

LAND DRAINAGE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Land Drainage Act 1908.

Clause 2: Section 8 (3) of the principal Act provides that when appeals from the ratepayers list have been dealt with the list shall be corrected to give effect to the Magistrate's decisions on objections and is to be signed by the Magistrate, and shall then be conclusive evidence that the persons named therein are ratepayers and of the valuation of their property. The purpose of this clause is to make it clear that in cases where there are no objections to the list the list is to be signed by the Magistrate in the same way, and will then become conclusive evidence of those matters.

Clause 3: The effect of this clause is that the Fees and Travelling Allowances Act 1951 will apply to Land Drainage Boards, and members of those Boards will be entitled to travelling allowances and expenses under the provisions of that Act. At present they are entitled to receive reasonable actual travelling expenses incurred in travelling not less than five miles (counting one way only) on the business of the Board.

Clause 4 authorises a Drainage Board to levy separate rates for maintaining and operating pumping units in defined portions of its district. The rate is to be levied only in the portion of the district deriving or likely to derive benefit from the operation of the pumping units, and is not to exceed the amount that would be produced by a uniform rate of twopence in the pound on the capital value of the rateable property in that portion of the district.

Clause 5: Section 33 of the principal Act provides for the classification of land for rating purposes (according to the degree of benefit derived from the drainage works) into four classes, three being rateable and the fourth class being non-rateable. This clause allows the Board to classify the land into seven classes for rating purposes, as is the case with Catchment Boards. Six of those classes will be rateable, and the seventh non-rateable. The clause also gives a right of appeal, not only against the classification of land for rating, but also against the proportion of rates to be borne by the several classes of land.

Clause 6 repeals section 44 of the principal Act, which makes it an offence for any officer of the Board to accept any fees for anything done by virtue of his office other than the salary paid to him by the Board or to be concerned or interested in any contract made by the Board. The repeal of the section will place Drainage Boards in the same position as other classes of local authorities, whose officers are subject to the Secret Commissions Act 1910 and the general provisions of trustee law.

Clause 7 authorises Drainage Boards to set aside reserve funds for the purpose of repairing and replacing equipment.

Clause 8 makes it clear that the power conferred on Drainage Boards by section 50 (1) (d) of the principal Act to make bylaws for the removal of anything likely to obstruct the passage of machinery used for drain cleaning purposes also extends to machinery used for drain improvement and maintenance purposes.

Clause 9: Section 62 of the principal Act authorises local authorities having the powers of Drainage Boards to order occupiers of land through which any watercourse or drain runs to remove any obstruction likely to impede the free flow of water. The effect of *subclause (1)* of this clause is that, where the obstruction consists of trees, plants, weeds, or other growths, the local authority may require the occupier, instead of physically removing the obstruction, to take such steps by burning, poisoning, cutting, or treating the growth as will permit the free flow of water in the watercourse or drain.

Section 62 (2) of the principal Act makes it an offence for the occupier to fail to comply with the order of the local authority within 14 days. The effect of *subclause (2)* of this clause is that the occupier must commence the work within 14 days and continue it with reasonable expedition, or, where the local authority fixes a time for its completion, he must complete the work within that time.

Clause 10 empowers local authorities to make advances to owners of property on the banks of watercourses or drains to enable them to meet the cost of complying with any order of the local authority under section 62 of the principal Act for the removal of obstructions or to enable them to cover in or improve the watercourse or drain. The terms of the advance will be as agreed upon between the local authority and the owner, but the rate of interest must not exceed 6 per cent per annum.

Hon. Mr Smith

LAND DRAINAGE AMENDMENT

ANALYSIS

Title	
1. Short Title	6. Repealing provisions as to acceptance of fees by officers
2. Ratepayers list	7. Establishment of renewal and replacement funds
3. Travelling allowances	8. Bylaws as to removal of trees, etc.
4. Separate rates for operation of pumping units in portion of district	9. Removal of obstructions from water-courses or drains
5. Classification of land for rating purposes	10. Advances to owners by local authorities

A BILL INTENDED

An Act to amend the Land Drainage Act 1908

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

1. **Short Title**—This Act may be cited as the Land Drainage Amendment Act 1956, and shall be read together with and deemed part of the Land Drainage Act 1908 (hereinafter referred to as the principal Act).
- 10 2. **Ratepayers list**—Section eight of the principal Act is hereby amended by omitting from subsection three the words “The list when so corrected”, and substituting the words “The list, with such alterations (if any) as have been made therein under subsection two of this section”.
- 15 3. **Travelling allowances**—(1) The principal Act is hereby amended by inserting, after section thirteen, the following section:

“13A. (1) The Board is hereby declared to be a local authority within the meaning of the Fees and Travelling Allowances Act 1951.

“(2) The Board may out of its funds, pay to members travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.” 5

(2) Section four of the Land Drainage Amendment Act 1920 is hereby repealed.

4. Separate rates for operation of pumping units in portion of district—(1) The principal Act is hereby amended by inserting, after section thirty-one, the following section: 10

“31A. (1) The Board may from time to time, by special order, define the boundaries of any area in its district which derives or is likely to derive benefit from the operation of specified pumping units for disposing of drainage and flood waters in that area, and may from time to time, by special order, alter the boundaries of any such area. 15

“(2) The Board may from time to time, in accordance with the provisions of section thirty-three of this Act, classify all lands within any area defined under subsection *one* of this section according to the benefit derived or likely to be derived from the operation of the said pumping units, and all the provisions of this Act relating to the classification of lands for rating purposes and to the fixing of the proportions in which rates are to be borne by the several classes of land shall apply with respect to any classification made under the authority of this section. 20 25

“(3) The Board may from time to time, for defraying the expenses incurred in maintaining and operating pumping units in any area defined under subsection *one* of this section, make and levy on all rateable property in that area a separate rate of such amount as will produce not more than would be produced by a uniform rate of twopence in the pound on the capital value of that rateable property, or its equivalent on the unimproved value or annual value. 30 35

“(4) From the proceeds of any such rate there may be deducted such sum as in the opinion of the Board is necessary to defray the cost of making and levying the rate and of the supervision and clerical work necessary in connection with the expenditure thereof, and the amount so deducted shall form part of the ordinary revenue of the Board. The remainder of the rate shall be applied for the purpose for which it was levied.” 40

(2) Section twenty-nine of the Local Legislation Act 1954 is hereby repealed.

5. Classification of land for rating purposes—(1) The principal Act is hereby amended by repealing section thirty-
5 three, and substituting the following section:

“33. (1) Within any district or subdivision where rates are to be levied on lands according to their classification, the Board may from time to time, as it thinks fit, classify all lands in the district or subdivision into classes, according to the
10 degree of direct or indirect benefit received or likely to be received from works carried out or to be carried out by the Board or for the maintenance of which the Board is responsible.

“(2) There shall be not fewer than two nor more than six
15 classes of land named A, B, C, D, E, and F respectively, and where, in the opinion of the Board, any land cannot reasonably be classed as receiving or likely to receive any benefit direct or indirect from the works, that land shall be placed in another class named Class G:

20 “Provided that, where in the opinion of the Board, because of the relationship between the costs of any benefit and the valuation of the land that benefits, or for other good reason, urban land may not equitably be placed in the same class as rural land, the urban land may be placed in a higher or lower
25 class.

“(3) Rates shall be levied on the several classes of land (except those in Class G) in such proportion as the Board in each case appoints.”

(2) Section thirty-four of the principal Act is hereby
30 amended as follows:

(a) By omitting from subsection two the words “and the Board shall immediately thereafter cause to be given public notice of such classification”, and substituting the words “which list shall include a state-
35 ment of the proportions in which the rates are to be imposed on the several classes of land to which the list relates; and the Board shall immediately there- after cause public notice to be given of the classifica- tion, of the proportions in which the rates are to be imposed on the several classes of land,”.

40 (b) By inserting in subsection three, after the words “such classification”, the words “or fixing of proportions”.

(3) Section thirty-four of the principal Act is hereby further amended by adding to subsection three the following paragraph:

“(d) That the proportions in which the rates are proposed to be imposed on the several classes do not fairly represent the varying degrees of benefit to the land in the several classes, or that the proportion of the rates imposed on any particular class or classes is too great or too small.” 5

(4) The following enactments are hereby repealed, namely: 10

(a) Section four of the Land Drainage Amendment Act 1913:

(b) Section eleven of the Land Drainage Amendment Act 1922.

6. Repealing provisions as to acceptance of fees by officers— 15
Section forty-four of the principal Act is hereby repealed.

7. Establishment of renewal and replacement funds—The principal Act is hereby amended by inserting, after section forty-eight, the following section:

“48A. (1) The Board may from time to time set aside any money to form a fund or funds for the repair, renewal, replacement, or improvement of any property, plant, fixtures, or appliances of the Board, or for the purpose of purchasing additional property, plant, fixtures, or appliances of the class for which the fund or funds is or are established. 20 25

“(2) The money so set aside and any other money payable into the fund or funds shall be paid into a separate bank account in the name of the Board.

“(3) The Board may from time to time apply the money forming the fund or funds only to the purposes aforesaid, or any of them, and the Board, until the money is required for any of those purposes, may invest any of that money in the following manner: 30

“(a) In New Zealand Government securities; or

“(b) On deposit in any bank lawfully carrying on the business of banking in New Zealand or in the Post Office Savings Bank or in any trustee savings bank; or 35

“(c) In the Common Fund of the Public Trust Office; or

“(d) In any other securities that may from time to time be authorised by the Governor-General in Council.” 40

8. **Bylaws as to removal of trees, etc.**—Section fifty of the principal Act is hereby amended by omitting from paragraph (d) of subsection one (as enacted by section four of the Land Drainage Amendment Act 1952) the words “drain cleaning purposes”, and substituting the words “the purposes of improving, maintaining, or cleaning drains”.

9. **Removal of obstructions from watercourses or drains—**

(1) Section sixty-two of the principal Act is hereby amended by adding to subsection one A (as inserted by section seven of the Land Drainage Amendment Act 1913) the following paragraph:

“(c) ‘Remove’, in relation to any obstruction consisting of trees, plants, weeds, or growths, includes, if the local authority so specifies, burning, poisoning, cutting, or treating, whether with or without the removal of the burnt, poisoned, cut, or treated portions.”

(2) Section sixty-six of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) In this section the term ‘remove’, in relation to any such obstruction, has the same meaning as in section sixty-two hereof.”

(3) Section sixty-two of the principal Act is hereby further amended by omitting from subsection two the words “comply with such order within fourteen days from the receipt thereof”, and substituting the words “commence the work specified in the order within fourteen days from the receipt thereof and to continue that work with all reasonable expedition or, where the local authority specifies a time within which the work must be completed, who fails to complete the work within the time specified in the order”.

10. **Advances to owners by local authorities**—The principal Act is hereby amended by inserting, after section sixty-three, the following section:

“63A. (1) The local authority may make advances to the owner of any land within the district for the purpose of enabling him to do all things necessary to comply with any order of the local authority under section sixty-two hereof or to cover in or improve any watercourse or drain on the banks of which that land is situated.

“(2) Instead of making any such advance to any owner, the local authority may, by agreement with him, itself do such things as aforesaid, and all money expended by the local authority pursuant to that agreement, together with an amount equal to five per cent of the amount so expended to cover the cost of supervision by the servants of the local authority, shall be deemed to be an advance for the purposes of this section. 5

“(3) The local authority and the owner may agree that the amount of any advance shall be repayable in one amount at a fixed time with interest at a rate not exceeding six per cent per annum, or by instalments extending over a number of years with interest not exceeding that rate. That agreement may contain any incidental provisions and may provide for the earlier payment of instalments, or any of them, on terms to be mentioned in the agreement: 10 15

“Provided that, where the agreement makes no provision as aforesaid for early payment of instalments, the local authority shall accept the whole of the unpaid instalments at any time when the same is tendered, and for the purpose of any such tender interest shall be paid up to and including the day of tender. 20

“(4) That agreement may, where the money is repayable in one amount, contain provisions for securing the repayment thereof; and, where the money is repayable by instalments, each such instalment shall for all purposes be deemed to be a rate, subject to the following conditions: 25

“(a) The owner of the land shall be deemed the person primarily liable for payment:

“(b) A separate book shall be kept by the Collector of Rates to the local authority, in which particulars of the instalments (distinguishing capital from interest), and of the works in respect of which they are payable, and of the dates for payment thereof, and of the names of the persons paying the same shall be entered; and that book shall be *prima facie* evidence of the correctness of its contents.” 30 35