

Right Hon. Mr. Nash

HUTT VALLEY DRAINAGE

[LOCAL BILL]

ANALYSIS

Title.	26. Board may appoint officers and servants.
1. Short Title and commencement.	27. Acting officer.
2. Interpretation.	28. By-laws.
3. The district.	29. Form of making by-laws.
4. General duty of Board.	30. Special orders.
5. Alteration to boundaries.	31. Contracts of Board: how made.
6. Constitution of Board.	32. Powers of Board.
7. Members of Board.	33. Construction of main sewers, &c.
8. Appointment of Board members.	34. Discharge of main sewers, &c.
9. Coming into office of members.	35. General powers of Board.
10. Vacancies.	36. Compensation for lands taken or damaged.
11. How vacancies filled.	37. Powers of contributing authorities to connect sewers.
12. Ouster of office.	38. Works to be efficiently done.
13. Chairman of Board.	39. Connection of drain in different districts.
14. Allowance to Chairman.	40. Reticulation work.
15. First meeting of the Board.	41. Watercourses.
16. Committees.	42. Acquisition of main sewers, &c., by Board.
17. Chairman of meetings.	43. Board may construct drains, &c., for surface water.
18. Quorum of Board and committees.	<i>Accounts</i>
19. Questions to be decided.	44. Books of accounts to be kept.
20. Member not to vote on matter in which he has pecuniary interest.	45. Books to be open for inspection to members of Board.
21. Proceedings not invalidated by irregularities, &c.	46. Moneys to be paid into bank.
22. Meetings.	47. Accounts to be kept in accordance with requirements of Audit Office.
23. Allowances to members.	
24. Rules as to proceedings of Board or committees, &c.	
25. Board may provide offices.	

<p>48. Yearly balance-sheet and statements. 49. Audit of accounts. 50. Abstract of accounts. 51. Board may establish an Imprest Account. 52. Superannuation and other benefits for employees. 53. Unauthorized expenditure. 54. Borrowing-powers. 55. Preliminary expenses. 56. Annual estimate of Board's proposed expenditure. 57. Contributing authorities: annual assessments. 58. How assessment to be calculated. 59. Appeal. 60. Jurisdiction of Magistrates' Court. 61. Production of documents <i>prima facie</i> evidence. 62. When contributing authorities to pay their share. 63. Powers of contributing authorities in regard to payment.</p>	<p>64. Powers of Board to recover from contributing authorities in case of default.</p> <p style="text-align: center;"><i>Miscellaneous</i></p> <p>65. Notice of action. 66. Commencement of action not to stop works of Board. 67. Board may enter premises for purpose of inspection. 68. Recovery of fines and penalties. 69. Enforcement of by-laws. 70. Property of Board not liable to be rated. 71. Penalty for damaging sewer or drain. 72. Offences under Act. 73. Governor-General may extend time fixed by Act to carry out works. 74. Government works not to be interfered with. Schedules.</p>
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A BILL INTITULED

Title.	AN ACT to provide for the Drainage of the Hutt Valley. BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title.	1. This Act may be cited as the Hutt Valley Drainage Act, 1948. and shall come into operation on	
Interpretation.	2. (1) In this Act, unless the context otherwise requires,— “ Board ” means the Hutt Valley Drainage Board constituted by this Act: <i>Struck Out</i> “ Constituency ” means a local authority or group of local authorities entitled to appoint or elect a member or members of the Board: “ Contributing authority ” means a constituent authority which is for the time being liable <i>Struck Out</i> to pay the assessment referred to in sections <i>fifty-seven</i> and <i>fifty-eight</i> hereof: <i>New</i> under section <i>fifty-six A</i> of this Act to pay any contribution referred to in that section: “ Constituent authority ” means the local authority of any local district the whole or any part of which is for the time being comprised within the district of the Board: “ Drainage District,” or “ District ” means the Hutt Valley Drainage District constituted by this Act:	15 20 25 30

“ Engineer ” means the Engineer for the time being of the Board, and includes any person for the time being appointed by the Board to perform the duties of the Engineer:

5 “ Local authority ” means the Council of a city, borough, or county:

“ Local district ” means the district of a city, borough, or county:

10 “ Main sewer ” or “ main drain ” means a sewer or drain designed or intended to convey sewage or actually conveying sewage from the whole or any portion of a drainage reticulation system to the point of disposal, including therein all sewers and drains carrying discharge from a pumping-station:

15 “ Secretary ” means the Secretary for the time being of the Board, and includes any person for the time being appointed by the Board to perform the duties of the Secretary, whether designated Acting-Secretary or not.

20 (2) Without limiting the ordinary meaning of the word, for the purposes of this Act “ sewage ” shall be deemed to include all domestic waste waters and all water-borne wastes from commercial or industrial undertakings.

25 (3) Where for the purposes of this Act it is necessary to ascertain or calculate the rateable value or the population of any area, such value or population, as the case may be, shall be ascertained or calculated as at the thirty-first day of March in the preceding year.

30 **3.** There is hereby constituted for the purposes of this Act a district, to be called the Hutt Valley Drainage District, comprising the City of Lower Hutt, the Boroughs of Petone, Upper Hutt, and Eastbourne, and those parts of the County of Hutt as are more particularly described in the Schedules hereto.

Struck out

35 **4.** Subject to the provisions of this Act and to the powers hereby created, it shall be the general duty of the Board to provide for the disposal of sewage from the district and for the adequate and efficient maintenance of all main drains, main sewers, pumping-stations, storage tanks, outfalls, and treatment-works from time to time vested in the Board.

The district.

General duty of Board.

Alteration to
boundaries.

5. (1) The Governor-General may from time to time, by Order in Council, on the petition of the Board, alter the boundaries of the district so as to include therein or exclude therefrom any area that in his opinion should be included in or excluded from the district, as the case may be. 5

(2) Such petition shall be publicly notified by means of an advertisement, which shall be published at least once in a daily newspaper in general circulation in the district and which shall state the purpose of the petition, describe the area to which the petition relates, and specify a date (being a date not earlier than one calendar month after the date on which such advertisement is first published) before which all objections shall be lodged with the Minister of Internal Affairs, and a copy thereof with the Board. Notice of such petition shall also be given by the Board to the local authority or local authorities any part of whose area is affected by the petition. 10 15

(3) If any objections to the proposed alteration are lodged as aforesaid, the Governor-General may appoint any person or persons to be a Commission of Inquiry under the Commissions of Inquiry Act, 1908, to inquire into and report upon the said proposals. 20

(4) The Governor-General in making any such alteration of boundaries may make such alteration in the number of members of the Board as will maintain equitable representation on the Board of all areas then included within the district. 25

New

(4A) Notwithstanding anything contained in this section, the provisions of section twenty-four of the Local Government Commission Act, 1946, shall apply with respect to any petition under this section. 30

Constitution
of Board.

6. (1) There is hereby constituted for the district a Drainage Board, which shall be a body corporate under the name of the Hutt Valley Drainage Board, and which shall have perpetual succession and a common seal, with power to purchase, take on lease, hold, deal with, and dispose of by sale, lease, or exchange, real and personal property, and to do and suffer all that bodies corporate may lawfully do and suffer. 35 40

(2) ~~The Board shall comply in all respects with the town planning scheme of the local authority in whose area the Board may from time to time acquire land,~~ 45

and shall not dispose of any land without first offering the same to the local authority in whose area it is situated upon the same terms and conditions as would be applicable to any other person.

- 5 (3) The Board shall be deemed to be a local authority under the Public Works Act, 1928, ~~the Local Elections and Polls Act, 1925,~~ the Health Act, 1920, the Local Bodies' Finance Act, 1921-22, the Local Authorities' (Members' Contracts) Act, ~~1926,~~ 1934, the Local
10 Bodies' Loans Act, 1926, and the Local Government Loans Board Act, 1926, and, subject to the express provisions of this Act, the provisions of the said Acts shall extend and apply to the Board.

New

- 15 Provided that for the purposes of subsection five of section three of the Local Bodies' Finance Act, 1921-22, the first financial year of the Board shall be deemed to end on the thirty-first day of March, nineteen hundred and fifty.

- 20 7. (1) The Board shall consist of eleven members, Members of Board.
of whom four shall be appointed by the Lower Hutt City Council, two each by the Borough Councils of Upper Hutt and Petone, two by the Hutt County Council, one being in respect of the Eastern Bays
25 Riding and one in respect of the Hutt Valley and Stokes Valley *area as described in the Second Schedule to this Act*, and one by the Eastbourne Borough Council. No person other than a member of a constituent authority shall be qualified for appointment
30 to the Board.

- (2) The representatives of the Eastbourne Borough Council and the Eastern Bays Riding of the County of Hutt shall be entitled to attend all meetings of the Board, but shall not be entitled to vote in the deliberations of the Board until the Board has resolved at the request of the Eastbourne Borough Council or the Hutt County Council, as the case may be, to provide for the disposal of sewage from the Borough of Eastbourne or the Eastern Bays Riding of the County

- 40 *Struck out*
of Hutt, whereupon contributions by the Borough of Eastbourne and the County of Hutt in respect of the Eastern Bays Riding respectively to the income of the Board shall become payable pursuant to the provisions
45 of section *fifty-eight* hereof.

Appointment
of Board
members.

8. In the month of December in the year nineteen hundred and forty-eight, and in the month of December, nineteen hundred and fifty, and in the month of December in every third year thereafter,

and on some day after every succeeding general election of members of the constituent authorities (being in each case a day not later than the thirty-first day of January next following that election), the constituent authorities shall hold meetings of their respective local authorities, who shall proceed to elect appoint the members of the Board as provided by section seven hereof.

Coming into
office of
members.

9. (1) Every member of the Board appointed under the last preceding section shall come into office on the day following that on which he is appointed, and, unless his office sooner becomes vacant, shall continue in office until the next appointment under that section.

(2) Every member appointed to fill any extraordinary vacancy occurring on the Board shall come into office on the day following the day of his appointment, and shall hold office only for the residue of the term for which his predecessor was appointed.

Vacancies.

10. (1) The office of a member shall become vacant if he—

(a) Resigns his office by writing under his hand delivered to the Secretary or Chairman of the Board, or dies, or is ousted of his office; or

(b) Is absent without leave from four consecutive ordinary meetings of the Board; or

(c) Ceases to have the qualification by virtue of which he was appointed by the local authority:

Provided that he shall not thereby go out of office until his successor has been duly appointed.

(2) If any person does ~~an~~ any act as a member after his office has become vacant under this section, he shall be liable to a fine of fifty pounds.

(3) Any vacancy occurring under this section shall be deemed an extraordinary vacancy.

How vacancies
filled.

11. In the event of an extraordinary vacancy occurring the constituent authority concerned shall forthwith appoint a member to fill the vacancy.

Ouster of
office.

12. (1) Upon proof in the first instance, by affidavit or otherwise, that any member of the Board is or has become incapable under this Act of holding his office,

any Magistrate's Court in the district may grant a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of the same.

5 (2) If on the return of such summons it appears to the Court, on affidavit or oral evidence on oath, that such person is incapable under this Act of holding the said office, the Court may adjudge such person to be ousted of the same, and such person shall be ousted
10 of such office accordingly.

(3) In any such proceeding the Magistrate's Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases, and the procedure of such Court shall, so far as
15 applicable, apply generally to proceedings had under this section.

(4) No matter in relation to a disputed appointment shall be heard by the Magistrate's Court under this section.

20 (5) No question which may be tried under this section shall be tried in the Supreme Court; and no proceedings in the Magistrate's Court hereunder shall be removable into the Supreme Court, by certiorari or otherwise.

25 **13.** (1) The Board shall at its first meeting, and thereafter annually at the first meeting of the Board in each calendar year, elect one of its members to be Chairman of the Board. Chairman of Board.

30 (2) At every meeting for the election of Chairman the Secretary shall preside while the Chairman is being elected, or if there shall be no Secretary, then some person appointed by the Board, not being a member of the Board, shall so preside, and in the case of an equality of votes shall determine the election by lot
35 in such manner as the Board determines.

(3) The Chairman shall come into office on his election and shall hold office until the election of his successor.

40 (4) The Chairman may resign his office by writing under his hand delivered to the Secretary, and in such case, or in the case of his ceasing from any cause to be a member of the Board, his office shall become vacant, and the Secretary shall forthwith convene a meeting of the Board for the election of a new
45 Chairman.

(5) The Board may from time to time appoint one of its members to be a Deputy Chairman either for a specified period or until the next annual meeting of the Board.

Allowance to
Chairman.

14. (1) The Chairman may be paid out of the funds of the Board such annual allowance, not exceeding one hundred and fifty pounds, as may from time to time be fixed by the Board, but no alteration in the amount of the allowance shall take effect during the term of office of the Chairman for the time being. 5 10

(2) For the purpose of this section a person re-elected Chairman shall be deemed a new Chairman pursuant to subsection one of section thirteen of this Act.

First meeting
of the Board.

15. The first meeting of the Board shall be convened by ~~the Governor-General in Council~~ *the Lower Hutt City Council* and shall be held at such time and place as ~~he~~ *it* may appoint, and if no quorum is present within half an hour of the time fixed for the holding of such meeting the same shall stand adjourned from day to day at the same time and place until a quorum is assembled. 15 20

Committees.

16. (1) The Board may from time to time appoint standing or special committees consisting of two or more persons, and may relegate to such committee any matters for consideration, or inquiry, or management, or regulation, and may delegate to any such committee any of the powers and duties by this Act conferred or imposed upon the Board except the power to borrow money, to make a rate, to make a by-law, to enter into a contract, to institute an action, or to make assessments upon contributing authorities. 25 30

(2) The Board may appoint a member of any committee to be the permanent Chairman thereof, and such power may be exercised by the committee where the Board, on the appointment of the committee, does not appoint a Chairman. Any committee may from time to time appoint a Deputy Chairman to act in the absence of the Chairman. 35

(3) The Board may at any time, and from time to time, discharge, alter, continue, or reconstitute any committee or discharge any member of a committee, and, if it thinks fit, appoint another member in his stead. 40

(4) Every committee shall, unless sooner discharged by the Board, be deemed to be discharged on the coming into office of the members appointed at the general election of the whole Board next after the
5 appointment of the committee.

(5) Every committee to which any powers or duties are delegated as aforesaid may, without confirmation by the Board, exercise or perform the same in like manner and with the same effect as the Board could
10 itself have exercised or performed the same.

(6) Every such committee shall be subject in all things to the control of the Board, and shall carry out all directions, general or special, of the Board given in relation to such committee or its affairs.

15 **17.** At every meeting of the Board the Chairman if present or, in his absence, the Deputy Chairman (if any) shall be the Chairman. If the Chairman and the Deputy Chairman (if any) are absent from any meeting of the Board, then such member as the
20 members of the Board then present shall choose shall be the Chairman of such Board meeting.

Chairman of meetings.

18. (1) A quorum of the Board shall consist of six members.

Quorum of Board and committees.

(2) The Board may fix the quorum of any committee
25 appointed by it, and in default of its so doing the committee may fix the quorum.

(3) A meeting shall be duly constituted if a quorum is present thereat, whether voting or not.

(4) No business shall be transacted at any meeting
30 of the Board or of any committee unless at least a quorum of members is present thereat during the whole of the time at which the business is transacted.

19. (1) All acts of the Board and of any committee, and all questions before the Board or any committee
35 may be done and decided at a meeting of the Board or committee by the majority of such members of the Board or committee as are present and vote at such meeting.

Questions to be decided.

(2) The Chairman of any meeting of the Board or
40 of any committee shall have a deliberative vote, and in case of equality of votes shall have a casting vote also.

Member not to
vote on matter
in which he
has pecuniary
interest.

20. (1) A member of the Board or of any committee shall not vote or take part in the discussion of any matter before the Board or committee in which he has, directly or indirectly, by himself or his partner, any pecuniary interest otherwise than as a member of an incorporated company in which there are more than twenty members and of which he is neither a director nor the general manager. 5

(2) A member who knowingly offends against this section is liable to a fine not exceeding *fifty* pounds for every offence, and upon conviction his seat on the Board and in any committee shall become vacant. 10

Proceedings
not invalidated
by
irregularities,
&c.

21. No act or proceeding of the Board or of any committee 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 member. 15

Meetings.

22. (1) The Board shall hold such ordinary meetings at such times and at such places as it from time to time appoints. 20

(2) The Chairman or the Secretary shall give notice in writing to each of the members of the time and place appointed from time to time for holding ordinary meetings, and the members shall attend such meetings without further notice of each meeting. 25

Allowances to
members.

23. There may be paid to the Chairman and to the members of the Board out of the funds of the Board all amounts actually and reasonably expended by them in attending meetings of the Board or of any committee thereof, or travelling on the business of the Board pursuant to a resolution of the Board. 30

Rules as to
proceedings of
Board or
committees, &c.

24. The Board may, by resolution, subject to the provisions of this Act, make rules— 35

(a) Regulating the proceedings of the Board and any committee and the conduct of meetings thereof respectively and the right of persons to attend such meetings: 40

(b) Regulating the adjournment and postponement of meetings of the Board, and the manner in which resolutions may be *amended*, revoked, or altered:

- (c) Prescribing the form and the mode and time of service of notices of meetings:
- (d) Regulating debates:
- 5 (e) Providing for the calling of special meetings and the notice to be given to members:
- (f) Providing for the notice to be given to members of extraordinary business to be transacted at any ordinary meeting:
- 10 (g) Directing minutes to be kept of all proceedings of the Board, and prescribing the mode of confirmation, inspection, and custody of same:
- (h) Providing for the custody of documents and the custody and use of the common seal, and prescribing the mode and form of attestation thereof:
- 15 Provided that no resolution made or passed under this paragraph shall affect any person acting in good faith and taking or to take any estate, interest, or advantage under any document having or about to have the common seal affixed thereto:
- 20 (i) Prescribing the powers and duties of officers and servants:
- (j) Prescribing forms of and in connection with any proceedings of the Board:
- 25 (k) Concerning anything incidental to any of the matters hereinbefore referred to.

25. (1) The Board may from time to time provide and maintain public offices, within or without the district, with fitting furniture for the same, for holding its meetings and transacting its business and for the use of its officers and for any other purposes, and may purchase or take on lease land or buildings for such purpose, or may cause buildings to be erected on any land belonging to the Board, or may add to, alter, or improve any such building.

(2) The Board may, in addition to the powers hereby conferred or in lieu thereof, as it may determine, enter into such arrangements as it may deem necessary with any local *constituent* authority for the use on such terms as may be agreed upon of portion of the offices

Board may provide offices.

of that ~~local~~ *constituent* authority and of furniture for the same for the purposes of transacting the business of the Board or holding its meetings.

Board may
appoint
officers and
servants.

26. (1) The Board may, by resolution, from time to time appoint fit persons to be Engineer, Secretary, Treasurer, and all such other officers and servants as it thinks necessary to assist in the execution of this Act, and may pay such persons such salaries and allowances out of the funds of the Board as it thinks fit. 5
10

(2) In lieu of the appointment of a full-time Engineer, Secretary, or Treasurer or such other officers and servants of the Board, the Board may enter into an arrangement with any ~~local~~ *constituent* authority for the appointment of officers of that ~~local~~ *constituent* authority to be officers of the Board. 15

(3) One person may hold two or more of such offices.

(4) No person shall be appointed *or be capable of holding office* as Engineer or, if there are more Engineers than one, as the Chief or Principal Engineer unless he is registered as an engineer under the Engineers' Registration Act, 1924. 20

(5) Every person appointed to receive any moneys payable to the Board shall give to the Board sufficient approved security for the faithful execution of his office and the due accounting for all moneys received by him on behalf of the Board: 25

Provided that, in lieu of or in addition to taking security from any officer, the Board may provide against any losses that may arise in the event of his dishonesty by taking out a guarantee policy and paying the premiums thereon, or by creating a special fund for the purpose or partly by one method and partly by the other. 30
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Acting officer.

27. During the absence from duty of any officer of the Board by reason of illness, leave of absence, or other cause the duties and powers of such officer may be performed and exercised by an acting officer appointed by the Board, and any such appointment may be either general or for some occasion only. 40

New

General duty
of Board.

27A. Subject to the provisions of this Act and to the powers hereby created, it shall be the general duty of the Board to provide for the disposal of sewage from the district and for the adequate and efficient maintenance of all main drains, main sewers, pumping-stations, storage tanks, outfalls, and treatment-works from time to time vested in the Board. 45

28. (1) The Board may from time to time make ^{By-laws.} by-laws for all or any of the following purposes:—

- 5 (a) To regulate the management and use of inlet appliances giving access, directly or indirectly, to the main sewers and main drains of the Board, including grids, and to regulate or prohibit the use of any such inlet appliances in any manner likely to cause damage, injury, or blockage to any of the main sewers or
10 main drains or other works of the Board:
- 15 (b) To provide for the treatment of trade wastes and other substances before the same are allowed to enter any drain or sewer which is connected to any such drain or sewer; and the Board by or under such by-laws may require the owners of premises from which such substances are discharged to treat the same on their own premises, or may require
20 the erection of treatment-works by one or more of such owners and provide for contribution towards the cost of providing, maintaining, and running such works, and in case of default by any such owners the Board may
25 itself provide such treatment-works or undertake the treatment of such substances and provide for reimbursement from the owners of the properties concerned:
- 30 Provided that any person affected by any direction or order of the Board given or made pursuant to any by-law made under this paragraph may within a period of twenty-one days after being given notice thereof appeal against the direction or order to a Judge of the
35 Supreme Court at Wellington, and the provisions of section *fifty-nine* of this Act shall, with the necessary modifications, apply in respect of any such appeal:
- 40 (c) Regulating sanitary plumbing and drainage throughout the whole of the district, except in respect of outfall or treatment-works in the area of a local authority which is not for the time being a contributing authority in respect of that area:

(d) Protecting from damage, injury, or misappropriation any property belonging to the Board or controlled by it and situate within or beyond the district.

(2) The Board may by any such by-laws provide a penalty for every breach thereof to an amount which shall be in the discretion of the Court inflicting the same, and shall in no case exceed the sum of *twenty* pounds for a single offence or the sum of *five* pounds per day for a continuing offence.

(3) Any by-law made by the Board shall within the district override any by-laws on the same subject made by any ~~local~~ constituent authority.

(4) Any ~~local~~ constituent authority may, with the consent of the Board, undertake within its own area the enforcement and administration of any by-laws made by the Board, and in such cases all fines imposed for breaches of the Board's by-laws within the area of such ~~local~~ constituent authority shall, subject to the provisions of section thirteen of the Finance Act, 1927 (No. 2), be paid to the ~~local~~ constituent authority and be dealt with by it as if they were fines imposed in respect of breaches of the by-laws of such ~~local~~ constituent authority.

Form of
making by-laws.

29. By-laws of the Board shall be made only in the manner and subject to the conditions following:—

(a) They shall be made only by special order:

(b) A copy of any proposed by-law shall be sent by the Board to each of the constituent authorities at least twenty-one days before the date of the meeting of the Board at which the resolution making the proposed by-law is to be submitted for confirmation:

(c) They may be amended before confirmation of the special order making the same:

(d) They shall have the common seal of the Board affixed thereto:

(e) They shall be sent to the Minister of Health within seven days after the making of the special order:

Struck out

(f) They shall come into force on a day to be named therein or in the special order making the same.

New

5 (ff) Subject to the *next succeeding* paragraph, they shall come into force on a day to be named therein or in the special order making them, being a day not earlier than three months after the making of the special order in the case of by-laws made under paragraph (a) or paragraph (b) of subsection *one* of the *last preceding* section, and not earlier than one month after the making of the special order in the case of by-laws made under paragraph (c) or paragraph (d) of the said subsection *one*:

15 (g) They may within three months after the making of the special order be in whole or in part disallowed or amended by the Minister of Health by notice in the *Gazette*.

20 **30.** Every special order made hereunder may be made and proved in the same way, with the necessary modifications, as a special order of a Borough Council is required to be made and may be proved under the Municipal Corporations Act, 1933. Special orders.

25 **31.** (1) The Board may from time to time enter into such contracts as it thinks fit for the execution of any works directed or authorized by this Act to be done by the Board or for furnishing materials or for any other thing necessary for the purposes of this Act. Contracts of Board: how made.

30 (2) Any contract which, if made between private persons, must be by deed shall, if made by the Board, be in writing under the seal of the Board.

35 (3) Any contract which, if made between private persons, must be in writing, signed by the parties to be charged therewith may, if made by the Board, be in writing signed on behalf of the Board by some person duly authorized in that behalf.

(4) Any contract which, if made between private persons, may be made verbally without writing may be similarly made by or on behalf of the Board.

40 (5) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in the manner provided by this section, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board.
45 Board.

Powers of
Board.

32. (1) *Subject to the provisions of paragraph (b) of subsection one of section twenty-eight of this Act,* The Board shall have within the district the sole right to construct, maintain, and manage all main sewers and *main* drains, pumping-stations, storage tanks, outfalls, and treatment-works for sewage: 5

Provided that nothing in this Act shall operate to prevent the establishment or maintenance of works for the treatment or disposal of trades waste, refuse, or other substances which the Board's drainage system is not designed to receive or deal with or which the Board will not permit to be discharged into such system. 10

(2) Where any main sewer or *main* drain, pumping-station, storage tank, outfall, or treatment-works ~~has already been constructed~~ within the district ~~by a~~ *is vested* in any constituent authority ~~or by the Crown,~~ the same shall be taken over by and vested in the Board at such price and upon such terms and conditions as may be agreed upon between the Board and such ~~local~~ *constituent* authority or, in the event of their being unable to agree, as may be settled by arbitration under the Arbitration Act, 1908: 15 20

Provided that nothing herein shall apply to the Borough of Eastbourne or the Eastern Bays Riding of the County of Hutt until the Board has, at the request of the local authority affected, resolved to provide for the disposal of sewage from the area of that local authority. 25

(3) Where any main sewer or main drain, pumping-station, storage tank, outfall, or treatment-works *vested in any constituent authority* has been constructed ~~by any local authority~~ in any area which is included in the district at any time after the commencement of this Act, the same shall at that time be taken over by and vested in the Board at such price and upon such terms and conditions as may be agreed upon between the Board and such local authority or, in the event of their being unable to agree, as may be settled by arbitration under the Arbitration Act, 1908. 30 35 40

(4) If any dispute shall arise between the Board and a local authority as to what constitutes a main sewer, main drain, pumping-station, storage tank, outfall, or treatment-works for the purposes of this section, the matter may be referred for determination to arbitration under the Arbitration Act, 1908. 45

33. The Board may construct, maintain, and operate within or outside the district all such main sewers, main drains, pumping-stations, storage tanks, outfalls, treatment-works, and other works and things as may in the opinion of the Board be advisable for the efficient drainage of the district.

Construction of main sewers, &c.

Struck out

34. (1) No sewage shall be discharged from any portion of the district into the waters of Port Nicholson or Cook Strait or into any river or stream within the district, except through the main sewers of the Board, and the Board shall, as soon as conveniently practicable, provide for the sewage from the district to be satisfactorily treated or discharged:

Discharge of main sewers, &c.

Provided that any existing drain or any drain hereafter constructed with the approval of the Board may be allowed to continue to discharge sewage until the Board has completed provision for conveying such sewage to its treatment-works or to the point of discharge, and provided also that this subclause shall not apply to any discharge from storm-water overflow chambers forming part of the drainage system of any constituent authority.

(2) In any matter where the consent or approval of the Wellington Harbour Board is required, such consent or approval shall not be unreasonably or arbitrarily withheld, and in the event of any dispute or difference arising between the Board and the Wellington Harbour Board as to any such consent or approval or otherwise in connection with the operations of the Board, such dispute or difference shall be referred to arbitration in accordance with the provisions of the Arbitration Act, 1908.

New

34A. (1) It shall not be lawful for the Board without the consent in writing of the Wellington Harbour Board, and then only in such manner and upon such conditions as are approved by the Harbour Board, to discharge or permit to be discharged any sewage, refuse, sludge, effluent, or other matter in or onto any place within the limits of the Port of Wellington or under the jurisdiction of the Wellington Harbour Board, or in or onto any place where it might be carried, by the wind or tide or otherwise, within the limits of the harbour or in or onto

Restrictions on discharge of sewage at Wellington Harbour.

any place under the jurisdiction of the Harbour Board. Any consent granted by the Harbour Board under this subsection may, subject to the provisions of the *next succeeding* subsection, be withdrawn by the Harbour Board at any time: 5

Provided that nothing contained in this subsection shall nullify or affect any consent heretofore granted by the Wellington Harbour Board in respect of the discharge of any sewage, refuse, sludge, effluent, or other matter into Wellington Harbour. 10

(2) If the Board and the Wellington Harbour Board are unable to agree as to the method of disposal of any sewage, refuse, sludge, effluent, or other matter, or as to any other question in respect of drainage in which the powers and duties of the Board and the Harbour Board conflict, the difference shall be determined by arbitration under the Arbitration Act, 1908, and this subsection shall be deemed to be a submission within the meaning of that Act. 15

General powers
of Board.

35. (1) The Board may from time to time, in addition to its powers under the Public Works Act, 1928, by itself, its surveyors, engineers, agents, officers, and workmen, exercise the following powers or any of them, and may execute, do, or cause to be executed or done any of the following acts, matters, or things:— 20 25

(a) Break up the soil of any roads, streets, ways, or footpaths, excavate and sink trenches, and make and construct tunnels and subways for the purpose of laying down, making, constructing, altering, cleansing, maintaining, or repairing main sewers or main drains: 30

Provided that before interfering with any such road, street, way, or footpath the Board, except in cases of emergency, of which the Board shall be the sole judge, shall give one week's notice in writing to the local authority having control thereof and shall in any case with all convenient speed reinstate and make good any road, street, way, or footpath that may be broken up or, at the option of the local authority, pay to it the cost of such reinstatement and making good, and shall indemnify such local authority in respect of any action, suit, claim, or demand arising directly or indirectly out of the work of the Board under this section: 35 40 45

New

5 Provided also that the Board shall not interfere with any main highway within the meaning of the Main Highways Act, 1922, without the prior consent of the Main Highways Board, which may be granted subject to such conditions, whether as to reinstatement or payment of any cost of reinstatement or otherwise, as the Main Highways Board thinks fit.

10 (b) Without any previous payment, tender, or deposit—

(i) Enter upon and use any land, other than land occupied as a garden or ornamental shrubbery, for the purpose of taking any earth, stone, clay, or similar material therefrom:

15 Provided that, in the case of lands held for any public purpose within the meaning of section two of the Public Reserves, Domains, and National Parks Act, 1928, this power shall not be exercised without the consent of the controlling authority, but such consent shall not be unreasonably or arbitrarily withheld, and, in the case of other land, this power shall not be exercised until twenty-four hours' notice of intention so to do has been given to the occupiers;

20 (ii) Enter upon and use any land adjacent to the site of any sewer or drain hereby authorized to be constructed, or while it is in course of construction, or when it is actually constructed, for the purpose of making temporary roads or approaches to any works or temporarily storing any materials therefor; and

35 (iii) Enter upon any lands or premises within or upon which it is proposed that any works shall be executed under this Act, or any lands and premises adjacent thereto, and make an inspection, survey, and examination thereof, and for that purpose to bore therein:

40 (c) Make or construct the main sewers or main drains, or any part thereof, upon or under any lands or buildings, subject to the following conditions:—

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(i) A plan and description of such main sewers or main drains, showing how they affect any such land or buildings, shall be deposited for public inspection at some place ~~to be determined by the board~~ *the office of the Board or of a constituent authority.* 5

(ii) The Board shall give notice in writing to the local authority concerned and to the occupier, and also to the registered proprietor for the time being of such land or buildings, of the intention to construct such main sewers or main drains, and shall refer in such notice to such plan and description, and state where the same are on view. In the case of unoccupied land or buildings where the address of the registered proprietor is not known, such notice may be served by being affixed in a conspicuous place thereon or thereto; 10

(iii) If within one month after such notice is given the said registered proprietor or occupier serves on the Board a written objection to the proposed work, the Board shall appoint a day for hearing such objection, and shall give notice of the same to the objector; and 15

(iv) The Board shall hold a meeting on the day so appointed, and may, after hearing any person making such objection, if present, determine to abandon the work proposed, or to proceed therewith with or without such alterations or modifications as the Board thinks fit: 20

(d) Erect and use any buildings, structures, machinery, manholes, and other entrances, light and lamp holes, ventilating grids, and other works and things of every description in connection with drainage and sanitation in, upon, or under any public or private street or public place within or without the district: 25

(e) Carry any ventilating shaft, pipe, or tube up or upon any external wall of any building, whether private or public, and affix the same thereto, provided that the mouth of every such shaft, pipe, or tube shall be at least six 30

feet higher than any windows situated within a distance of thirty feet therefrom, and, where attached to a house, shall be higher than the eaves or parapet thereof:

5 (f) During the construction of its works use any private drain or watercourse within or without the district to carry water from such works:

10 (g) Treat and deal with in such manner as the Board shall think fit all sewage, refuse, and other matter, whether for the purpose of deodorizing, disinfecting, or destroying the same, or of converting the same into an organic fertilizer or other marketable product and selling or otherwise disposing of dealing in the same, and shall not be liable, *except in compensation under section thirty-six of this Act*, for any nuisance or injury necessarily created or caused in so doing; and in particular, and without restricting the general powers herein given, it shall have power to treat sewage, refuse, and other matter by any treatment process, septic tanks, or electricity, and, unless prohibited by the Governor-General by Order in Council from so doing, may ship sewage sludge and discharge it into the sea, *except within the limits of the Port of Wellington or in any place where it might be carried, by wind or tide or otherwise, within the limits of Wellington Harbour:*

30 *Struck out*

35 Provided, however, that the Board shall not without the prior consent of the Wellington Harbour Board discharge any sewage, sludge, refuse, or other matter (other than the effluent from any treatment-works of or controlled by the Board) in any place within the limits of Port Nicholson or in any place where the same might be carried by wind or tide within the limits of Port Nicholson.

40 (h) Acquire and operate ships, boats, barges, and other equipment for the purpose of removing, handling, or disposing of sewage sludge, refuse, or similar matter.

(2) The Board shall have power to acquire by licence permission to use any land for the purposes for which land may be acquired, and any land acquired by it may be let or leased by the Board by public auction, or public tender, or private contract, as it deems proper, for such term or terms, at such rent or rents, upon and subject to such terms and conditions in every respect, as the Board thinks fit. 5

Compensation
for lands
taken or
damaged.

36. Every person having any estate or interest in any lands taken under the authority of this Act for any works, or injuriously affected thereby, or suffering any damage from the exercise of any of the powers hereby given, shall be entitled to full compensation for the same from the Board. Such compensation may be claimed and shall be determined in the manner provided by the Public Works Act, 1920. 1928. 10 15

Powers of
contributing
authorities to
connect sewers.

37. For the purpose of carrying off any sewage from any part of its area every contributing authority shall from time to time have power to require the Board to connect the sewers and drains of the contributing authority with the main sewers or main drains of the Board, and such power shall be exercised under the following conditions— 20

- (a) The contributing authority shall give to the Board twenty-eight days' notice in writing of its intention to exercise the powers conferred by this section: 25
- (b) Attached to such notice shall be complete plans and specifications of the sewer or sewers referred to therein: 30
- (c) The Engineer shall be first satisfied that the sewer or sewers referred to in the said notice are fit and proper to be so connected to and to form part of the drainage reticulation feeding into the main-drainage system of the Board, and the Board shall notify the contributing authority of the Board's approval or otherwise: 35
- (d) If the Board shall within a reasonable period fail or neglect to make the connections so required by the contributing authority and approved by the Board, or if the Board shall agree that the contributing authority may carry out the work, then such contributing authority may proceed with the same, 40 45

but subject in all things to the satisfaction of the Engineer that such connections are fit and proper and subject also to the by-laws and regulations of the Board for the time being in force.

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38. In making any such connection the contributing authority shall cause the same to be done in a skilled, efficient, and workmanlike manner, and so that the efficiency and construction of the main sewers or main drains may be in nowise impaired or endangered and in every case to the approval of the Engineer of the Board.

Works to be efficiently done.

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39. The Board may permit any local authority outside the district to connect any drain or sewer within the area of such local authority with any drain or sewer vested in or controlled by the Board upon such terms as may be agreed upon between the Board and such local authority.

Connection of drain in different districts.

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40. (1) The Board may, with the consent and at the cost of any local authority, undertake and carry out the drainage reticulation of the whole or any portion of the area of such local authority within the district, or with the like consent and cost undertake and carry out repairs, maintenance, alterations, or improvements to any existing drainage-reticulation works in such local area.

Reticulation work.

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(2) The Board may undertake and carry out, maintain, and operate drainage-works, whether in relation to storm-water or sewage, for the benefit of any areas within or adjacent to the district, and may enter into and enforce agreements with local authorities and other persons for the payment of the whole or any portion of the cost of the construction, maintenance, or operation of any such works.

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41. *Subject to the provisions of section thirty-four A of this Act,* the Board may utilize any natural watercourse within the district for the discharge of storm-water overflows from its main sewers, but so that the discharge from any such watercourse into any harbour or any other place under the control of the Wellington

Watercourses.

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Harbour Board, or into any river under the control of the Hutt River Board, shall not be or become a nuisance.

Struck Out

Subject as aforesaid, any watercourse so utilized shall to the extent of its use by the Board be under the control and management of the Board.

Acquisition of main sewers, &c., by Board.

42. (1) As soon as practicable after the commencement ~~passing~~ of this Act the Board shall acquire from each contributing authority, and each such ~~local~~ contributing authority shall sell to the Board, all main drains, main sewers, pumping-stations, storage tanks, outfalls, or treatment-works under the control of such ~~local~~ contributing authority, and if no agreement is reached as to the price to be paid therefor the same shall be referred to arbitration in accordance with the provisions of the Arbitration Act, 1908:

Provided that nothing herein shall apply to the Borough of Eastbourne or the Eastern Bays Riding of the County of Hutt until the Board has, at the request of the local authority affected, resolved to provide for the disposal of sewage from the area of that local authority.

(2) The moneys required by the Board to meet expenditure under this section may be borrowed under the provisions of section *fifty-four* hereof.

Struck out

Board may construct drains, &c., for surface water.

43. The Board may construct drains for the removal of surface water or control, alter, and improve any existing drains or any natural watercourse or channel for that purpose, but all such works shall be done only with the approval of the local authority within whose district the drain, watercourse, or channel is situated and at the cost of the local authority affected, and the Board may enter into agreements with the local authority accordingly.

New

Board may carry out contracts for construction of drains for surface water.

43A. The Board may enter into and carry out contracts with any constituent authority for the construction of drains for the removal of surface water which the constituent authority is empowered to construct, or for the alteration or improvement of such drains or of any natural watercourse or channel within the district of the constituent authority.

Accounts

44. The Board shall cause books to be provided and kept *and* true and accurate accounts to be entered therein of all sums of money received and paid under the authority of this Act and of the several purposes for which sums of money have been received and paid.

Books of accounts to be kept.

45. Such books shall at all reasonable times be open to the inspection of any member of the Board or of any constituent authority or any person appointed by it, who may take copies of or extracts from the same; and any person having the custody of the said books who shall fail, refuse, or neglect on the reasonable demand of any member of the Board, or of any constituent authority or any person appointed by it, to permit him to inspect or take copies of or extracts from the same shall for every such offence be liable to a fine not exceeding *five* pounds.

Books to be open for inspection to members of Board.

46. (1) All moneys belonging to the Board shall, within three days after they have come into the hands of the Treasurer, be paid into an account of the Board at such bank as the Board from time to time appoints.

Moneys to be paid into bank.

(2) No moneys may be withdrawn from the bank except by the authority of the Board and by cheque signed by the Chairman or one member and by the Treasurer of the Board.

47. (1) The Board shall keep such accounts and keep them in such manner as may be prescribed by the Audit Office, but so always that—

Accounts to be kept in accordance with requirements of Audit Office.

(a) A General Account shall be kept and credited with all moneys not required by or under this Act to be carried to any other account, and debited with expenditure which is not required by or under this or any other Act to be charged, or which is not otherwise properly chargeable, against any other account; and

(b) Separate accounts shall be kept and credited with all moneys raised or levied for, or appropriated or allocated to, or held in trust or received for, any special purpose, and debited with expenditure properly chargeable against such accounts.

	(2) The decision of the Audit Office as to whether or not any expenditure is properly chargeable against any such account shall be final.	
Yearly balance-sheet and statements.	48. (1) Before the end of April in each year the Treasurer shall prepare and send to the Audit Office a yearly balance-sheet, being an abstract of all the transactions in each of the accounts above mentioned during the preceding financial year ended the thirty-first day of March then last past, together with the statements following:—	5 10
	(a) A statement of the whole assets and liabilities of the Board at the end of the year:	
	(b) A statement of the public debt of the Board showing the total debt outstanding under the head of each loan raised, and the sinking fund in the bank or invested to provide for the repayment of each such loan.	15
	<i>New</i>	
	(2) Notwithstanding anything contained in subsection <i>one</i> of this section, the first balance-sheet and statements of the Board shall be for the period commencing on the passing of this Act and ending on the thirty-first day of March, nineteen hundred and fifty.	20
Audit of accounts.	49. The Audit Office shall be the auditor of the Board, and shall have the same duties and powers in respect of the moneys and accounts of the Board, and of every person dealing therewith, as if the Board were a local authority within the meaning of section one hundred and twenty-four of the Public Revenues Act, 1926.	25 30
Abstract of accounts.	50. The Treasurer shall forthwith after such audit make out a full abstract of the accounts for the year as audited, and cause a copy thereof to be submitted to each contributing authority.	
Board may establish an Imprest Account.	51. (1) The Board may, pursuant to a resolution in that behalf, establish an Imprest Account, which shall be kept at such bank as the Board from time to time appoints.	35
	(2) The Imprest Account may be held jointly in the names of and be operated by the Treasurer and one other person to be appointed in that behalf by the Board, or may, with the express approval in writing of the Audit Office, but not otherwise, be in the sole name of and be operated by the Treasurer or other approved officer of the Board. Where the Imprest Account is held jointly in the names of the Treasurer	40 45

and of one other person as aforesaid, such last-mentioned person shall be either a responsible officer of the Board or a member of the Board.

(3) The Board shall from time to time, by resolution, fix the maximum amount that may be held at any time in the Imprest Account, not exceeding seventy-five pounds in any case where the Imprest Account may be operated by ~~two persons acting together~~, *one person acting alone* and not exceeding such amount as the Audit Office may approve in any other case.

(4) Moneys in the Imprest Account shall be available only for the payment of wages and of emergency expenditure. A statement of all payments made from the Imprest Account shall be submitted to the Board for approval at its first ordinary meeting thereafter. The payment of moneys out of the Imprest Account for any purpose not hereby authorized shall be deemed to be the misappropriation of the funds of the Board.

(5) The provisions of section *forty-six* hereof shall be read subject to the provisions of this section.

52. (1) The Board shall be deemed to be a local authority for the purposes of ~~the Local Authorities Superannuation Act, 1908~~, the National Provident Fund Act, 1926, and section six of the Finance Act (No. 2), 1941.

Superannuation and other benefits for employees.

(2) The Board may from time to time pay by way of subsidy such sums as it thinks fit to the funds of any sick, death, or funeral benefit society or other like institution established by its employees, or any section of them, the benefits of which are confined to such employees and their dependants.

53. The Board may in every financial year out of the General Fund Account expend for purposes not authorized by any Act or law for the time being in force any sum or sums not amounting in the whole to more than one per centum of the gross receipts of the Board for that year, exclusive of loan-moneys, nor, in any case, to more than two hundred and fifty pounds.

Unauthorized expenditure.

54. (1) The Board may from time to time borrow by way of special loan such sums as are necessary for carrying out the purposes of this Act.

Borrowing-powers.

(2) Special loans may be raised by the Board by special order without taking the steps prescribed by sections nine to thirteen of the Local Bodies' Loans Act, 1926.

Struck out

(3) A copy of the special order of the Board authorizing the raising of a special loan, purporting to be sealed with the seal of the Board and signed by the Chairman and two members, shall, without further authentication, be sufficient authority for the raising of the loan thereby authorized or any part thereof, and shall bind the Board accordingly. A copy thereof shall be published in the <i>Gazette</i> , and shall be conclusive evidence that the raising of the loan to which it refers is duly authorized and that all proceedings and things under this Act in relation thereto and in the making of such special order have been lawfully taken and done.	5 10
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(4) Under the provisions of this section the Board shall be at liberty to raise a loan for an authorized purpose for the benefit of a defined part or parts of the district (whether called by a distinctive name or not), and in any case every local district within the defined part or parts shall, without limiting the meaning of the expression "legal subdivision" as used in section three of the Local Bodies' Loans Act, 1926, be deemed to be a legal subdivision.

(5) Notwithstanding anything to the contrary in the Local Bodies' Loans Act, 1926, a loan may be raised by the Board for the benefit of defined parts of the district, although such parts may not together form one continuous area.

(6) The provisions of section ninety-five of the Trustee Act, 1908, or any subsisting statutory modification or re-enactment thereof shall, both in respect of trusts ~~heretofore~~ *heretofore* and hereafter created, apply to all bonds, debentures, and other securities issued by the Board and forming the whole or any portion of any loan which may be raised by the Board under the authority of this or any other Act.

55. The costs of promoting this Act and of investigating matters preparatory or incidental thereto, including surveys, reports of experts and others, legal expenses, and preliminary expenses in connection with the Board's main scheme of sewerage-work, may be paid out of the proceeds of any loan raised by the Board or may be paid as expenses in connection with the works hereby authorized to be constructed.

Preliminary expenses.

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56. The Board shall, on or before the thirtieth day of April in each year, cause an estimate to be prepared of the proposed expenditure of the Board for the ensuing year showing—

Annual estimate of Board's proposed expenditure.

- 5 (a) The permanent appropriations for payment of interest and the creation of a sinking fund or for periodical repayments on account of loans:
- 10 (b) The sum or sums that may be required for carrying out or maintaining in good order the works hereby authorized to be constructed and any other works vested in or controlled by the Board and all other expenses in connection therewith:
- 15 (c) The sum or sums that may be required for the expenses of the administration of the affairs of the Board:
- (d) Any sums already available for such purposes:
- (e) The additional sums required.
- 20 Any deficiency or surplus at the end of any year shall be carried forward as an asset or liability, as the case may be, into, and calculated or allowed for in making and assessing, the next year's requirements.

New

25 | 56A. (1) Subject to the provisions of this section, the constituent authorities shall be liable to pay to the Board in respect of its estimated expenditure the contributions assessed in the manner hereinafter provided.

Contributions by contributing authorities.

30 | (2) Neither the Eastbourne Borough Council nor the Hutt County Council in respect of the Eastern Bays Riding of the County of Hutt shall be liable to pay such contributions as aforesaid until the Board has resolved, at the request of the constituent authority affected, to make provision for the disposal of sewage from the Borough of Eastbourne or, as the case may be, the said Eastern Bays Riding:

35 | Provided that the said Borough Council, and the said County Council in respect of the Eastern Bays Riding, shall each pay and be liable to be assessed for a reasonable share of the administrative costs of the Board, notwithstanding that the Board has not resolved as aforesaid, and to the extent of such payment and liability they shall be deemed to be contributing
 40 |
 45 | authorities for the purposes of this Act.

Contributing
authorities:
annual
assessments.

57. During the month of May in each year the Board shall hold a meeting at which the contributions payable for the current year, commencing on the first day of April, by the contributing authorities shall be assessed, and written notice shall forthwith be given to each contributing authority showing the amount at which every contributing authority is assessed, together with a copy of the estimate of expenditure for the year. 5

How
assessment to
be calculated.

58. Such assessment shall be calculated and arrived at as follows:— 10

(a) The amount (*if any*) payable in respect of the permanent appropriations for payment of interest and the creation of a sinking fund or for periodical repayments on account of any loan raised for the benefit of the ~~area~~ local district of any contributing authority or part thereof shall be ascertained and shall be charged and assessed to the local authority of the local ~~area~~ district or the part thereof comprising the defined part, and where such defined part includes the whole or portions of two or more local ~~areas~~ districts the local authorities shall be charged with the amount of such permanent appropriations in proportion to the mean percentage of the rateable capital value and population of the respective ~~areas~~ local districts or portions, as the case may be: 15 20 25

(b) The residue of the amount shown in the Board's estimate, including maintenance and administration charges, shall be charged and assessed to the contributing authorities the whole or portion of whose ~~area is within the district~~ local districts are within the drainage district in proportion to the mean percentage of the rateable capital value and the population of the respective local ~~areas~~ districts or portions, as the case may be: 30 35

Struck out

(c) Neither the Borough of Eastbourne nor the County of Hutt in respect of its Eastern Bays Riding shall be liable for the assessment referred to in this section until the Board has resolved, at the request of the 40 45

5 local authority affected, to make provision
for the disposal of sewage therefrom and the
local authority affected has accordingly
become a contributing authority under this
Act. Each of such local authorities shall,
however, pay and be liable to be assessed
for a reasonable share of the administrative
costs of the Board, and to the extent of such
10 payment shall be deemed to be a contributing
authority for the purposes of sections *fifty-
seven to sixty-four* hereof inclusive.

59. If any contributing authority is dissatisfied **Appeal.**

with such estimate or assessment, such contributing
authority may, within twenty-eight days after notice

15 of such assessment has been given to it, appeal to a
Judge of the Supreme Court at Wellington against
such estimate or assessment. Such appeal shall be

commenced by notice of appeal being given to the
Registrar of the said Court, who shall fix a day for

20 the hearing thereof; and the contributing authority
appealing shall give notice in writing to the Board
and to each of the other contributing authorities stating

the date when the same is to be heard and the grounds
of such appeal, and thereupon the whole of such

25 estimate and assessment shall be deemed to be set
aside, and the estimate of the contribution to be paid
by every contributing authority shall be settled by the

Judge, whose decision shall be final and binding upon
the Board and all the contributing authorities.

30 60. The Board may, notwithstanding that the amount
sought to be recovered is in excess of the jurisdiction
of any Magistrate's Court, sue for and recover the

amount of any such contribution in any such Court as
a debt. **Jurisdiction of
Magistrate's
Court.**

35 61. The production in any Court of documents
purporting to be— **Production of
documents
prima facie
evidence.**

(a) A copy of the said estimate of expenditure;
and

(b) A copy of the said notice to each contributing
authority purporting to be under the seal of

40 the Board,—
shall be *prima facie* evidence of the liability of each
local authority therein mentioned to pay to the Board

the respective amount therein and thereby shown to be assessed as its contribution to the Board for the purposes of this Act.

When contributing authorities to pay their share.

62. The local authority of each local ~~area~~ *district* the whole or part of which is comprised within the *drainage* district shall, within thirty days of receiving the written notice mentioned in section *fifty-seven* hereof, pay to the Board one-half of the amount of such assessment, and shall pay the other half thereof within six calendar months of the date of the receipt of such notice as aforesaid. In case either half is not so paid such local authority shall be liable to and shall pay interest on any and every amount so remaining unpaid until payment thereof at the rate for the time being charged by the bankers of the Board for moneys owing to them by the said Board or that would be chargeable if such moneys were owing, as the case may be: 5 10 15

Provided that if an appeal against any assessment has been lodged under section *fifty-nine* hereof, then the amount fixed by the Court shall be substituted for the amount of such assessment, and payment of one-half thereof shall be made within thirty days from the date of the Court's decision; but interest on such half shall be payable at the rate aforesaid as from the expiration of thirty days from the receipt of the original assessment. 20 25

Powers of contributing authorities in regard to payment.

63. Every such local authority shall, in connection with its assessment to the Board in every year, have the following powers:—

(a) It may pay the amount out of its ordinary revenue or funds: 30

(b) In lieu of exercising the power contained in ~~sub-clause~~ *paragraph (a)* hereof, or to the extent to which its payment thereunder is less than the amount of its assessment, it may ~~strike—and—collect~~ *make and levy* a separate rate on all rateable property within its area where the whole of its area is within the district of the Board, or where only part thereof is within the district, then within that part, calculated to produce the amount of the assessment or the balance thereof, as the case may be, and interest thereon (if any) and the cost of and incidental to the collection thereof: 35 40

5 (c) The power to make and levy a rate ~~created~~
by ~~subclause~~ conferred by paragraph (b)
hereof may be exercised by a local authority
in addition to all other powers which it is
empowered to exercise under any other Act
and notwithstanding any provision in any Act
limiting or in any way affecting its power to
rate:

10 (d) It may classify the rateable properties within
its ~~area~~ local district or the portion thereof
within the drainage district and make and
levy a rate on a sliding scale according to such
classification. The provisions of the Land
15 Drainage Act, 1908, shall, with the necessary
modifications, apply to such classification and
rate.

20 64. (1) If any such local authority, after notice
of the said assessment is delivered to it, or in case
of appeal after the decision of the said Court, fails
to pay the first or last half thereof, or any part
thereof, for the period of thirty days after the day
on which it should be paid, or the interest thereon, it
shall be lawful for the Board, in addition to any other
powers or remedies hereby given, to make, levy, and
25 collect such rate, and to pay or retain the amount of
such assessment or contribution and interest and all
costs and charges it has been put to in consequence of
such default or neglect.

30 (2) The local authority so in default shall, on
request, hand over and supply to the Secretary of the
Board correct lists of rateable properties, rate-books,
assessment rolls, and all other documents and books
of any and every kind necessary, or considered so by
the Board or its officers, for the purpose of enabling
35 the Board to make, levy, and collect such rate as
aforesaid.

(3) Such local authority and its officers and
servants shall give every assistance to the Board and
its officers to make, levy, and collect such rate as
40 aforesaid.

Powers of
Board to
recover from
contributing
authorities
in case of
default.

(4) For the purpose of enabling the Board to collect and recover the amount of such contribution or assessment, interest, and costs, any Judge of the Supreme Court shall, on application by or on behalf of the Board, have the same power, with the necessary modifications, with reference to such contributing authority as he would have under the Local Bodies' Loans Act, 1926, if default had been made by that authority in payment of any principal or interest due on any debenture by it, and also full power to order, authorize, and empower the Board and its officers to ~~strike~~, make, levy, and collect such rate in the same way and to the same extent as such local authority so in default would be entitled to do.

Miscellaneous

Notice of
action.

65. (1) A writ or process shall not be issued against or served on the Board or any member thereof, or any officer or servant or workman thereof, or any person acting under its or his directions or in its or his aid, for anything done or intended to be done or omitted to be done after the ~~commencement~~ passing of this Act, under the provisions of this Act or of any by-law or regulation made or in force hereunder, until one month after notice in writing has been served on the Board or such member, officer, or person, clearly stating the cause of action or grounds of proceeding, and the name and address of the intended plaintiff or prosecutor and his solicitor or agent in the action or proceeding; and on the trial or hearing of any such action or proceeding the plaintiff shall not be permitted to go into any cause of action or ground of proceeding which is not stated in the notice so served and unless such notice is proved there shall be judgment for the defendant.

(2) Every such action or proceeding shall be commenced within six months next after the act or thing complained of is done or omitted or, in the case of a continuation of damage, within three months next after the doing of such damage has ceased, and not afterwards, and shall be tried in the City of Wellington or the City of Lower Hutt, and not elsewhere. In any such action or proceeding the defendant may plead generally that the act or thing complained of was done

or omitted under the authority or in the execution or intended execution or in pursuance of this Act or of any by-law or regulation made or in force hereunder, and may give all special matter in evidence.

5 (3) Any person to whom such notice of action is given as aforesaid may tender amends to the plaintiff, his solicitor, or agent at any time within one month after service of such notice, and in case the same be not accepted may plead such tender in bar; and in case
10 amends have not been tendered, or in case the amends tendered are insufficient, the defendant may within the time allowed for filing a statement of defence, or thereafter at any time before trial, by leave of the Court, pay into Court, in accordance with the practice of the
15 Court in which the action is pending, and in case of an action in a Court in which no defence need be filed at any such time as may be allowed by the practice of such Court, such sums of money as it or he may think proper, whereupon such consequences shall ensue
20 as, under the practice of the Court in which the action is brought, ensue in an ordinary action.

(4) In cases of injury to the person, the person injured shall permit himself to be examined by any medical practitioner appointed by the Board, and in
25 every case the property injured, and all accounts and vouchers in respect of the injury (whether to person or property), may be examined by any person appointed by the Board or the Chairman of the Board.

(5) In cases of injury to the person (whether resulting in death or not), the Court may, before or at the
30 trial, waive the non-compliance or insufficient compliance with subsections *one* and *two* hereof if satisfied that there was reasonable excuse, and on such terms as the Court thinks fit.

(6) This section shall not apply with respect to any action or proceeding commenced by the Audit Office under the Public Revenues Act, 1926, the Local Authorities (Members' Contracts) Act, 1934, or any other Act.

40 **66.** If any action is commenced or prosecuted touching or concerning the right, title, or interest of any owner or proprietor of or in any lands taken or injuriously affected by anything done in pursuance of

Commencement
of action not to
stop works of
Board.

this Act or in execution of the powers or authorities herein, such action shall not impede, delay, or hinder the Board from proceeding in the execution of the powers vested in it by this Act.

Board may enter premises for purpose of inspection.

67. (1) The Board and the officers and servants of the Board may enter upon any premises for the purpose of examining as to the existence of any nuisance thereon affecting the functions of the Board or as to the breach of any of the provisions of this Act, or the by-laws of the Board (with power to examine any drain or other sanitary apparatus or appliances), or for the purposes of enforcing the provisions of this Act and the by-laws, or for the purpose of executing, providing, or doing any works, materials, or things which the Board is authorized or empowered to execute, provide, or do under or by virtue of this Act or the by-laws. 5 10 15

(2) Any owner or occupier of premises who refuses to permit or allow the Board or any of its officers or servants to enter thereon for any of the purposes mentioned in the *last preceding* subsection, and every person who obstructs the Board or any of its officers or servants in the exercise of any of the powers mentioned in the *last preceding* subsection, shall be guilty of an offence, and shall be liable to a fine not exceeding *twenty* pounds for each such offence. 20 25

Recovery of fines and penalties.

68. All fines imposed by this Act or by any by-law made under the authority hereof may be recovered in a summary manner under the Justices of the Peace Act, 1927. 30

Enforcement of by-laws.

69. The provisions of this Act and of all by-laws made by the Board shall be enforced by the Board or its officers subject to the provisions of section *twenty-eight* hereof.

Property of Board not liable to be rated.

70. No property of the Board owned or used by it for the purposes for which it is constituted shall be liable to be rated by any local authority. 35

Penalty for damaging sewer or drain.

71. Any sewer or drain constructed or maintained by the Board shall be deemed to be the property of the Board, and any person doing any act whereby such sewer may be injured or its efficiency impaired is liable to a fine not exceeding *twenty* pounds, without prejudice to the right of the Board to recover by action damages for any trespass or injury to the said sewer. 40

72. If any person shall commit any breach of the provisions of this Act or any ~~regulation~~ *by-law* made hereunder, or shall omit or fail to perform any duty imposed on him by or arising under this Act or any such ~~regulation~~ *by-law*, he shall be guilty of an offence, and in cases where no other penalty is provided shall be liable to a fine not exceeding *twenty* pounds, and whenever such act or omission is of a continuous nature a further offence shall be deemed to be committed on each day on which it is continued; and whenever power is given by any ~~Act or regulation~~ *this Act or any by-law* made thereunder to order anything to be done or omitted an offence shall be deemed to be committed on each day on which any person disobeys or fails to comply with any order; and in all cases in which property is damaged, destroyed, or lost, or pecuniary loss is suffered by reason of an offence, the Court may add to the fine compensation for any loss the Board may have sustained:

Offences under Act.

Provided that such compensation, unless awarded at the express request of the Board, shall not, excepting as to the amount thereof, relieve such person of any civil liability in respect of his act or omission.

73. Within the period of twenty-one days before or after the day appointed for the holding of any meeting of the Board or for the doing of any act, matter, or thing by this Act required to be done on or before a day certain it shall be lawful for the Governor-General to extend the time allowed or fix a later day for the holding of such meeting or for the doing of any such act, matter, or thing as aforesaid, notwithstanding the day may have passed on which the same ought to have been held or done, and to adopt or cause to be adopted such measures as may be necessary to remove any obstacle of a technical or formal nature by which the carrying-out of the provisions of this Act may be impeded, and to supply any deficiency which may be required to be supplied in order to enable the said provisions to be carried out.

Governor-General may extend time fixed by Act to carry out works.

74. (1) Nothing in this Act shall—
 (a) Authorize the Board to interfere with any public work executed or carried on by, or under the control of, the Government without the previous consent and approval of the

Government works not to be interfered with.

Minister of Works, or, if the work is being executed or carried on by, or under the control of, some other Minister, of that other Minister; or

- (b) Prejudice or affect any power or authority 5
vested in His Majesty, or in the Governor-General, or in any Minister or other person on behalf of His Majesty or the Governor-General under any Act authorizing the erection, construction, carrying on, or main- 10
tenance of any work.

(2) In giving any consent and approval under the *last preceding* subsection the Minister of Works, or such other Minister as aforesaid, may impose such conditions as he thinks fit for the protection and safety 15
of the public works.

New

Certain
enactments not
affected.

74A. Nothing in this Act shall derogate from any of the provisions of any of the following enactments:—

- (a) The Fisheries Act, 1908: 20
(b) The Shipping and Seamen Act, 1908:
(c) The Health Act, 1920:
(d) The Harbours Act, 1923.

SCHEDULES

Schedules.

FIRST SCHEDULE

THE Eastern Bays Riding of the County of Hutt as defined in *New Zealand Gazette*, 8th May, 1947, page 544.

SECOND SCHEDULE

ALL that portion of the County of Hutt bounded by a line commencing at the north-western corner of the Borough of Petone; thence by the boundary of the Epuni Riding of the County of Hutt (*New Zealand Gazette*, 5th June, 1941, page 1558) generally northerly and north-easterly to the north-eastern corner of Section 196, Hutt Registration District, and thence north-easterly along the line of the north-western boundary of Section 196 produced to the western or right bank of the Hutt River; then generally north-easterly following the right bank of the Hutt River to the north-western boundary of Section 172; then along the north-western and north-eastern boundaries of Section 172 to the western corner of Section 110; then north-easterly along the north-western boundaries of Sections 110, 111, 112, 113, 114, and 182 to the northern corner of Section 182; then south-easterly and southerly along the eastern boundaries of Sections 182 and 181 until meeting the main highway; thence south-westerly along the north-western side of the highway to the south-western boundary of Section 112; then south-easterly across the highway and along the latter boundary to the eastern corner of Section 111; then south-westerly along the south-eastern boundaries of Sections 111, 110, 296, and 222, and generally southerly along the eastern boundaries of Section 221; thence south-easterly along the north-eastern boundaries of Sections 124 and 218; thence southerly along the eastern boundary of Sections 218 and 148 to the Wallaceville Road; then generally westerly and southerly along the north-eastern side of the Wallaceville Road to the north-western boundary of Section 150; thence generally southerly across that road and along the western boundaries of Sections 150, 152, 154, 156, 158, 160, 162, 164, and 166 and along the north-eastern and north-western boundaries of Section 168, the north-western boundary of Section 283, and the north-eastern and south-western boundaries of Section 286 to the south-eastern corner of Section 206; thence north-westerly along No. 1 Line until opposite the north-western boundary of Section 252; thence south-westerly across No. 1 Line and along the latter boundary to the north-easterly boundary of Section 247; thence south-easterly along the north-eastern boundaries of Sections 247 and 235 and south-westerly and south-easterly along the north-western and south-western boundaries respectively of Section 236, to the northern corner of Section 233; then south-westerly and south-easterly along the north-western and south-western

SECOND SCHEDULE—continued

boundaries respectively of Section 233; thence south-westerly along the south-eastern boundary of Sections 232 and 231 to the boundary of the City of Lower Hutt (*New Zealand Gazette*, 5th October, 1944, page 1177); then generally north-westerly along the north-eastern and northern, and south-westerly along the north-western boundaries of the City of Lower Hutt to the northern boundary of the Borough of Petone, and westerly along that boundary to the point of commencement, excluding therefrom the Borough of Upper Hutt.