

New Zealand.



ANALYSIS.

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1928, No. 30.

AN ACT to amend the Swamp Drainage Act, 1915.

Title.

[6th October, 1928.]

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 Swamp Drainage Amendment Act, 1928, and shall be read together with and deemed part of the Swamp Drainage Act, 1915 (hereinafter referred to as the principal Act).

Short Title.

2. (1) The Minister of Lands may from time to time make and levy a special rate on lands in any drainage area of an amount sufficient for the payment of the annual charges in respect of interest and a sinking fund of not more than one per centum per annum on so much of the moneys raised pursuant to section four of the principal Act as has been expended on that drainage area. Every such rate shall be an annually recurring rate, and may be levied year by year without further proceeding by the Minister until the moneys in respect of which it was made are paid off.

Power of Minister to levy rates.

(2) In addition to the special rate which he is authorized to make and levy pursuant to the last preceding subsection, the Minister of Lands may in any drainage area from time to time make and levy on lands therein a general rate of such amount as he deems sufficient to cover the cost of administration of the principal Act, including the maintenance of works constructed under that Act, in that area.

(3) Except as provided in the next succeeding section, the rates shall be made and levied on the unimproved value of all land in the drainage area, whether the same is rateable property within the meaning of the

Rating Act, 1925, or not, and whether the land is Crown land or not, except that areas of Native land used for Native settlements and not exceeding fifty acres in any one settlement shall not be liable to be rated under this section.

(4) The rates shall be made and levied on a graduated scale according to the classification of the land made in accordance with the next succeeding section.

Classification of
lands in drainage
areas.

3. (1) The Minister may from time to time appoint one or more fit persons to examine and classify all lands in a drainage area that are liable to be rated as aforesaid into the following classes:—

- (a) Lands (if any) receiving or likely to receive direct benefit from the construction of the works^a authorized by the principal Act;
- (b) Lands (if any) receiving or likely to receive less direct benefit therefrom;
- (c) Lands (if any) receiving or likely to receive only an indirect benefit therefrom; and
- (d) Lands (if any) which, on account of their situation or physical condition, should not, in the opinion of the persons appointed to classify the same, be classified under any of the preceding paragraphs.

(2) The rates shall be imposed only upon the several classes mentioned in paragraphs (a), (b), and (c) of the last preceding subsection, and in such proportions as the Minister in each case appoints:

Provided that before the appointment of such proportions the Minister shall cause not less than twenty-eight days' public notice to be given of the respective proportions he proposes to appoint, and shall before making an appointment consider all written objections received by him within that period.

Appeals against
classification.

(3) Every classification so made shall be set forth in a list to be signed by the Minister, who shall immediately cause public notice of such classification to be given, and of the place where the classification list may be inspected for a period of twenty-one days (such place being the post-office in or nearest by the most convenient route to the drainage area), and of the right of appeal hereinafter conferred.

(4) Any person aggrieved by such classification may appeal against the same on the ground that the land of the appellant or any other land in the drainage area has not been fairly classified in accordance with the benefit received or likely to be received from the construction of the works aforesaid, or has not been classified.

(5) In the case of an appeal as aforesaid, a notice of appeal setting out the grounds thereof shall, before or within seven days after the expiration of the twenty-one days appointed for the inspection of the classification list, be given to the Clerk of the Magistrate's Court nearest to the drainage area, and a copy thereof shall within the same period be lodged at the Head Office of the Department of Lands and Survey at Wellington.

(6) The appeal shall be heard by the Magistrate at such convenient time and place as he appoints, of which not less than fourteen days' notice shall be given to the Minister and to the appellant.

(7) On the hearing of any such appeal the Magistrate may cause the classification list to be amended in such manner as he thinks

reasonable, and he shall sign the list as so amended, and the determination of the Magistrate shall be final and conclusive.

(8) Every classification list signed by the Minister, or signed by a Magistrate in the case of any such appeal as aforesaid, shall for the purpose of any proceedings for the recovery of rates be sufficient evidence of a classification duly made in accordance with the requirements of this section.

(9) The classification list may from time to time be amended by the Minister:

Provided that no such amendment shall have effect until the expiration of two months after the service of notice of the amendment on all ratepayers affected thereby.

(10) The provisions of this section relating to appeals and to the authentication of the classification list shall apply to every such amendment of the list.

4. (1) The provisions of the Rating Act, 1925, shall so far as applicable extend and apply to all rates levied under the authority of this Act in the same manner as if the Minister were a local authority and the drainage area a district within the meaning of that Act.

Application of Rating Act, 1925, to rates under this Act.

(2) In respect of Crown land of which there is for the time being no occupier within the meaning of the Rating Act, 1925, the said Minister shall be deemed to be the occupier, and all rates payable in respect of such land shall from time to time be payable out of the Consolidated Fund.

(3) In respect of any Native reserve or of any Native freehold land situated within a drainage area and vested in trust in a Maori Land Board or the Native Trustee or the East Coast Commissioner, the liability for rates under this Act shall be as prescribed by section one hundred and five of the Rating Act, 1925:

Provided that—

(a) The limit of four years prescribed by that section shall not apply:

(b) Rates which for want of funds the trustee cannot pay shall accumulate with compound interest at the rate of five per centum per annum, and shall be payable out of the first net revenues received by him, or, if the reserve or land is sold or otherwise alienated, shall be payable out of the net proceeds of the sale or other alienation.

(4) All rates collected under this Act or the principal Act shall be paid into the Swamp Land Drainage Account.

5. The foregoing provisions of this Act are in substitution for section five of the principal Act, as amended by sections two and three of the Swamp Drainage Amendment Act, 1926, and those sections are hereby accordingly repealed:

Repeals and savings.

Provided that the repeal of the said provisions shall not affect the validity of any rate heretofore made, and any classification of the lands within a drainage area in force at the passing of this Act shall continue in force until a new classification of such lands comes into force in accordance with the foregoing provisions of this Act.

6. (1) The annually recurring special rates made by the Minister of Lands under section five of the principal Act on lands within the Waihi Drainage Area and the Kaitaia Drainage Area respectively constituted

Suspension of rates for certain period within Waihi and Kaitaia Drainage Areas.

under that Act shall be deemed not to have been or to be leviable in respect of the period of two financial years ending on the thirty-first day of March, nineteen hundred and twenty-nine, and all moneys paid in respect of such rates for that period, or any portion thereof, shall without further appropriation than this section be refunded.

(2) No general rate in respect of administration and maintenance shall be made and levied on any lands within the said areas for the financial year ending on the thirty-first day of March, nineteen hundred and twenty-nine, and the rate pursuant to section three of the Swamp Drainage Amendment Act, 1926, made and levied on such lands for the financial year ended the thirty-first day of March, nineteen hundred and twenty-eight, is hereby cancelled, and all moneys paid in respect of such rate shall without further appropriation than this section be refunded.

Revoking Order in
Council allocating
expenditure
chargeable against
Waihi Drainage
Area.

7. (1) The Order in Council dated the eleventh day of March, nineteen hundred and twenty-seven, and published in the *Gazette* on the seventeenth day of that month allocating between the various subdivisions of the Waihi Drainage Area pursuant to section four of the Swamp Drainage Amendment Act, 1926, the capital expenditure chargeable against that area is hereby revoked as from the date thereof.

(2) The power to allocate may be exercised as if the Order in Council aforesaid had not been made.