

## New Zealand



### ANALYSIS

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| Title.<br>1. Short Title.<br>2. Interpretation.<br>3. Board of Health may require North Shore Borough Councils to obtain water-supplies from Auckland City Council. | 4. Board of Health may require North Shore Borough Councils to share in use or ownership of certain waterworks.<br>5. Appeals as to provisions of contracts.<br>6. As to obligation of Councils to comply with requisitions.<br>7. Regulations. |
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1941, No. 1

AN ACT to make Better Provision for the Supply of Water for the Inhabitants of the Boroughs of Birkenhead, Devonport, Northcote, and Takapuna.

[28th March, 1941

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 North Shore Boroughs (Auckland) Water-supply Act, 1941.

2. In this Act, unless the context otherwise requires,—

“ Board of Health ” means the Board of Health established under the Health Act, 1920:

“ City Council ” means the Auckland City Council, except that where the context or subject-matter so requires the expression means the Corporation of the City of Auckland:

“ Minister ” means the Minister of Health:

See Reprint  
of Statutes,  
Vol. VI, p. 1061

“North Shore Borough Councils” means the Councils of the Boroughs of Birkenhead, Devonport, Northcote, and Takapuna, except that where the context or subject-matter so requires the expression means the Corporations of those boroughs.

Board of Health may require North Shore Borough Councils to obtain water-supplies from Auckland City Council.

3. (1) The Board of Health may from time to time, by requisition under the seal of the Board, require the City Council and any North Shore Borough Council to enter, within a time to be specified in the requisition, being not less than one month after the date of the requisition, into a contract for the supply by the City Council to the Borough Council of a supply of water sufficient for all the normal requirements of the inhabitants of the borough (including fire-fighting requirements) throughout a period to be specified in the contract:

Provided that no Borough Council shall be required to enter into any contract under this section in respect of any period unless at least one other Borough Council has previously been required or is at the same time required to enter into such a contract in respect of the same period:

Provided also that unless and until the water drawn by the Northcote Borough Council from underground sources of supply becomes, in the opinion of the Board of Health, potentially dangerous to health or inadequate for the normal requirements of the borough that Borough Council shall not be required to enter into any contract under this section except for an emergency supply of water.

(2) Any contract entered into pursuant to a requisition under this section shall be made in respect of a period of twenty-one years unless it is made in renewal or replacement of a contract entered into previously (whether before or after the passing of this Act), in which case it may be made in respect of any period not exceeding twenty-one years, and notwithstanding anything to the contrary in section two hundred and fifty-six of the Municipal Corporations Act, 1933, it shall not be necessary for any such period to be approved by a poll of electors.

(3) Nothing in section two hundred and fifty-three of the Municipal Corporations Act, 1933, shall apply

1933, No. 30

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with respect to the supply of water under any contract entered into pursuant to a requisition under this section.

(4) Any such contract may contain such provisions, not inconsistent with the provisions of this Act or of the requisition, as may be mutually agreed upon by the parties to the contract or settled by the Board of Appeal as hereinafter provided.

(5) The City Council may from time to time, by special order and without taking the steps prescribed by sections nine to thirteen of the Local Bodies' Loans Act, 1926, raise a special loan for the purpose of carrying out any works required to enable the Council to perform its obligations under any contract entered into pursuant to a requisition under this section.

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of Statutes,  
Vol. V, p. 360

4. (1) The Board of Health may from time to time, by requisition under the seal of the Board, require the North Shore Borough Councils and the Auckland City Council or any two or more of them to enter, within a time to be specified in the requisition, being not less than one month after the date of the requisition, into a contract for the acquisition by one or more of those Councils and the granting by the other Council or Councils of such rights or interests as may be agreed upon by the Councils or settled by the Board of Appeal as hereinafter provided, in relation to the use or ownership of any waterworks specified in the requisition, being waterworks for the time being provided for pumping or purifying water drawn from any source or sources for supply to any of the North Shore Borough Councils or to any of the inhabitants of their districts.

Board of  
Health may  
require North  
Shore Borough  
Councils to  
share in use  
or ownership  
of certain  
waterworks.

(2) Any contract entered into pursuant to a requisition under this section may provide—

(a) For the payment by the Council acquiring any rights or interests to the Council granting the rights or interests of any amount either in one sum or by instalments or payments spread over any period not exceeding twenty-one years, whether in relation to the acquisition or enjoyment of those rights or interests or in relation to the operation, maintenance, repair, renewal, replacement, or improvement of the waterworks or otherwise:

- (b) For the payment as aforesaid in respect of any moneys payable under the contract of interest at such rate as the Minister of Finance approves:
- (c) For the giving by a Council of security for the payment of any moneys payable by it under the contract:
- (d) For such other provisions, not inconsistent with the provisions of this Act or of the requisition, as may be mutually agreed upon by the parties to the contract or settled by the Board of Appeal as hereinafter provided.

(3) Any Council that acquires any rights or interests in relation to the ownership of any water-works under any contract entered into pursuant to a requisition under this section may from time to time, by special order and without taking the steps prescribed by sections nine to thirteen of the Local Bodies' Loans Act, 1926, raise a special loan for the purpose of meeting its liabilities under the contract in respect of that acquisition.

See Reprint  
of Statutes,  
Vol. V, p. 360

Appeals as to  
provisions of  
contracts.

5. (1) Any Council that is required by requisition under this Act to enter within a specified time into a contract with any other Council may within that time appeal, by notice in writing to the Minister, to a Board of Appeal under this section upon one or both of the following grounds:—

- (a) That the other Council has stipulated for provisions the incorporation of which in the contract would be unfair or inequitable to the appellant:
- (b) That the other Council has refused to accept provisions that are fair and equitable to and reasonably desirable in the interests of the appellant.

(2) Every appeal under this section shall be determined by a Board of Appeal consisting of a Stipendiary Magistrate (who shall be the Chairman of the Board) and two assessors appointed as hereinafter provided.

(3) Where appeals under this section are made by two or more Councils the Minister may direct that all or more than one of the appeals be heard by one Board of Appeal.

(4) The assessors shall be appointed by the Minister.

(5) No member or officer of the City Council or of any North Shore Borough Council or of the Water Board constituted by the North Shore Boroughs (Auckland) Water-supply Act, 1924, and no member of the Board of Health or officer of the Department of Health, shall be appointed to be an assessor under this section.

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No. 17

(6) Upon any appeal to which two Councils only are parties, one assessor shall be appointed on the recommendation of each of the Councils.

(7) Where more than two Councils are parties to any appeal or to two or more appeals to be heard by one Board of Appeal, one assessor shall be appointed on the recommendation of the City Council or on the recommendation of the Borough Council required to grant rights or interests to the other Councils, as the case may be, and the other assessor shall be appointed on the recommendation of the other Councils that are parties to the appeal or appeals.

(8) If any Council or group of Councils fails to recommend a qualified person to be an assessor within such time as the Minister allows in that behalf, the Minister may appoint any qualified person to be an assessor on behalf of that Council or group of Councils:

Provided that if in the case of a group of Councils any qualified person or persons are recommended by any one or more of the group the assessor shall be that person or one of those persons.

(9) In deciding an appeal under this section in relation to any proposed contract the Board of Appeal may, in accordance with the provisions of this Act, settle such of the provisions of the contract as are not mutually agreed upon by the parties.

(10) The decision of the Board of Appeal on any matter referred to it on appeal under this section shall be final.

(11) For the purposes of this section the Board of Appeal shall be deemed to be a Commission under the Commissions of Inquiry Act, 1908, and all the provisions of that Act shall apply accordingly.

(12) On all appeals under this section the Board of Appeal may regulate its own procedure:

Provided that no meeting of the Board shall be held unless all the members of the Board are present.

See Reprint  
of Statutes,  
Vol. I, p. 1036

As to obligation of Councils to comply with requisitions.

6. (1) The obligation of the City Council or of any North Shore Borough Council to comply with any requisition issued by the Board of Health under this Act or to perform any contract entered into pursuant to any such requisition shall not be limited by the fact that the Council may not be empowered by any Act other than this Act to enter into or perform the contract, and the Council shall have power and be bound to enter into and perform every such contract in accordance with the provisions of the requisition and of this Act.

(2) If the provisions of any contract required to be entered into under this Act are mutually agreed upon by the parties, or are stipulated by one party and not appealed against, or are settled by the Board of Appeal as hereinbefore provided, and in any such case are in accordance with the provisions of the requisition and of this Act, and any party refuses or fails to execute the contract within such time as the Minister allows in that behalf, the Governor-General may, by Order in Council, declare that the contract containing those provisions, as set out in the Order, shall be binding on the parties in the same manner as if it had been duly executed by the party so refusing or failing. Every such Order in Council shall have effect according to its tenor.

See Reprint of Statutes, Vol. VI, p. 1061

(3) The provisions of the Health Act, 1920, shall, so far as they are applicable and with the necessary modifications, apply with respect to the powers and obligations of any party to a contract entered into pursuant to a requisition under this Act as if they were powers and obligations conferred or imposed by the Health Act, 1920.

Regulations.

7. The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary for the purpose of giving effect to the provisions of this Act.