

**Reprint
as at 7 August 2020**

**Soil Conservation and Rivers Control Amendment Act
1948**

Public Act 1948 No 40
Date of assent 19 November 1948

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An Act to amend the Soil Conservation and Rivers Control Act 1941

1 Short Title

This Act may be cited as the Soil Conservation and Rivers Control Amendment Act 1948, and shall be read together with and deemed part of the Soil Conservation and Rivers Control Act 1941 (hereinafter referred to as the principal Act).

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this reprint. See the notes at the end of this reprint for further details.

This Act is administered in the Ministry for the Environment.

2 Interpretation

(1)

(2) All references in the principal Act, or in any other Act, to the Clerk to a Catchment Board shall be read hereafter as references to the Secretary to a Catchment Board.

(3)

3 *[Repealed]*

4

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(1)

(2) *[Repealed]*

(3)

Subsection (2) was repealed, as from 1 April 1952, by section 10(1) Fees and Travelling Allowances Act 1951 (1951 No 79).

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7 Holders of specified offices may be appointed non-elective members of Boards

Notwithstanding anything to the contrary in section 44 of the principal Act, the Governor-General may from time to time, by Order in Council, declare that the person who is the holder for the time being of a specified office in the public service shall be a non-elective member of a Catchment Board. The person who is for the time being the holder of the specified office shall, while the Order in Council remains in force, continue to be a non-elective member of the Board without any appointment or reappointment under the said section 44.

Section 7: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

8

9 *[Repealed]*

Section 9 was repealed, as from 1 April 1968, by section 177(1) Rating Act 1967 (1967 No 123).

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11 Ratepayer may apply to Board to exercise its powers

(1) For the purposes of this section, unless the context otherwise requires, **ratepayer** has the same meaning as in section 11 of the Local Government (Rating) Act 2002.

(2) Where a ratepayer for land within a catchment district desires to prevent the overflow of water thereon or to drain the same, and for that purpose deems it

necessary that a new drain or watercourse should be made which will serve other lands as well as his own, or that an existing drain or watercourse which serves other land as well as his own should be cleansed, repaired, widened, deepened, straightened, or otherwise improved, or where any owner or occupier of land adjacent to a river deems it necessary that work upon the river should be undertaken to prevent flooding or erosion or other damage, in any such case he may apply in writing to the Catchment Board for the district to exercise its powers in that behalf.

- (3) Every such application shall describe generally the nature of the work required, and the lands on, through, and between which it will be carried out, and if a new work is proposed, shall state the compensation (if any) which the person making the application estimates to be payable, and shall be accompanied by a sketch plan showing the course of the drain or watercourse.
- (4) Before constructing any works of any nature pursuant to any such application the Board shall—
 - (a) Estimate the cost which it will incur in carrying out and maintaining the proposed work and the amount of compensation which will be payable in respect of the work:
 - (b) Determine which of the ratepayers for the lands (at the date of determination) which will benefit from the proposed work shall contribute to the cost of carrying out and maintaining the work, and how that cost shall be apportioned between them; and in making the determination and apportionment the Board shall have regard to the amount of the benefit directly or indirectly derived or likely to be derived in each case:
 - (c) Prepare proposals regarding the apportionment of the compensation money which the Board proposes to pay in respect of the work:
 - (d) Deposit for public inspection at the office of the Board, and where that office is outside the district also at some place within the district—
 - (i) A statement containing a general description of the proposed work:
 - (ii) A plan showing the land which will be affected by the work and the names of the ratepayers for the land:
 - (iii) A statement of the estimated cost of the work and of the manner in which the Board proposes to apportion the same:
 - (iv) A statement of the estimated cost of the maintenance of the work and the manner in which the Board proposes to apportion the same:
 - (v) A statement of the amount of compensation which the Board proposes to pay in respect of the work and the manner in which the Board proposes to apportion the same:

- (e) Give notice in writing to the ratepayers for all land affected by the proposed work of the Board's intention to construct the work, which notice shall refer to the plan and statements aforesaid, and shall state whether the person to whom the notice is given will be required to contribute towards the cost of carrying out or maintaining the work, and whether the Board proposes to pay or credit to him any amount for compensation in respect of the work, and shall call upon him to lodge with the Board within one month after the giving of the notice a written statement of his objections (if any) to the proposed work and to the proposed apportionment of the cost of carrying out or maintaining the proposed work.
- (5) If any such objection is lodged and agreement cannot be reached between the Board and the objector, the Board, after consultation with the objector, shall appoint an independent assessor and refer the matter to that assessor whose decision, subject to section 33B of the principal Act, shall be final.
- (5A) After giving the Board and the objector an opportunity to be heard, the assessor shall consider the matter fairly and without bias and make a decision.
- (5B) The assessor shall supply the Board and the objector with a written copy of the decision and the reasons for it.
- (5C) Where no such objection is lodged within the said period of 1 month, or where (in respect of every objection lodged) either the assessor or the person objecting consents to the execution of the work, the Board may forthwith proceed with the work.
- (6) The amount of the contribution of every ratepayer for land affected by the proposed work as stated in the notice under subsection (4)(e), or, if an objection that affects the amount of the contribution has been duly lodged, as determined by agreement or by the assessor, constitutes a debt due and payable by the ratepayer to the Board.
- (7) The Board may charge interest on any amount payable to it under this section at a rate to be from time to time fixed by the Minister of Finance, and may require any such amount and interest to be paid by such instalments on such days as the Board thinks fit.
- (8) Where a written application has been received from the ratepayer for any land for the exercise by the Board of any of its powers as provided in this section and expenses have been incurred by the Board in relation to the request, the Board may require the person who made the request to pay the whole or any part of the amount of the said expenses, and the amount which that person is so required to pay shall constitute a debt payable by that person, chargeable with interest, and charged on the land in the same manner in all respects as if the work had been completed.
- (9) Before considering any application under subsection (2) of this section, the Board may require the person making the application to pay to the Board a

reasonable sum for engineering, or other expenses incurred or likely to be incurred in respect of the application.

- (10) Nothing contained in this section, except the provisions imposing liability on claimants, shall in any way affect any claim by any person to compensation.

The heading to section 11 was amended, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6) by substituting the words “Ratepayer” for the words “Owner or occupier”.

Subsection (1) Occupier: the former reference to the Rating Act 1967 was substituted, as from 1 April 1968, for a reference to the Rating Act 1925, pursuant to section 177(1) Rating Act 1966 (1966 No 123).

Subsection (1) Occupier: this definition was amended, as from 29 June 1988, by section 208(1) Rating Powers Act 1988 (1988 No 97) by substituting the words “occupier of the land within the meaning of the Rating Powers Act 1988” for the words “occupier of the land within the meaning of the Rating Act 1967”.

Subsection (1) Occupier: the former reference to the Rating Act 1967 was substituted, as from 1 April 1968, for a reference to the Rating Act 1925, pursuant to section 177(1) Rating Act 1966 (1966 No 123).

Subsection (1) Occupier: this definition was amended, as from 29 June 1988, by section 208(1) Rating Powers Act 1988 (1988 No 97) by substituting the words “occupier of the land within the meaning of the Rating Powers Act 1988” for the words “occupier of the land within the meaning of the Rating Act 1967”.

Subsection (1) was substituted, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6). *See* section 137(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

Subsection (2) was amended, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6) by substituting the words “a ratepayer for land” for the words “any owner or occupier of land”. *See* section 137(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

Subsection (4)(b) was amended, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6) by substituting the words “ratepayers for the lands (at the date of determination)” for the words “owners and occupiers (at the date of the determination) of the lands”. *See* section 137(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

Subsection (4)(d)(ii) was amended, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6) by substituting the words “ratepayers for the land” for the words “owners and occupiers of the land”. *See* section 137(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

Subsection (4)(e) was amended, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6) by substituting the words “ratepayers for all land” for the words “owners and occupiers of all land”. *See* section 137(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

Subsection (5) was substituted, as from 1 April 1988, by section 45(1) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48). *See* subsection (3) of that Act which states that, if, before 1 April 1988, any objection under section 11 has been lodged with a Board; and referred by the Board to the National Water and Soil Conservation Authority; and referred by that Authority to a Tribunal appointed pursuant to section 33A, and not finally dealt with by the Tribunal, that Tribunal shall continue in existence and have jurisdiction to hear and decide on the objection as if subsections (1) and (2) of this section had not been enacted and as if section 33A of the principal Act and section 29 of the Water and Soil Conservation Act 1967 had not been amended. *See* subsection (4) of (1988 No 48) which states that for the purposes of sections 33B to 33J of the principal Act, every Tribunal

to which subsection (3) of this section applies shall be deemed to have been appointed by the Minister for the Environment.

Subsections (5A) to (5C) were inserted, as from 1 April 1988, by section 45(1) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48). *See* subsection (3) of that Act which states that, if, before 1 April 1988, any objection under section 11 has been lodged with a Board; and referred by the Board to the National Water and Soil Conservation Authority; and referred by that Authority to a Tribunal appointed pursuant to section 33A, and not finally dealt with by the Tribunal, that Tribunal shall continue in existence and have jurisdiction to hear and decide on the objection as if subsections (1) and (2) of this section had not been enacted and as if section 33A of the principal Act and section 29 of the Water and Soil Conservation Act 1967 had not been amended. *See* subsection (4) of (1988 No 48) which states that for the purposes of sections 33B to 33J of the principal Act, every Tribunal to which subsection (3) of this section applies shall be deemed to have been appointed by the Minister for the Environment.

In subsection (6) the former reference to the Rating Act 1967 was substituted, as from 1 April 1968, for a reference to the Rating Act 1925, pursuant to section 177(1) Rating Act 1966 (1966 No 123).

Subsection (6) was amended, as from 1 April 1988, by section 45(2) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48) by substituting the word “assessor” for the word “Authority”. *See* subsection (3) of that Act which states that, if, before 1 April 1988, any objection under section 11 has been lodged with a Board; and referred by the Board to the National Water and Soil Conservation Authority; and referred by that Authority to a Tribunal appointed pursuant to section 33A; and not finally dealt with by the Tribunal: that Tribunal shall continue in existence and have jurisdiction to hear and decide on the objection as if subsections (1) and (2) of this section had not been enacted and as if section 33A of the principal Act and section 29 of the Water and Soil Conservation Act 1967 had not been amended. *See* subsection (4) of (1988 No 48) which states that for the purposes of sections 33B to 33J of the principal Act, every Tribunal to which subsection (3) of this section applies shall be deemed to have been appointed by the Minister for the Environment.

Subsection (6) was amended, as from 29 June 1988, by section 208(1) Rating Powers Act 1988 (1988 No 97) by substituting the words “in which rates which have been validly demanded are recovered under the Rating Powers Act 1988” for the words “in which rates which have been validly demanded are recovered under the Rating Act 1967”.

Subsection (6) was substituted, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2003 No 6). *See* section 137(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

Subsection (8) was amended, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6) by substituting the words “ratepayer for any land” for the words “owner or occupier of any land”. *See* section 137(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

12 Purchase, sale, or hire of plant by Board

- (1) Any Catchment Board may purchase plant and machinery for soil conservation or river control purposes out of money available for those purposes.
- (2) Any Catchment Board may let out on hire or on loan on such terms as it thinks fit, any plant and machinery for soil conservation or river control purposes.

Subsection (1) was amended, as from 1 April 1988, by section 46(a) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48) by substituting the word “Any” for the words “The Authority or any”.

Subsection (2) was amended, as from 1 April 1988, by section 46(b) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48) by substituting the word “Any” for the words “The Authority may sell, and the Authority or any”.

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(1)

(2) Sections 8 to 13 of the Soil Conservation and Rivers Control Amendment Act 1946 shall apply in every case where the special drainage or river authority is a Minister of the Crown or any other person on whom any functions or powers in respect of land drainage or river control are conferred by a special Act as if the surrender of those functions or powers by the Minister or person were the dissolution of a special drainage or river authority.

(3)

(4)

Reprint notes**1 *General***

This is a reprint of the Soil Conservation and Rivers Control Amendment Act 1948 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *About this reprint*

This reprint is not an official version of the legislation under section 18 of the Legislation Act 2012.

3 *Amendments incorporated in this reprint*

Public Service Act 2020 (2020 No 40): section 135