is not obeyed, and the River Board may itself do anything by such order directed to be done, and may recover the cost thereof from such person as a debt due to it.

The words “ten dollars” were substituted, as from 10 July 1967, for the words “five pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**12 Receipt of order or notice**

Any order or notice of the River Board sent by registered letter addressed to the last known address of the person to whom such order or notice is directed shall be deemed to have been received by him within twenty-four hours after the time such registered letter should have arrived at the post-office of address in the ordinary course of post.

**13 Board may enter on lands**

The River Board may, for any of its purposes authorized by any Act, at all reasonable times, by itself, its agents, servants, or workmen, and with or without carriages or other vehicles, loaded or unloaded, and with or without horses or any other means of traction whatsoever, enter into and pass through or over any lands within the district, doing thereby no unnecessary or reasonably avoidable damage to such lands.

**14 Purchase of lands in lieu of compensation**

- (1) In lieu of paying compensation to the owner or occupier of any land that may be damaged or injuriously affected by any work carried out under the provisions of this Act, the River Board is hereby empowered to purchase any such land.
- (2) If the owner of any such land and the River Board cannot agree as to the price to be paid for such land, the dispute shall be referred to the determination and award of two arbitrators and their umpire, pursuant to and so as to have all the incidents and consequences of an arbitration under The Arbitration Act 1996.

The reference to “The Arbitration Act 1996” in paragraph (c.)(i.) was substituted, as from 1 July 1997, for a reference to “The Arbitration Act 1908” pursuant to section 18 Arbitration Act 1996 (1996 No 99).

**15 Board may sell or lease lands**

- (1) The River Board may sell, convey, transfer, or lease any land or interest in land from time to time belonging to it, or grant any less estate or interest in, upon, or over the same.
- (2) The River Board may plant or sow and cultivate on any land from time to time owned, held, or occupied by it trees, shrubs, *Phormium tenax*, or grasses; and may sell or otherwise dispose of the same or any of them, or the produce thereof, in such manner as it thinks fit.
- (3) All proceeds derived by the River Board under the powers conferred upon it by this section shall be applied in its discretion towards the furtherance of any of its authorized objects.

**16 Notice to be given to local authority of works likely to interfere with road, &c**

If any works proposed to be carried out by the River Board will be likely to interfere with any road, bridge, or culvert, or other work vested in any local authority, or if in the execution of any such works the River Board requires to lower or alter any such road, bridge, or culvert, or interfere with such work, then the River Board shall give not less than fourteen days' notice to such local authority, and therewith shall supply particulars of the work proposed to be carried out.

**17 Notice to be given by Drainage Board before construction of new work**

Before the Board of any land-drainage district comprised in whole or in part within the river district commences any new work in the district it shall give not less than fourteen days' notice to the River Board, and therewith shall supply particulars of the work proposed to be carried out.

**18 Saving of work under construction and of maintenance**

Nothing in the last preceding section shall apply to work in course of construction on the date of the coming into force of this Act, or to any work of maintenance, repair, improvement, or reconstruction, or to the construction of subsidiary drains linking up with existing drains.

**19 If no objection to notice, work may proceed**

- (1) If the River Board or local authority giving fourteen days' notice as provided by this Act does not within the time specified therein receive any objection in writing from the local authority or River Board to which such notice was given, it may forthwith proceed with or maintain the work the subject of such notice.
- (2) If any objection is made in writing and an agreement between the River Board and any local authority concerned cannot be reached, the River Board or local authority proposing to carry out or maintain the work shall refer the matter to the Engineer-in-Chief of the Public Works Department for decision.

- (3) The Engineer-in-Chief, or some other Engineer of the Department appointed by him, after making such inquiry as he thinks fit, shall determine whether the work proposed by the River Board or local authority should or should not be carried out or maintained, and that with or without any modifications to be indicated by him.
- (4) If in accordance with the last preceding subsection it is determined that the work, or the work with modifications indicated, should be carried out or maintained, the River Board or local authority which submitted the matter for determination may forthwith proceed to carry out or maintain the work in accordance with the determination.
- (5) Nothing herein shall apply in respect of the carrying-out by the River Board or any local authority of any urgent work to meet any emergency.

**20 Section 73(2) of River Boards Act 1908, not to deprive Board of jurisdiction**

Nothing in subsection 2 of section seventy-three of the River Boards Act 1908, shall be so construed as to deprive the River Board of jurisdiction over any part of the river district.

**21 Ratepayers and their voting-powers**

- (1) Every person of the full age of twenty-one years whose name appears on the valuation roll as the occupier (or if there is no person whose name is so entered as the occupier, then as the owner) of any land within the district shall be deemed to be a ratepayer so long as such roll is in force and his name so appears thereon.
- (2) The River Board shall immediately on the coming into force of this Act, and thereafter in the month of April in each year, cause to be prepared a roll of the ratepayers, and there shall be entered on such roll the area of each tenement held by each ratepayer and such other particulars or information as the River Board from time to time may determine.
- (3) For the purposes of any poll of ratepayers or of any election of a member or members of the River Board, in any case where there is more than one person whose name appears on the

valuation roll as occupier of any one property (or if there is no person whose name so appears as occupier, then as owner), then only the person whose name first so appears shall be entitled to vote.

- (4) Notwithstanding anything in this or any other Act to the contrary, no ratepayer who is in default in payment of any rate whatsoever or any part thereof made and levied by the River Board for a period of six months after the said rate became due and payable shall be entitled to vote at any election of a member or members of the River Board or at any poll of ratepayers.
- (5) Save as in subsections 3 and 4 of this section provided, every ratepayer shall be entitled to vote at any election of a member or members of the River Board according to the following scale, that is to say:—
- (a) If his rateable property, whether in one or more tenements, is of an area of not more than one hundred acres, he shall have one vote:
  - (b) If such property is of an area of more than one hundred acres but not more than two hundred acres, he shall have two votes:
  - (c) If such property is of an area of more than two hundred acres, he shall have three votes:

Provided that for the purposes of this subsection the words “rateable property” shall, before any special rate shall have been made and levied by the River Board consequent upon any classification made as in this Act provided, mean all the lands in respect of which that ratepayer’s name appears on the ratepayers roll; and, after any special rate shall have been made and levied as aforesaid, shall mean all the lands in respect of which that ratepayer is a payer of special rates.

- (6) Save as in subsections 3 and 4 of this section provided, every ratepayer shall be entitled to vote at any poll in respect of a proposal to raise a special loan according to the following scale, that is to say:—
- (a) If his property or that part of his property, whether in one or more tenements, which by reason of the classification thereof for rating purposes is liable to be rated if the proposal to raise that special loan shall be carried is of

an area of not more than one hundred acres, he shall have one vote:

- (b) If such property or part is of an area of more than one hundred acres but not more than two hundred acres, he shall have two votes:
- (c) If such property or part is of an area of more than one hundred acres but not more than two hundred acres, he shall have two votes:
- (d) If no part of his property is by reason of the classification thereof for rating purposes liable to be rated if the proposal to raise that special loan shall be carried, he shall not have any vote.

## **22 Special powers of rating**

Without in any way restricting the powers of the River Board to make and levy rates, it is hereby empowered to make and levy the following rates to provide for the payment of administrative or general charges and expenses:—

- (a) Before any rate has been made and levied consequent upon any classification of the lands or any part thereof within the district made as hereinafter provided: A uniform administrative or general rate or rates over the whole of the lands included within the river district, or over such part or parts of the district as the River Board may decide, whether any such part is a legal subdivision or is known by a distinctive name or not.
- (b) After any rate has been made and levied consequent upon any classification of the lands or any part thereof within the district made as hereinafter provided:
  - (i) A uniform administrative or general rate or rates over all the lands or any part or parts thereof which for the time being are liable or have at any time been liable for or subject to the payment of any special rate or rates consequent upon any classification or classifications then subsisting made by the River Board; and for this purpose the whole of any property the subject of a separate assessment on the valuation roll may if a portion only thereof is classified under any clas-

sification then subsisting be liable for or subject to the payment of any such administrative or general rate as if the whole of such property had been so classified; or

- (ii) In respect of the lands the subject of any one classification made by the River Board and then subsisting, a graduated administrative or general rate or rates over all the said lands or any part or parts thereof which for the time being are liable or have at any time been liable for or subject to the payment of any special rate consequent upon such classification, and each such graduated rate shall be in accordance with that classification. The Board may at the same or any time separately exercise the powers in this paragraph conferred in respect of lands the subject of other classifications (whether the same lands wholly or in part or not) made by it and then subsisting; and if any land or part thereof is subject to more than one such classification, then that land shall not be exempt from payment or liability in respect of any such graduated rate or rates merely because it is so subject.

### **23 Separate rates**

- (1) A separate rate or rates may be made and levied within any separate rating-area hereafter created within the district either in lieu of or in addition to any maintenance or administrative rates, and so that the separate rates to be levied in one such rating-area may vary from those in other such areas.
- (2) Before directing such separate rate to be made the River Board shall cause an estimate to be prepared of the proposed expenditure of such rate, the period for which the rate is to be made, showing any sums already available for such purpose, the additional sum required, the rateable property within the area affected, and the rate thereon necessary to raise the money required; and such estimate, being approved by the River Board, shall, for at least fourteen days before the River Board directs the proposed rate to be made, be left at its office,

or at some other place in the district to be publicly notified, and be open for inspection of all ratepayers.

- (3) For the purposes of this section the River Board may at any time and from time to time by special order constitute any part or parts of the district to be a separate rating-area, and the boundaries thereof shall be defined in the special order.
- (4) The River Board may at any time and from time to time by special order abolish any such separate rating area or areas, and may, if it see fit, constitute another or others in lieu thereof.
- (5) Any such separate rate may be either a uniform or a graduated rate over all the rateable lands within the separate rating-area; provided that if the rate be a graduated rate, then the lands within the separate rating-area shall, before such rate is made and levied, be classified or shall have previously been classified in accordance with the provisions of section 24 of this Act, and such graduated rate shall be in accordance with the classification.

#### **24 Classification of lands**

- (1) Before making and levying any rate other than as provided in sections 22 and 23 of this Act, the River Board shall cause or shall have previously caused the lands proposed to be rated to be classified into classes, by one or more classifiers appointed by it, in such manner as may be approved by resolution of the River Board as providing a fair and equitable basis for rating purposes, taking into account the amount of present or future benefit direct or indirect received or likely to be received from the works of the River Board, together with such other secondary factors as the River Board may consider appropriate, and provided that the amount of benefit may be assessed on the basis of flood levels, availability of drainage, or such other factors of whatsoever kind as seem appropriate to the River Board. Such classification may include a terminal class of lands liable to rating for the purpose of this section. The classification shall be set forth in a list to be signed by the Chairman of the River Board, and shall remain in force until replaced by a further classification made in accordance with this Act, nor shall it be necessary for such classification to be made annually. Rates other than those referred to in



sections 22 and 23 of this Act shall be made and levied on a granted scale upon all the said classes of land (other than lands classified in the terminal class), and shall (unless otherwise provided in this Act) be made and levied in such proportions as the River Board in each case determines.

- (2) Notwithstanding anything to the contrary in this or any other Act contained, it shall be lawful for the River Board to cause, either simultaneously or at different times, more than one such classification to be made of all or any part or parts of the lands within the district or any part thereof in respect of simultaneous, alternative, different or subsequent works or operations carried out or proposed to be carried out by the River Board, so that more than one classification may subsist at the same time affecting different lands, or affecting wholly or in part the same lands, and no variation between any such classifications in respect of any of the lands included therein shall in any way invalidate all or any of such classifications; and a rate or rates may be made and levied accordingly over all or any part or parts of the rateable lands included in any or all of such classifications.
- (3) No entry shall be made on any classification list prepared in pursuance of the provisions of this section in respect of any property the subject of a separate assessment on the valuation roll if no portion thereof is classified as having received or being likely to receive any increase in value or any benefit, direct or indirect, from the said works or operations.
- (4) It shall not be necessary that any part of the district in which part the lands may be classified as aforesaid shall be a legal subdivision of the district or shall be known by a distinctive name.
- (5) A classification may be made with reference to the effect of any River Board or works or operations, whether made before, during or after commencement or completion of such works or operations.

This section was amended, as from 24 November 1961, by repealing and substituting subsection (1) pursuant to section 2 Kaituna River District Amendment Act 1961 (1961 No 10 (L)).

The section was further amended, as from 24 November 1961, by inserting the word “different” in subsection (2) pursuant to section 2 Kaituna River District Amendment Act 1961 (1961 No 10(L)).

Subs (5) was inserted, as from 24 November 1961, pursuant to section 2 Kaituna River District Amendment Act 1961 (1961 No 10(L)).

**25 Properties may be classified as a whole or may be divided into parts for classification**

In carrying out any classification of land in accordance with the provisions of this Act the persons appointed to make the classification may, in their discretion, treat each property as a whole and classify it accordingly, or divide each property into parts and classify each part separately. In any appeal against the classification of any property there shall be no appeal against any decision of the classifiers under this section as to the method of classification to be adopted.

**26 Appeals against classification**

- (1) Every classification shall be dealt with by the River Board, and every person who thinks himself aggrieved thereby may appeal against the same, in the manner provided by The River Boards Act 1908 on the grounds specified in that Act.
- (2) All appeals against any classification shall be decided by a District Court Judge.
- (2A) On the hearing of any such appeals the District Court Judge shall either confirm the classification list or amend the classification list or any detail therein in such manner as he thinks reasonable to give effect to his decision upon any appeal and shall sign the list as so amended and every amendment made by him.
- (3) Every classification list, when signed by the River Board in case there is no appeal, and when signed by the District Court Judge after any appeal, shall, for the purpose of any proceedings for the recovery of rates payable under this Act, be conclusive evidence of the liability of the owner or occupier for the time being of the property described therein, and every such list shall remain in force until another is made by direction of the River Board to replace the same.

The references to “District Court Judge” were substituted, as from 1 April 1980, for references to “Stipendiary Magistrate” and “Magistrate” pursuant to section 18(2) District Courts Amendment Act 1979 (1979 No 125).

Subs was amended, as from 24 November 1961, by inserting the words “on the grounds specified in that Act” pursuant to section 3(1) Kaituna River District Amendment Act (1961 No 10(L)).

Subs (2) was repealed and substituted, as from 24 November 1961, by section 3(2) Kaituna River District Amendment Act (1961 No 10(L)).

Subs (2A) was inserted, as from 24 November 1961, by section 3(3) Kaituna River District Amendment Act (1961 No 10(L)).

## **27 Board may adjust anomalies in classification**

- (1) Where the River Board is of opinion that under any classification made under this Act minor anomalies and injustices have resulted in respect of any property, it may modify the classification, provided always that no modification shall be made which will increase the total rates payable in respect of the property.
- (2) Any modification made as aforesaid shall be noted on the classification list and the entry thereon signed by the River Board, and shall thereupon take effect accordingly.
- (3) Where the classification of any property is modified as aforesaid it shall not be deemed to be a reclassification of the property, and there shall be no right of appeal against such modification.

Subs (1) was amended, as from 24 November 1961, by omitting the words “by reason of the fact that a property classified as a whole receives varying degrees of benefit” and substituting “in respect of any property”, and omitting the words “by classifying the property into more than one class” pursuant to section 4 Kaituna River District Amendment Act (1961 No 10(L)).

## **28 Separate accounts to be kept**

The River Board shall cause separate accounts to be kept for all administrative, maintenance, separate, and special rates made and levied by it.

## **29 Rating to be on acreage basis**

All rates whatsoever of the River Board shall be made and levied on an acreage basis, except any rate made and levied for the purpose of extinguishing the antecedent liability of the River Board under The Local Authorities Loans Act 1956.

The reference to “The Local Authorities Loans Act 1956” was substituted, as from 1 April 1957, for a reference to “The Local Bodies’ Finance Act 1921-22” pursuant to section 135(1) Local Authorities Loans Act 1956 (1956 No 63).

**30 Raising special loans**

- (1) The River Board shall have all the powers conferred by The Local Authorities Loans Act 1956, on a local authority as in that Act defined, and the provisions of that Act, except as in this Act or The River Boards Act 1908, expressly or impliedly extended, varied, or repealed, shall apply to any loan raised or proposed to be raised by the River Board.
- (2) The River Board may raise a special loan for more than one of its authorized objects, whether for the benefit of the whole district or any part or parts thereof, but the amount applicable to each such object shall be stated when the proposal for the loan is submitted to the ratepayers.
- (3) For the purpose of raising such a loan as in the last preceding subsection mentioned, the River Board may cause separate classifications to be made in respect of the lands to be affected by each one of such objects, whether such lands are wholly or partly identical or not.
- (4) The ratepayers entitled to vote on any proposal mentioned in subsection 2 of this section shall be all the ratepayers who are entitled to vote in respect of any of the land or lands comprised within the areas classified as aforesaid, and the votes of such ratepayers may be taken on the proposal as a whole and not necessarily in respect of each separate object.
- (5) For the purposes of subsections 2, 3, and 4 of this section any ratepayer entitled to vote may vote as for the whole of each one of his properties the subject of a separate assessment on the valuation roll if any portion of such one property is shown by more than one of the said classifications (mentioned in the said subsection 3) as likely to receive any increase in value or any benefit, direct or indirect, from the carrying-out of the proposed purposes or any of them:  
Provided that no ratepayer shall be entitled to exercise more votes than provided in subsection 6 of section twenty-one of this Act.
- (6) If a special loan proposed to be raised as mentioned in subsection 2 of this section is for the benefit of two or more parts of the district (whether some of the lands in any or all of such parts are identical or not), those parts together shall,

for the purposes of subsection 3 of section three of the Local Bodies' Loans Act 1913, and consequential enactments, be deemed to be a defined part of the district.

The reference to "The Local Authorities Loans Act 1956" was substituted, as from 1 April 1957, for a reference to "The Local Bodies' Loans Act 1913" pursuant to section 135(1) Local Authorities Loans Act 1956.

**31 Person on ratepayers roll not entitled to vote if exempted from rates**

- (1) After any special rate shall have been made and levied by the River Board consequent upon any classification made as in this Act provided, no ratepayer shall, except as in this Act provided, be entitled to vote at any election of a member of the River Board, or at any poll upon a proposal submitted to the ratepayers of the district or of any part or parts thereof, or shall be capable of being elected or of holding office as a member of the River Board, while all the land in respect of which his name appears on the ratepayers roll is exempt from or not liable for payment of all special rates.
- (2) Anything in the last preceding subsection to the contrary notwithstanding, a ratepayer shall, subject to the provisions of subsections 3 and 4 of section twenty-one of this Act, be entitled to vote on any proposal to raise a special loan if the land or any part thereof in respect of which his name appears on the ratepayers roll is by reason of the classification of that land for rating purposes liable to be rated if the proposal to raise that special loan shall be carried.

**32 Petition for amendment of classification**

If the River Board at any time is of opinion that any land or lands omitted from any classification made under this Act should be included in such classification, or if it is of opinion that any classification of lands theretofore made should be amended, the River Board may present a petition to the Governor-General praying that any such classification may be amended by the inclusion of such other lands therein or in any other manner whatsoever, and the provisions of section 4 of the River Boards Amendment Act 1913, shall, *mutatis mutandis*, apply to such petition accordingly.

**33 Cost of raising loan to be paid out of preliminary expenses**

- (1) In respect of any special loan raised by the River Board the term **preliminary expenses**, as used in paragraph (a) of subsection one of section four of the Local Bodies' Loans Act 1913, shall be interpreted and construed as including all costs, fees, charges, and expenses incurred or payable by the River Board in obtaining the consent of the ratepayers to the raising of that loan.
- (2) The River Board is hereby empowered to pay out of the moneys of the first special loan raised by it all costs, fees, charges, and expenses incurred or payable by it in respect of the preparation, promotion, and enactment of this Act.

**34 On payment of \$2,000 by Arawa District Trust Board towards Maketu outlet Native lands owned by members of Arawa Tribe not to be rated**

Inasmuch as the River Board has in progress a certain scheme of operations (hereinafter in this section referred to as the outlet scheme) for the diversion of the outlet of the Kaituna River so as to reopen the old outlet at Maketu of that river, which said old outlet was entirely closed in or about the year nineteen hundred and seven by the action of natural forces and has since remained closed: And inasmuch as the Arawa District Trust Board (being the Board constituted under the provisions of section 27 of the Native Land Amendment and Native Land Claims Adjustment Act 1922, and hereinafter in this section referred to as the Trust Board) has undertaken to pay by way of contribution towards the cost of the outlet scheme the sum of two thousand dollars (hereinafter referred to as the said contribution):

- (1) Upon and after payment by the Trust Board to the River Board of the said contribution, or of that sum which together with any sum or sums paid by the Trust Board to the River Board makes up the amount of the said contribution, the River Board shall not make on any Native any demand of payment of any rate whatsoever made and levied in respect of the outlet scheme by reason of the fact that such Native is the owner or occupier of any Native land or of any share or interest therein, notwithstanding that such Native land or any part thereof may have been included in any classification made in respect of the outlet scheme pursuant to the provisions of this Act or in any

separate rating-area; but this subsection shall not be construed to exempt from payment of rates any owner or occupier (other than a Native) of any Native land or any interest therein.

- (2) If the River Board shall raise a special loan in respect of the outlet scheme, any rate made and levied as security for such loan shall be so calculated as to yield a sufficient sum annually after allowing for the exemptions provided for in subsection 1 of this section.
- (3) The said contribution or any part thereof, as and when received by the River Board from the Trust Board, shall be expended by the River Board solely in or towards the furtherance of the outlet scheme and not otherwise.
- (4) For the purposes of this section the term **Native land** shall have the meaning ascribed to it by section 2 of the Native Land Act 1909; and the word **Native** shall mean a member of the Arawa Tribe or a descendant of a member of that tribe.

The words “two thousand dollars” were substituted, as from 10 July 1967, for the words “one thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

### **35 When works affect railways, consent of Minister required**

- (1) When any works authorized by this Act or any other Act, and contemplated by the River Board, interfere with or affect any railway-work the property of His Majesty the King, the River Board shall, before commencing the same, give notice of its intention so to do to the Minister of Railways, together with a plan and section showing the nature of such interference.
- (2) It shall not be lawful for the River Board to execute any work upon or affecting any railway in any part of the district, except with the previous consent and approval in writing of the Minister of Railways, who may impose such conditions for the protection and safety of the railway as he may think fit.

### **36 Power to make by-laws**

The River Board may from time to time by special order make by-laws—

- (a) To regulate the use of any river-works;
- (b) To determine the conditions on which other constructed public or private drains may be connected or continue

- to be connected with any river, stream, or constructed drain under the control of the River Board, including in such conditions the payment to the River Board of any annual or other charges;
- (c) To compel owners of properties on or adjoining which there are any watercourses or drains under the control of the River Board to construct, maintain, and renew crossings thereover at places and in manner approved by the River Board;
  - (d) To regulate the construction and maintenance of crossings over any river-works, watercourses, and drains;
  - (e) To provide that, in the case of specified watercourses or drains or parts thereof, such crossings shall be bridges or culverts constructed at places and in manner approved by the River Board;
  - (f) To prohibit the passing over any of the works or things specified in section 9 hereof, or over any watercourse or drain, except at appointed crossings;
  - (g) To protect rangers and other persons employed by the River Board in connection with river-works in the discharge of their duties;
  - (h) To regulate the use of any of the works or things specified in section 9 hereof, and, in particular, to order such fencing or other protection of any of such works to be done by any adjoining owner as the River Board in each particular case shall consider essential;
  - (i) To provide for the cleansing and maintenance and repair of any private drain or part thereof which is connected to any watercourse or drain under the control of the River Board by the owner or occupier of the land through which the same is made, and for the execution of such work by the River Board in case of default, and the recovery of the cost thereof from such owner or occupier;
  - (j) To prohibit or regulate the overflow of artesian wells into any drains or watercourses under the control of the River Board;



- (k) To prohibit or regulate the pumping or releasing of water into any drain or watercourse under the control of the River Board;
- (l) To prohibit or regulate the planting of trees, hedges, or other plants or the erection of any structures on or within a specified distance from the banks of any drain or watercourse under the control of the River Board where they will obstruct or be likely to obstruct the free passage along the banks of the drain of machinery or apparatus used for the purpose of improving, maintaining, or cleaning the drains or watercourses; and to require owners and occupiers of land on which any trees, hedges, or other plants are planted or structures are erected in breach of the bylaws to remove the same, and to provide for the removal of such trees, hedges, or other plants or structures by the River Board in the case of default, whether such trees, hedges, or other plants are planted or structures erected before or after the commencement of this Act;
- (m) To regulate the location and capacity of pumps installed in the district;
- (n) To prescribe such matters in relation to pumping as the River Board considers necessary for the effective drainage of the district;
- (o) To prohibit or regulate the erection of any structures or fences within a specified distance from the banks of any watercourse under the control of the River Board or in any place where they will obstruct or be likely to obstruct the free flow of floodwaters in any existing flood channel and to regulate the maintenance of any such structures or fences;
- (p) Generally to prevent trespasses, nuisances, obstructions, and damage to watercourses under the control of the River Board or to plantations or property had or maintained by the River Board, and for making all such provision as the River Board deems necessary or expedient for the protection and proper management of its property and all machinery and works of every kind under its care, control, and management;

and may by any such by-law impose a fine not exceeding fifty dollars for any breach thereof:

Provided always that no such by-law shall contravene any of the provisions herein contained with regard to local authorities.

The words “fifty dollars” were substituted, as from 10 July 1967, for the words “twenty-five pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).