

New Zealand.

ANALYSIS.

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1907, No. 20.—*Local.*

AN ACT to amend the Dunedin District Drainage and Sewerage Act, 1900, and the Acts amending the same. Title.

[23rd November, 1907.]

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

1. This Act may be cited as the Dunedin District Drainage and Sewerage Act Amendment Act, 1907. Short Title.

2. In this Act and the Acts hereby amended the following words and expressions, if not inconsistent with the context, shall be deemed to have, and to have had from the passing of the principal Act, the meanings hereby given thereto, in addition to any meaning given to the same words and expressions by the principal Act or any Act amending the same :— Interpretation.

“The principal Act” means the Dunedin District Drainage and Sewerage Act, 1900 :

“The said Acts” means and includes the principal Act and all Acts now or hereafter passed in amendment thereof, including this Act :

“Owner” includes a mortgagor in possession of premises or in receipt of the rents or profits therefrom :

Drainage and Sewerage Act Amendment.

“ Works ” includes all works in connection with the drainage, sewerage, or sanitation of premises in the district:

“ Drainage ” includes sewerage and sanitation :

“ Private street ” includes a right-of-way.

Section 24 of
principal Act
amended.

3. Section twenty-four of the principal Act is hereby amended by repealing paragraphs (4) and (5) thereof, and substituting therefor the following :—

“(4.) In any public notice of a meeting called to confirm a resolution intended to operate as a special order making a by-law, and of such resolution, it shall not be necessary to set forth the whole of the proposed by-law if the object or purport thereof is stated, and if a copy of the proposed by-law is deposited at the office of the Board or at some other place in the district which shall be specified in such notice, and is open to the inspection of the public during office hours for at least seven days immediately preceding the meeting at which the said resolution is to be confirmed.

“(5.) A copy of the special order making a by-law, sealed with the common seal of the Board, shall be forwarded to the Governor within seven days after the making of such special order.

“(6.) The Governor may, within three months after the making of such special order, disallow the by-law or any part thereof, and upon such disallowance being gazetted such by-law or the part thereof so disallowed shall cease to have any force, in the same manner and to the same extent as if the said by-law or the part thereof so disallowed had been repealed or revoked by the Board.”

Provision as to
by-laws.

4. In making any by-law under the provisions of the said Acts or any of them the Board may—

(a.) Provide that any matter or thing shall or may be determined, applied, dispensed with, prohibited, or regulated by the Board from time to time by resolution, either generally or for any classes of cases or in any particular case :

(b.) Provide that the by-law shall apply only to part of the district.

Section 30 of
principal Act
amended.

5. Section thirty of the principal Act is hereby amended as follows :—

(a.) By repealing the words “ private premises ” wherever they occur in such section, and substituting therefor the word “ premises ” :

(b.) By inserting therein, after the expression “ rights-of-way ” in paragraph (12), the words “ and the lands or buildings abutting thereon.”

Validity of by-law.

6. A by-law made by the Board shall not be deemed invalid merely because it deals with a subject dealt with by the general law.

Continuing offence.

7. The continued existence in a state contrary to the provisions of the said Acts or the by-laws of any work or thing shall be deemed a continuing offence within the meaning of the said Acts or the by-laws, as the case may be.

8. The Board may, notwithstanding a conviction for the continuing breach of any of the provisions of the said Acts or the by-laws, apply to the Supreme Court for an injunction to restrain the further continuance of such breach by the person or persons so convicted.

Application for
injunction.

9. (1.) The Board may by ordinary resolution fix and determine the date for payment of rates directed to be levied by a local body pursuant to section fifty-three of the principal Act, and may by ordinary resolution alter the date fixed and determined for payment of rates so directed to be levied, whether such date has been fixed or determined by an ordinary or by a special resolution, but so that such altered date shall not be earlier than the date so altered.

Board may fix date
for payment of
rates.

(2.) It shall not be obligatory to fix the same date for the whole of the district.

(3.) The Board may in its own name sue for and recover payment of rates made or levied by a local body pursuant to a special order made or to be made by the Board under or by virtue of section fifty-three of the principal Act, or under or by virtue of the provisions of any other Act now or hereafter in force, in like manner and to the like extent as if such rates were rates made and levied by the Board.

(4.) The Secretary or other officer of the Board may from time to time inspect and take extracts from or make copies of any rate-book, valuation list, and valuation roll of any local authority; and if any person having the custody of such rate-book, list, or roll refuses or neglects to permit such Secretary or other officer to inspect the same, or to take extracts therefrom, or make copies thereof, at all reasonable times, he shall for every such offence be liable to a penalty not exceeding ten pounds.

10. Section twenty-eight of the principal Act is hereby amended as follows:—

Section 28 of
principal Act
amended.

- (a.) By repealing the words "five, ten, or," and substituting therefor the words "such period not exceeding":
- (b.) By repealing the words "the rate of seven and a half," and substituting the words "a rate not exceeding six":
- (c.) By repealing paragraph (2) of the said section, and substituting therefor the following, that is to say:—

"(2.) The first instalment shall become due on the first day of the month following the month (to be conclusively ascertained by the certificate of the Drainage Engineer) in which the executing, providing, or doing of the work, materials, or things was completed; and the remaining instalments shall respectively become due on a date computed in each case from the date for payment of the first instalment, according as such remaining instalments are to be payable monthly, quarterly, or half-yearly.

"(2A.) With each instalment there shall be paid interest at the rate aforesaid on the amount for the time being owing in respect of the sum of money payable by the owner.

“(2b.) If default is made for one month in payment of any such instalment of principal money or interest, or part thereof respectively, the Board may elect to treat the whole balance of the said sum of money for the time being owing by the owner as having immediately become due and payable, and the same shall be recoverable accordingly.”

When service of notices on original owner or occupier deemed sufficient for subsequent occupiers.

11. (1.) Any notice, demand, order, or direction by the said Acts or the by-laws required or authorised to be given or made by the Board or any officer thereof shall, if due service thereof has been once made on any owner or occupier, be binding on each and every person claiming by, through, or under such owner or occupier to the same extent as if such person had been the owner or occupier of the premises in question at the time of the service of such notice, demand, order, or direction, and the same had been served upon him, and such person shall be liable in connection therewith accordingly.

(2.) Any such notice, demand, order, or direction may, if the person to or upon whom the same is to be given or made is absent from New Zealand, be served upon his agent in the same manner as it might be served upon such person if within New Zealand.

(3.) If such person is not known or is absent from New Zealand, and has no known agent in New Zealand, and the notice, demand, order, or direction relates to any land or building or works in connection therewith, the notice, demand, order, or direction addressed to the owner or occupier of such land or building, as the case may require, may be served on the occupier thereof or left with some inmate of his abode, and it shall not be necessary in any such notice to name the occupier or owner of such building or land.

(4.) When a notice, demand, order, or direction is sent by post it shall be deemed to have been served at the expiration of forty-eight hours after the same was delivered to the post-office.

(5.) A note or memorandum of the service of such notice, demand, order, or direction shall be made by the Board in the Register of Charges to be kept by the Board pursuant to this Act.

Drainage of block of contiguous lands.

12. If it appears to the Board that a group or block of contiguous houses or lands, or of adjacent detached or semi-detached houses, may be drained more economically or advantageously in combination than separately, the Board may order that such group or block of houses or lands be drained by a combined operation, or elect to do the work as provided by section twenty-six of the principal Act.

Section 26 of principal Act amended.

13. Section twenty-six of the principal Act is hereby amended by repealing the word “hereinafter” in the last line thereof, and adding thereto at the end thereof the words “in this Act or any Act amending the same.”

Board may proceed against persons doing work contrary to Act.

14. (1.) If any person executes, provides, or does any works, materials, or things contrary to the provisions of the said Acts or the by-laws, it shall be lawful for the Board by notice in writing to require such person, and the owner of the premises upon or in con-

nection with which the said works, materials, or things have been executed, provided, or done, or either of them, to remove such works, materials, or things, or, in the discretion of the Board, to alter the same so as to comply with the said Acts and the by-laws within a time to be limited by such notice.

(2.) Section six of the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1906, shall apply to any works or operations required or directed by the Board under or by virtue of this section, and the cost thereof if executed by the Board, and such section shall, *mutatis mutandis*, be incorporated with and form a part of this section.

15. The recovery of the cost of any works, materials, or things executed, provided, or done by the Board under any of the provisions of the said Acts or the by-laws shall not be a bar to any proceeding in respect of the breach of any provision of the said Acts or the by-laws, or the recovery of a penalty in connection therewith.

Recovery of costs of works done by Board.

16. (1.) When it is desired by any person to abandon, either wholly or in part, or to extend, contract, or alter any design for any works previously submitted to and approved by the Board or any officer of the Board, notice in writing of such desire shall be given to the Board by the person by whom such approval was obtained, accompanied by plans and sections showing the nature of the abandonment, extension, contraction, or alteration desired; and no such abandonment, extension, contraction, or alteration shall be made without the previous sanction in writing of the Board or the Drainage Engineer.

Procedure when alteration desired of works already approved by Board.

(2.) No person shall abandon wholly or in part, or extend, contract, or alter in construction, any works approved or sanctioned by the Board or any officer of the Board, without the previous sanction in writing of the Board or the Drainage Engineer.

17. (1.) The Board, if it thinks fit, may from time to time (in addition and without prejudice to any other remedy) recover as a simple contract debt, by action in any Court of competent jurisdiction, from the owner for the time being of any premises in respect of which any sum is due as the cost of works, materials, and things executed, provided, and done respectively by the Board, with the interest thereon, the whole or any portion of such sum.

Recovery of costs for works done.

(2.) A charge created by or by virtue of the said Acts shall take effect from the entry thereof in the Register of Charges hereinafter mentioned, and that whether the moneys charged thereby have been sued for or not, and notwithstanding the provisions of any other Act to the contrary.

18. The Board shall keep a Register of Charges under the said Acts, and of the payments made in satisfaction thereof, and the register shall be open to inspection to all persons at all reasonable times on payment of such sum as is from time to time fixed by the Board by resolution, not exceeding one shilling in respect of each name or property searched for; and the Board shall furnish copies of any part of such register to any person applying for the same on payment of such sum as is from time to time fixed by the Board, not exceeding five shillings in respect of each property.

Register of Charges to be kept.

Dealings with land
acquired by Board.

19. (1.) The Board, if it deems it expedient so to do, may acquire more land than may be requisite for the purpose of carrying out any of the objects of the said Acts.

(2.) The Board may dispose of by sale or lease any lands acquired by it under or by virtue of the said Acts.

(3.) Any land for the time being vested in the Board may be leased by private contract for a term from year to year or for a term certain not exceeding one year.

(4.) Every such sale shall be by public auction or public tender; provided that if no bid is received at any such public auction at or over the upset price fixed by the Board, the land offered may be sold by private contract at any time within twelve months thereafter, but at a price not being less than such upset price.

(5.) A conveyance, transfer, or lease under the seal of the Board shall constitute a good and valid title to such land.

(6.) Nothing in this section shall be deemed to limit or otherwise affect the powers of the Board under or by virtue of the principal Act.

Commencement of
proceedings against
Board.

20. No special order made by the Board shall be quashed by any proceedings in any Court or otherwise unless such proceedings are commenced within six months from the making of such special order.

Application of parts
of prior Acts.

21. The provisions of paragraphs (a) to (f), both inclusive, of section six of the Dunedin District Drainage and Sewerage Act, 1906, shall apply to any works, materials, or things executed, provided, or done by the Board pursuant to section twenty-six of the principal Act or this Act, and the cost thereof.

Section 44 of
principal Act
amended.

22. Section forty-four of the principal Act is hereby amended by repealing the words "any by-law" where such words occur immediately preceding the word "six," and substituting therefor the words "by resolution from time to time."

Search may be
made gratis.

23. Any officer or person acting for the Board shall be entitled to search and take extracts from the records of the Lands, Deeds, and Survey Offices within the district without payment of any search fee.

Date of commence-
ment of Act.

24. This Act shall take effect from the passing of the principal Act.