

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
28th August, 1913.*

Hon. Mr. Allen.

DUNEDIN DISTRICT DRAINAGE AND SEWERAGE ACTS
AMENDMENT.

[LOCAL BILL.]

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Interpretation.</p> <p>4. Loan-moneys to form one loan. Application of repayments.</p> <p>5. Interest on loans.</p> <p>6. Commissioners.</p> <p>7. Repeal.</p> <p>8. Elections. Use of voting-machines.</p>	<p>9. Validation of acts and proceedings of Boards.</p> <p>10. Extension of Amendment Act, 1911.</p> <p>11. Agreements with owners.</p> <p>12. Drains in common.</p> <p>13. Nuisances.</p> <p>14. Information to be furnished.</p> <p>15. Brands for pipes.</p> <p>16. Register of charges.</p> <p>17. Engineers' certificates.</p> <p>18. Owners.</p>
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A BILL INTITULED

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

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 Acts Amendment Act, 1913, and it shall form part of and be read together with the Dunedin District Drainage and Sewerage Act, 1900. Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.
“The principal Act” means the Dunedin District Drainage and Sewerage Act, 1900 :

15 “The Amendment Act, 1902,” means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1902 :

“The Amendment Act, 1906,” means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1906 :

20 “The Amendment Act, 1907,” means the Dunedin District Drainage and Sewerage Act Amendment Act, 1907 :

“The Amendment Act, 1909,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1909 :

25 “The Amendment Act, 1911,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1911 :

“The said Acts” means and includes the principal Act and all Acts heretofore passed in amendment thereof, including this Act.

Interpretation.

3. In the principal Act and in any Act heretofore passed in amendment thereof, including this Act, the expression “drain in common” shall, unless inconsistent with the context, include a drain required, or ordered, or constructed, or laid by the Board under or by virtue of section twenty-six of the principal Act, or section twelve of the Amendment Act, 1907, or any similar drain constructed or laid by the Board by agreement with the owners of two or more premises. 5 10

Loan-moneys to form one loan.

4. (1.) Notwithstanding anything contained in the said Acts, all moneys heretofore or hereafter borrowed under or by virtue of any of the provisions thereof, including section seventy of the principal Act, shall be deemed to together form one loan, except that nothing herein contained shall affect the provisions of section seven of the Amendment Act, 1909, and provided that the expenditure of loan-moneys on works the cost whereof the owner or occupier is by any of the provisions of the said Acts, or of any agreement with the Board, or of the by-laws, required to repay shall be so limited that the amount owing to the Board by such owners and occupiers on account of loan-moneys so expended shall not exceed in the aggregate twenty-five thousand pounds at any one time. 15 20

Application of repayments.

(2.) Notwithstanding anything to the contrary contained in section seventy of the principal Act, the Board may apply any principal moneys and interest paid to the Board by owners or occupiers under the provisions of the said Acts, or of any agreement with the Board, or of the by-laws, as to principal moneys so paid, in repayment of any moneys borrowed by the Board, whether under the said section seventy or not; and, as to interest-moneys so paid, in payment of interest on moneys so borrowed; and, until such payments, may use the same for the purposes contemplated by the said section seventy. 25 30

(3.) All acts and proceedings of the Board which would have been valid if this section had been in operation at the time of any such act or proceeding are hereby validated. 35

Interest on loans.

5. (1.) The Board may borrow any moneys heretofore authorized to be borrowed and not borrowed in pursuance of such authority on such terms as will produce to the lender a rate of interest not exceeding five pounds per centum per annum, notwithstanding that a lower rate of interest may have been named in any special order already passed by the Board. 40

(2.) This section shall have operation only until the thirty-first day of March, nineteen hundred and *sixteen*, when it shall be deemed to be repealed. 45

Commissioners.

6. (1.) The Board may appoint, and from time to time remove and reappoint, Commissioners within or without the Dominion to whom it shall pay all moneys appropriated as a sinking fund or for the repayment of debentures in connection with any moneys heretofore or hereafter borrowed by the Board pursuant to the Amendment Act, 1909, or, if there shall be no such appropriation, shall pay out of the General Fund such moneys as shall be required for the creation 50

of such sinking fund or such repayment, as the case may be, in accordance with the conditions on which the loan has been or may be raised; and such Commissioner shall dispose of such moneys and the interest and profits thereof and therefrom—

5 (a.) In the case of a sinking fund, by investing the same, together with all interests and profits accruing therefrom, in such securities as the Board from time to time directs, and, in particular, in the purchase of any debenture issued by the Board, whether in connection with the loan in
10 respect of which such moneys are held by the said Commissioners or not.

(b.) In the case of a loan repayable by periodical drawings by paying all debentures coming due according to the conditions on which the loan has been or may be raised.

15 (c.) In the case of a loan wholly or partially repayable at a stated period or stated periods in payment of the principal sum or the required portion thereof, as the case may be, as and when the same becomes payable.

20 (d.) The surplus moneys (if any) shall be repaid to the Board and applied by it in such manner as the Board shall by special order determine.

(2.) The Commissioners to be appointed under this section may be interpreted to mean the Public Trustee or any incorporated company or association within or without the Dominion as one
25 of such Commissioners.

(3.) The Commissioners appointed under this section shall be, from the time of their appointment, a body corporate with perpetual succession and a common seal and power to do and suffer all things which bodies corporate may do and suffer, and with authority for any
30 two of such Commissioners to exercise the functions of the corporate body.

(4.) All vacancies arising in the office of any Commissioner by death, resignation, or otherwise shall be filled up as they arise by new appointments to be made by the Board.

35 (5.) The Public Trustee shall pay all moneys and transfer all investments and securities held by the Public Trustee pursuant to the Amendment Act, 1909, to the Commissioners appointed under or by virtue of this section :

40 Provided that where the said securities consist of part only of Government securities for larger amounts than the sinking fund invested thereon, the Public Trustee may retain the same on behalf of the Commissioners until he can procure and transfer to them Government securities for the precise amount of the sinking fund so
45 Government securities, or can dispose of the same for par or such other price as the Commissioners approve, and pay over such proceeds to the Commissioners.

(6.) The Amendment Act, 1909, is hereby amended by repealing sections eight and ten of the said Act, and by repealing
50 words "Public Trustee" wherever the same occurs in the said Act, and substituting therefor the words "the said Commissioners," meaning thereby the Commissioners appointed pursuant to this

section ; and also by repealing the word " his," and substituting the word " their " in section nine of the said Act.

Repeal.

7. Section twenty-five of the Amendment Act, 1902, is hereby repealed.

Elections.

8. (1.) Section ten of the principal Act is hereby amended by 5
repealing the words " the third Wednesday in January " where those words last appear in the said section, and substituting therefor the words " the third Thursday in February."

(2.) Such members of the Board as would but for this section have retired on the third Wednesday in January in the years nine- 10
teen hundred and fourteen, nineteen hundred and fifteen, and nineteen hundred and sixteen respectively shall respectively hold office until the third Thursday in February in those respective years.

Use of voting-
machines.

(3.) For the purposes of any election held under or by virtue of the principal Act the Board may by resolution determine and direct 15
that a voting-machine to be specified in such resolution shall be used at such election or at any one or more specified polling-places at such election. The Board shall provide the Returning Officer with a sufficient number of the said voting-machines, and the Returning Officer shall comply with such direction at such election or polling- 20
place.

(4.) The Governor shall, at the request of the Board, and by Proclamation gazetted, make regulations prescribing the mode in which the said voting-machines shall be used, the modifications in the said Acts and the Local Elections and Polls Act, 1908, conse- 25
quent upon such use, and for any further or other acts and proceedings in connection with the use of the said voting-machine. The provisions of such Proclamation shall have all the force of law in like manner as if the same formed part of this Act.

Validation of acts
and proceedings of
Boards.

9. No act or proceeding of the Board, or of any Committee of 30
the Board, or of any person acting as a member of the Board, shall be invalidated in consequence of there being a vacancy in the number of the Board at the time of such act or proceeding, or of the subsequent discovery that there was some defect in the election or appointment of any person so acting, or that he was incapable of being such 35
member.

Extension of
Amendment Act,
1911.

10. Paragraph (c) of section eleven of the Amendment Act, 1911, shall apply to mortgages granted to the New Zealand State-guaranteed Advances Office Superintendent.

Agreements with
owners.

11. (1.) A provision in any deed or document by which the 40
right or power of an owner to enter into an agreement with the Board for the execution by the Board of drainage-works on or in connection with such premises is prevented or limited (either directly or by a liability to pay an increased rent or increased interest, or otherwise howsoever) shall be null and void. 45

(2.) Any agreement entered into by an owner of premises and the Board pursuant to the said Acts may be altered (including the addition of extra work) by a memorandum indorsed on or annexed to such agreement signed by such owner and executed on behalf of the Board by any two members of the Board duly authorized by resolu- 50
tion of the Board, such memorandum to be recorded in the register of charges in the same manner as the original agreement.

(3.) An agreement entered into pursuant to section twenty-eight of the principal Act may from time to time be altered with the consent of the Board and the owner for the time being of the premises in respect of the amount of instalments, the times for the payment thereof, or the interest thereon, or otherwise howsoever.

(4.) Such alteration may be effected by memorandum endorsed or annexed to the agreement and signed and executed in the manner stated in subsection *two* hereof, and the said section twenty-eight shall apply to the agreement as so altered, and, in particular, the proviso to subsection four of the said section shall apply to the dates for payment fixed by such alteration in lieu of the dates fixed by the original certificate.

(5.) Section eleven of the Amendment Act, 1911, shall apply to the charge mentioned in subsection six of the said section twenty-eight, and the said subsection is hereby amended by repealing the words "upon the registration of a memorandum thereof."

12. (1.) Where in the opinion of the Drainage Engineer a drain in common or any part or parts thereof by reason of the materials of which the same is constructed, or of the route thereof, or of any part thereof, is not suited to existing circumstances or to proposed new buildings or other proposed alterations to, on, or in any premises served by the drain in common, the Board may require such alterations to and modifications of such drain in common or any part thereof as the Drainage Engineer shall specify; and may, if the Drainage Engineer so certifies, require a new drain in common in lieu of or in addition to such existing drain in common or part thereof.

(2.) All the provisions of the said Acts and the by-laws with reference to drains in common and, in particular, sections twenty-five and twenty-six of the principal Act and paragraphs (a) to (f), both inclusive, of section six of the Amendment Act, 1906, shall apply to the alterations, modifications, and new works so required and to any works, materials, or things executed, provided, or done by the Board in connection therewith pursuant to the said Acts.

13. (1.) Whenever it appears to the Drainage Engineer that by reason of any foulness, want of repair, or any other structural or non-structural defect, any sanitary convenience or sanitary appliance, including a drain in common, is a nuisance or injurious to health and that immediate action is necessary in order to remedy the defect, the following provisions shall apply:—

(a.) The Drainage Engineer or any Inspector of the Board may, with or without assistants, enter on any premises after giving twenty-four hours' previous notice to the occupier (if any), or, in case of emergency, without any notice, and inspect the sanitary convenience or sanitary appliance and do whatever work may be necessary for the purpose of discovering and remedying the defect, including the opening-up of the ground.

(b.) Having effectually remedied the defect (if any), the Drainage Engineer or Inspector shall close up the ground and make good any damage done to land or buildings in the course of his operation.

(c.) The owner and occupier of the premises on which the defect existed shall be jointly and severally liable for all expenses incurred by the Board under this section:

Provided that in so far as the expenses have been incurred in respect of an alleged defect which is found not to exist, they shall be defrayed by the Board.

(d.) The provisions of paragraphs (a) to (f), both inclusive, of section six of the Amendment Act, 1906, shall, *mutatis mutandis*, apply to such expenses. 5

Information to be furnished.

14. (1.) Every lessor, lessee, and occupier of any premises shall, on demand, furnish to the Board or any officer thereof the particulars of such lease or tenancy or the terms of such occupancy, as the case may be, and all information within the knowledge of such lessor, lessee, or occupier as to the ownership of such premises. 10

(2.) Any lessor, lessee, or occupier who shall refuse to furnish such particulars or information as aforesaid, or shall wilfully furnish false particulars or information, shall be guilty of an offence, and section thirty-five of the Amendment Act, 1902, shall extend and apply thereto. 15

Brands for pipes.

15. (1.) The Board may by by-law adopt a brand or brands to signify that drainpipes to which any such brand is applied have been passed by the Board, and, in particular, may adopt a separate brand in connection with any class or grade of pipes. 20

(2.) The Board shall, notwithstanding the provisions of any other Act, be entitled to the absolute and exclusive right to the use of any brand adopted by the Board as aforesaid in connection with drainpipes for public or private drains within the district by whomsoever such pipes be manufactured or owned. 25

(3.) Every person who shall apply to or in any way use in connection with any drainpipe a false brand, and every person who shall himself or by his servant sell or use, or cause to be sold or used, any drainpipe bearing a false brand, shall be guilty of an offence, and section thirty-five of the Amendment Act, 1902, shall extend and apply thereto. 30

(4.) For the purposes of this section—

“ Drainpipe ” means a drainpipe used or intended to be used for a public or private drain in the district, including a drain in common : 35

“ False brand ” means a brand similar to a brand for the time being adopted by the Board, or so nearly resembling the same as to be calculated to deceive.

Register of charges.

16. Any note or memorandum by the said Acts authorized or required to be inserted in the register of charges may, for particulars of the works in respect of which the amount charged is payable, refer to any document or record of the Board containing such particulars. 40

Engineers' certificates.

17. The Drainage Engineer may from time to time amend any certificate given by him pursuant to the said Acts or the by-laws, or give a new certificate or certificates to take the place of any existing certificate. 45

Owners.

18. (1.) Where any building or land with a building thereon is demised, whether for a term or for an indefinite period, and any part or parts of such land or building is or are subdemised by the lessee, the Board may elect to treat the head lessor as the owner of the premises demised notwithstanding such subdemise or any number of subsequent subdemises, and thereupon such lessor shall be deemed to 50

Dunedin District Drainage and Sewerage Acts Amendment. 7

be the owner for the purposes of the said Acts of the whole premises comprised in such demise.

(2.) A notice to the head lessor under or by virtue of any of the provisions of the said Acts shall be sufficient proof of such election.

5 (3.) The provisions of section thirty-three of the principal Act shall apply to works executed by the head lessor.

(4.) For the purposes of this section "demise" includes a letting, and "subdemise" a subletting.