

*Hon. Mr. Semple*

SOIL CONSERVATION AND RIVERS CONTROL  
AMENDMENT

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A BILL INTITULED

AN ACT to Amend the Soil Conservation and Rivers Control Act, 1941. Title.

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

1. This Act may be cited as the Soil Conservation and Rivers Control Amendment Act, 1948, and shall be read together with and deemed part of the Soil Conservation and Rivers Control Act, 1941 (hereinafter referred to as the principal Act). Short Title.  
1941, No. 12

2 *Soil Conservation and Rivers Control  
Amendment*

Interpretation.

**2.** (1) Section two of the principal Act is hereby amended—

(a) By omitting from subsection one the definition of the term “ Clerk ”:

(b) By inserting in subsection one, after the definitions of the terms “ River District ” and “ River Board ”, the following definition:—  
“ ‘ Secretary ’ means the Secretary to a Catchment Board:”

(2) All references in the principal Act, or in any other Act, to the Clerk to a Catchment Board shall be read hereafter as references to the Secretary to a Catchment Board.

(3) Section one hundred and thirty of the principal Act is hereby amended by adding the following subsection:—

“(7) For the purpose of this section, the expression ‘ machinery and appliances ’ means machinery and appliances that are affixed to the soil; and includes any movable parts thereof that are necessary to enable them to function.”

Deputy  
Chairman of  
Council.

**3.** Section four of the principal Act is hereby amended by adding the following subsections:—

“(2) The Council may from time to time appoint a member of the Council to be the Deputy Chairman thereof.

“(3) In the absence of the Chairman the Deputy Chairman shall be the chairman of any meeting of the Council.”

Hydrological  
research by  
the Council.

**4.** Section eleven of the principal Act is hereby amended by inserting in subsection one, after paragraph (c), the following paragraph:—

“(ee) The carrying-out of hydrological research, and the recording, co-ordinating, and publishing of the results thereof:”

Advisory and  
technical  
committees.

**5.** (1) Section eleven of the principal Act is hereby further amended by adding the following subsection:—

“(4) The Council may from time to time appoint such Advisory or Technical Committees as it thinks fit to advise the Council on such matters within the scope of the objects and functions of the Council as

are referred to them by the Council. Any person may be appointed to be a member of any such Committee notwithstanding that he is not a member of the Council."

5 (2) Section eight of the principal Act is hereby amended by inserting, after the word " Council ", the words " and of any Advisory or Technical Committee appointed under section eleven of this Act ".

(3) This section shall be deemed to have come into force on the *first* day of *January*, nineteen hundred 10 and forty-seven.

6. Section twenty-two of the principal Act is hereby amended by repealing paragraph (f) of subsection one, and substituting the following paragraph:—

Powers of Council as to watercourses and defences against water.

15 " (f) By agreement with the landowners affected thereby, carry out any of the above-mentioned works or any other works authorized under this Part of this Act."

7. Notwithstanding anything to the contrary in section forty-four of the principal Act, the Governor- 20 General may from time to time, by Order in Council, declare that the person who is the holder for the time being of a specified office in the Public Service shall be a non-elective member of a Catchment Board. The person who is for the time being the holder of the 25 specified office shall, while the Order in Council remains in force, continue to be a non-elective member of the Board without any appointment or reappointment under the said section forty-four.

Holders of specified offices may be appointed non-elective members of Boards.

30 8. Section eighty-eight of the principal Act is hereby amended by adding the following subsection:—

Special works rate over portion of district.

35 " (2) Where it appears to any Board that any work which the Board is authorized to execute is for the special benefit of any particular portion of the district, notwithstanding anything to the contrary in this Act, the Board, by written agreement with the owners and occupiers of the land in that portion of the district, may define that portion, and the classification of the lands therein, and the proportion in which the rate is to be imposed on the several classes of lands therein, 40 and (subject to subsection two of the last preceding section) the Board, by resolution at any meeting, may thereafter make and levy a special-works rate on the basis of the classification and proportions so determined for defraying the expenses incurred in executing the 45 work."

Adjustment  
of rates.

9. The principal Act is hereby amended by repealing section ninety-seven, and substituting the following section:—

“ 97. Subject to the provisions of section one hundred of this Act, where the system of rating adopted by the local authority differs from that adopted by the Board, the local authority for the purpose of collecting any such rate, shall make an adjustment thereof so that every rate made and levied by the local authority on the capital, the unimproved, or the annual value, as the case may be, shall be so adjusted as to equal as nearly as possible in its producing capacity, the amount that would have been raised by a rate made and levied on the system of rating adopted by the Board.”

Schemes of  
works for part  
of district may  
be prepared by  
Boards and  
approved by  
Minister and  
Council.

10. (1) Section one hundred and twenty-eight of the principal Act is hereby amended by inserting, after subsection one, the following subsection:—

“ (1A) Notwithstanding anything to the contrary in subsection one of this section, any Board may from time to time before a general scheme for the whole of its district has been approved by the Minister and the Council, prepare and submit to the Minister and to the Council a general scheme for the preventing or minimizing of damage within any part or parts of its district by floods and by erosion. If so required by the Council, a copy of any scheme so submitted shall be forwarded by the Board which prepared the scheme to the Board of any adjoining district.”

(2) Section one hundred and twenty-eight of the principal Act is hereby further amended by omitting from subsection two the words “ the scheme ”, and substituting the words “ any general scheme submitted under this section ”.

Owner or  
occupier may  
apply to Board  
to exercise its  
powers.

11. (1) For the purposes of this section, unless the context otherwise requires,—

“ Occupier ”, in relation to any land, means the person whose name appears for the time being on the valuation roll as the occupier of that land; and, where the name of no person so appears, means every person who would be an occupier of the land within the meaning of the Rating Act, 1925, if the land were rateable property:

See Reprint  
of Statutes,  
Vol. VII, p. 977

5 “Owner”, in relation to any land, means the person whose name appears for the time being on the valuation roll as the owner of that land, and where the name of no person so appears, means the owner of the land within the meaning of the Valuation of Land Act, 1925.

See Reprint  
of Statutes,  
Vol. VII,  
p. 1030

10 (2) Where any owner or occupier of land within a catchment district desires to prevent the overflow of water thereon or to drain the same, and for that purpose deems it necessary that a new drain or watercourse should be made which will serve other lands as well as his own, or that an existing drain or watercourse which serves other land as well as his own should be  
15 cleansed, repaired, widened, deepened, straightened, or otherwise improved, or where any owner or occupier of land adjacent to a river deems it necessary that work upon the river should be undertaken to prevent flooding or erosion or other damage, in any such case  
20 he may apply in writing to the Catchment Board for the district to exercise its powers in that behalf.

(3) Every such application shall describe generally the nature of the work required, and the lands on, through, and between which it will be carried out,  
25 and if a new work is proposed, shall state the compensation (if any) which the person making the application estimates to be payable, and shall be accompanied by a sketch plan showing the course of the drain or watercourse.

30 (4) Before constructing any works of any nature pursuant to any such application the Board shall—

(a) Estimate the cost which it will incur in carrying out and maintaining the proposed work and the amount of compensation which will be  
35 payable in respect of the work:

(b) Determine which of the owners and occupiers (at the date of the determination) of the lands which will benefit from the proposed work shall contribute to the cost of carrying out and maintaining the work, and how that  
40 cost shall be apportioned between them; and in making the determination and apportionment the Board shall have regard to the amount of the benefit directly or indirectly  
45 derived or likely to be derived in each case:

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- (c) Prepare proposals regarding the apportionment of the compensation moneys which the Board proposes to pay in respect of the work:
- (d) Deposit for public inspection at the office of the Board, and where that office is outside the district also at some place within the district— 5
- (i) A statement containing a general description of the proposed work:
- (ii) A plan showing the land which will be affected by the work and the names of the owners and occupiers of the land: 10
- (iii) A statement of the estimated cost of the work and of the manner in which the Board proposes to apportion the same:
- (iv) A statement of the estimated cost of the maintenance of the work and the manner in which the Board proposes to apportion the same: 15
- (v) A statement of the amount of compensation which the Board proposes to pay in respect of the work and the manner in which the Board proposes to apportion the same: 20
- (e) Give notice in writing to the owners and occupiers of all land affected by the proposed work of the Board's intention to construct the work, which notice shall refer to the plan and statements aforesaid, and shall state whether the person to whom the notice is given will be required to contribute towards the cost of carrying out or maintaining the work, and whether the Board proposes to pay or credit to him any amount for compensation in respect of the work, and shall call upon him to lodge with the Board within *one month* after the giving of the notice a written statement of his objections (if any) to the proposed work and to the proposed apportionment of the cost of carrying out or maintaining the proposed work. 35 40

- (5) If any such objection is lodged, and agreement cannot be reached between the Board and the person or persons objecting, the Board shall refer the matter to the Council, whose decision shall be final. Where  
5 no such objection is lodged within the said period of *one month*, or where (in respect of every objection lodged) either the Council or the person objecting consents to the execution of the work, the Board may forthwith proceed with the work.
- 10 (6) The amount of the contribution of every owner and occupier of any land affected by the proposed work as stated in the notice mentioned in paragraph (e) of subsection *four* of this section, or, where an  
15 objection affecting the amount of the contribution has been duly lodged, as determined by agreement or by the Council, shall constitute a debt forthwith due and payable to the Board by the owner or occupier, and that amount or so much thereof as remains unpaid,  
20 together with any interest payable under this section, shall be a charge on the land, and may be recovered in the manner in which rates which have been validly demanded are recovered under the Rating Act, 1925.
- (7) The Board may charge interest on any amount  
25 payable to it under this section at a rate to be from time to time fixed by the Minister of Finance, and may require any such amount and interest to be paid by such instalments on such days as the Board thinks fit.
- (8) Where a written application has been received  
30 from the owner or occupier of any land for the exercise by the Board of any of its powers as provided in this section and expenses have been incurred by the Board in relation to the request, the Board may require the person who made the request to pay the whole or any  
35 part of the amount of the said expenses, and the amount which that person is so required to pay shall constitute a debt payable by that person, chargeable with interest, and charged on the land in the same manner in all respects as if the work had been completed.
- (9) Before considering any application under sub-  
40 section *two* of this section, the Board may require the person making the application to pay to the Board a

See Reprint  
of Statutes,  
Vol. VII, p. 977

reasonable sum for engineering, or other expenses incurred or likely to be incurred in respect of the application.

(10) Nothing contained in this section, except the provisions imposing liability on claimants, shall in any way affect any claim by any person to compensation. 5

Purchase, sale, or hire of plant by Council or Board.

**12.** (1) The Council or any Catchment Board may purchase plant and machinery for soil conservation or river-control purposes out of moneys available for those purposes. 10

(2) The Council may sell, and the Council or any Catchment Board may let out on hire or on loan on such terms as it thinks fit, any plant and machinery for soil conservation or river-control purposes.

Power to make by-laws for the protection of watercourses and defences against water.

**13.** (1) Section one hundred and forty-nine of the principal Act is hereby amended by omitting from paragraphs (a), (c), (d), (e), (f), (g), (h), (i), (j), (l), (m), and (n), the words "under the control of the Board". 15

(2) The said section one hundred and forty-nine is hereby further amended by repealing paragraph (b), and substituting the following paragraph:— 20

"(b) Preventing, or regulating within the district, the pumping or releasing of water into any watercourse, or the overflow of artesian water:— 25

(3) The said section one hundred and forty-nine is hereby further amended by adding the following subsections:—

"(2) Any by-law made under this section may be made to apply within the district generally, or within any specified part or parts of the district, or to any specified watercourse or defence against water, or to any part or parts of either, or to any specified structure or class or classes of structures. 30 35

"(3) Where there is any conflict between any by-law made under this section and any by-law made under the authority of any other Act, the by-law made under the authority of this section shall prevail." 35

Interfering with watercourses.

**14.** Section one hundred and fifty-five of the principal Act is hereby amended by omitting from subsection one the words "under the control of any Board", and substituting the words "within its district". 40



15. (1) Section two of the Soil Conservation and Rivers Control Amendment Act, 1946, is hereby amended as follows:—

Extension of provisions for dissolution of special drainage or river authorities.  
1946, No. 29  
See Reprint of Statutes, Vol. IV, pp. 560, 598, 574, and 582

- 5 (a) By inserting, before the definition of the term “special drainage or river authority”, the following new definition—  
“ ‘Special Act’ means the Swamp Drainage Act, 1915, the Hauraki Plains Act, 1926, the Rangitaiki Land Drainage Act, 1910, or  
10 any other local Act (except the Waihou and Ohinemuri Rivers Improvement Act, 1910) which confers any functions or powers in respect of land drainage or river control on any Minister of the Crown or other person:”:
- 15 (b) By adding to the definition of the term “special drainage or river authority”, the words “and includes every Minister of the Crown and other person on whom any functions or powers in respect of land drainage or river control  
20 are conferred by a special Act”:
- (c) By adding to the definition of the term “special drainage or river district”, the words “and includes every district or locality in respect of  
25 which any functions or powers in respect of land drainage or river control are conferred by a special Act on any Minister of the Crown or other person”.

(2) Sections eight to thirteen of the Soil Conservation and Rivers Control Amendment Act, 1946, shall  
30 apply in every case where the special drainage or river authority is a Minister of the Crown or any other person on whom any functions or powers in respect of land drainage or river control are conferred by a special Act as if the surrender of those functions or powers  
35 by the Minister or person were the dissolution of a special drainage or river authority.

(3) Section ten of the Soil Conservation and Rivers Control Amendment Act, 1946, is hereby amended by adding to paragraph (a) of subsection two the  
40 following proviso:—

“ Provided that where the special drainage or river authority is a Minister of the Crown or any other person on whom any functions or powers in respect of land

drainage or river control are conferred by a special Act, only property, debts, liabilities, engagements, powers, and functions of the Minister or of that person in respect of those functions and powers shall vest in and become the property, debts, liabilities, engagements, powers, and functions of the Catchment Board: ”. 5

(4) Section eleven of the Soil Conservation and Rivers Control Amendment Act, 1946, is hereby amended by adding to subsection two the following proviso:— 10

“ Provided that where the special drainage or river authority is a Minister of the Crown or any other person on whom any functions or powers in respect of land drainage or river control are conferred by a special Act, only property, debts, liabilities, and engagements of the Minister or person in respect of those functions and powers shall vest in and become the property, debts, liabilities, and engagements of the Catchment Board.” 15