

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 9 September 1959

Words struck out by the Local Bills Committee are shown in italics within bold round brackets or in roman enclosed in panel; words inserted are shown in black within bold square brackets or in roman with rule down side.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 8 October 1959

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[AS REPORTED FROM THE COMMITTEE OF THE WHOLE THE SECOND TIME]

House of Representatives, 14 October 1959

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Hon. Mr Watt

SOIL CONSERVATION AND RIVERS CONTROL
AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Soil Conservation and Rivers Control Act 1941

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 5

1. Short Title—This Act may be cited as the Soil Conservation and Rivers Control Amendment Act 1959, 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). 10

PART I

MISCELLANEOUS AMENDMENTS

2. Interpretation—(1) Subsection one of section two of the principal Act is hereby amended by repealing the definition of the term “defence against water”, and substituting the following definition: 15

“ ‘Defence against water’ includes any dam, weir, bank, carriageway, groyne, or reservoir, and any structure or appliance of whatsoever kind which has or may have the effect of stopping, diverting, controlling, restricting, or otherwise regulating the flow or spread or subsidence, in or out of a watercourse, of water including flood waters:” 20

New 25

(1A) Subsection one of section two of the principal Act is hereby further amended by inserting, after the definition of the term “Internal River Board”, the following definition: 30

“ ‘Local governing authority’ means a County Council, Borough Council, Town Council, or Road Board:” 30

(2) Section two of the principal Act is hereby further amended by adding the following subsection:

“(3) If an area of land is defined in any document for the purposes of this Act and the definition assigns to the area a distinguishing name, then, if the document is gazetted, it shall be sufficient definition of the area in future documents relating to the same area to refer to it by the name so assigned with the addition of a reference, by the date, page, and number of the *Gazette*, to the document by which the name was assigned and the area defined.” 40

3. Constitution of Council—Subsection two of section three of the principal Act, as substituted by section two of the Soil Conservation and Rivers Control Amendment Act 1952, is

hereby amended by repealing paragraph (e), and substituting the following paragraphs:

“(dd) The Secretary to the Treasury:

- 5 “(e) Two persons to be appointed by the Governor-General on the recommendation of the Minister, of whom one shall represent the interests of areas which are not included in any catchment district:”.

4. Functions of Council—(1) Subsection one of section eleven of the principal Act is hereby amended—

10 (a) By adding to paragraph (d) the words “or for the purpose of draining any land or controlling the water table in relation to any land”:

(b) By adding to paragraph (h) the words “or whose land may be used to fuller capacity by the control

15 (c) By adding to paragraph (k) the words “including regular review of the economy of administration of each Board”.

(2) Subsection one of section eleven of the principal Act is

20 hereby further amended by adding the following paragraph:
“(m) The exercise within catchment territory generally or any catchment area of any function or power which in a catchment district could be exercised by the Catchment Board.”

25 (3) Section eleven of the principal Act, as amended by section five of the Soil Conservation and Rivers Control Amendment Act 1948, is hereby further amended by adding the following subsection:

30 “(5) The Council may by resolution fix one or more limits of expenditure by a Board in administering the whole or any part of the business of the Board during a specified period or periods. Any such limit may, in the same manner, be revoked at any time, or varied from time to time. One copy of every such resolution shall be forwarded by the Council to the

35 Board and another to the Controller and Auditor-General; and while any such resolution remains effective any expenditure by the Board in contravention of the resolution shall be unlawful.”

5. Catchment territory, catchment areas, and Catchment
40 **Commissions**—The principal Act is hereby amended by repealing section thirteen, and substituting the following section:

45 “13. (1) Every part of New Zealand which is not for the time being within a catchment district constituted under this Act, or within the Waikato Valley as defined in the Waikato Valley Authority Act 1956, is hereby constituted and declared to be catchment territory, whether or not it for the time being forms part of a catchment area.

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“(2) The Council may at any time, by notice gazetted,
New
[after giving three months’ notice to each **((territorial local authority))**, **[[local governing authority]]**, Drainage Board, and River Board in the area, or sooner if they all agree, 5
assign a name to any area of catchment territory, which area shall thereafter be a catchment area and known as the [*Stating the name*] Catchment Area ; and may, in the same manner, at any time alter, redefine, or abolish any catchment area. 10

“(3) For each catchment area the Council shall, by notice gazetted, appoint a Catchment Commission which shall be known as the [*Name of area*] Catchment Commission, and **(shall)** **[may]** appoint the Chairman thereof. 15

New

While there is no such Chairman, or for any meeting of the Commission at which a Chairman appointed by the Council is not in attendance, the Commission shall appoint a Chairman.

“(3A) **((The Council of any district or part of a district which))** **[[Any local governing authority, Drainage Board, or River Board whose district or part of whose district]]** the Soil Conservation and Rivers Control Council has included or proposes to include in a catchment area may, within thirty days after the date on which it receives notice from the Soil Conservation and Rivers Control Council of the inclusion or proposed inclusion, appeal against the inclusion or proposed inclusion to the Local Government Commission; and the decision of that Commission shall be final and binding in respect of the inclusion or proposed inclusion of that district or part in the area for the purposes of the works for which the area is constituted: 20 25 30

“Provided that any such decision may be amended or revoked at any time by the Local Government Commission on application by any party. 35

“(4) Every Catchment Commission shall consist of the following persons:

“(a) **(One)** **[Two]** or more persons from time to time appointed by resolution of the Council from **(a panel of)** persons nominated by the local authorities having jurisdiction in the area: 40

“(b) Such other persons, **(not exceeding in number)** **[fewer in number than]** those appointed or proposed to be appointed pursuant to paragraph (a) of this subsection, as the Council may from time to time by resolution appoint on account of their knowledge of the problems that may arise in the course of administration. 45

“(5) Every member of a Catchment Commission shall come into office on the gazetting of notice of his appointment; and shall hold office until his successor is appointed.

5 “(6) Within one month after the ordinary general elections of the local authorities having jurisdiction within the area, and on the occasion of any extraordinary vacancy on a Catchment Commission, the Council shall invite each local authority to submit to the Council nominations for appointments to be made under paragraph (a) of subsection four of this section.

10 “(7) If a (*satisfactory*) nomination to fill any vacancy on a Catchment Commission is not received from the local authority (*within a reasonable time,*) [**within three months after the Council’s request for nominations is received in the office of the local authority,**] the Council may appoint to fill the
15 vacancy some person to represent the electors of the district of the local authority.

“(8) A resolution of the Council appointing any person to be a member of a Catchment Commission or a document purporting to be a copy of any such resolution certified by a
20 signature purporting to be that of the Chairman or Secretary of the Council shall, without proof of signature or other matters, be sufficient evidence in the absence of proof to the contrary that the person therein mentioned was duly appointed such a member, and that the appointment continues
25 in force; and the resolution of the Council shall be conclusive evidence of the regularity of the appointment.

“(9) The functions of every Catchment Commission shall be—

30 “(a) To exercise the powers conferred on Catchment Commissions by this Act and any regulations for the time being in force under this Act:

“(b) To carry out and discharge in the catchment area for which it is appointed such of the functions, powers, duties, and liabilities of the Council as the
35 Council may from time to time by resolution delegate to it either generally or in relation to any specified matter:

“(c) To carry out such instructions as it may receive from the Council.

40 “(10) Any land that is catchment territory may at any time be constituted and declared a catchment district or part of a catchment district under section thirty-four or section thirty-seven of this Act, and that land shall thereupon cease to be catchment territory.

45 “(11) Every soil conservation district constituted under this Act before the commencement of this section shall, upon the commencement of this section, become catchment territory

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and a catchment area under this section, and the Committee thereof shall become a Catchment Commission. Every reference in any enactment or document to a soil conservation district shall be read as a reference to a catchment area; and every reference in any enactment or document to a Soil Conservation Committee shall be read as a reference to a Catchment Commission. 5

“(12) The members of every Soil Conservation Committee shall continue in office as members of the Catchment Commission on the same conditions until the expiration of the term for which they were appointed, and subject to the provisions of this Act shall be eligible for reappointment. 10

“(13) Money contributed by the Council and local authorities and persons in respect of works and operations in a catchment area and all rates paid in respect of administration and of works and operations under the local direction of a Catchment Commission shall be paid into the account of the Commission at such bank as the Council from time to time approves, and applied by the Commission for the purpose for which it was provided. All such money amounting to five pounds and upwards shall, within seven days after it has come into the hands of any member or servant or agent of the Commission, be paid into that account. No such money shall form part of the Public Account. 15 20

“(14) No money standing to the credit of a Catchment Commission at any bank shall be withdrawn from the bank except by authority of the Commission and by cheque signed by the Treasurer and countersigned by one member or otherwise as the Council may from time to time direct. 25

“(15) The Commission shall keep full and correct accounts of all money received and expended by it, and the accounts shall be audited by the Audit Office, which for that purpose shall have all powers that it has under the Public Revenues Act 1953 in respect of public money and the audit of local authorities' accounts.” 30 35

6. Regulations affecting catchment territory—(1) Subsection one of section fourteen of the principal Act is hereby amended by omitting the words “in any soil conservation district” and also the words “in a soil conservation district” in each place where they occur. 40

(2) Section fourteen of the principal Act is hereby further amended by repealing subsection two, and substituting the following subsection:

“(2) Every regulation made under this section shall apply only in catchment territory and may be made to apply to all catchment territory or to any part thereof, whether or not the part is the whole or part of a catchment area.” 45

7. **New sections inserted**—The principal Act is hereby amended by inserting, after section twenty-three, the following sections:

“23A. **Delegation of work**—(1) In any case where the Soil
5 Conservation and Rivers Control Council has decided that
any work or operation which can be done or undertaken
under this Act requires to be done or undertaken within or
in relation to any catchment territory, the Council may dele-
gate all or any of its powers under this Act in relation to the
10 undertaking, construction, control, operation, and maintenance
of that work or operation to a Catchment Commission; or may,
by agreement with any local authority of the district in
which the work or operation is or is to be situated or under-
taken, delegate all or any of its powers under this Act in
15 relation to the undertaking, construction, control, operation,
and maintenance of that work or operation wholly or partly
to that local authority, subject to the provisions of this Act and
otherwise on terms and conditions agreed upon between the
Council and local authority either initially or from time to
20 time while the work or operation is being constructed, con-
trolled, operated, and maintained; or may by arrangement
with the Permanent Head of the appropriate Department of
State, delegate all or any of its powers under this Act in
relation to the undertaking, construction, control, operation,
25 and maintenance of that work or operation wholly or partly
to that Permanent Head for action by his Department or by
contract or otherwise as he thinks fit. The powers which may
be so delegated shall not include this power of delegation.

“(2) Except in the case of any emergency work, no work or
30 operation shall be undertaken in catchment territory under
this section until—

“(a) The Soil Conservation and Rivers Control Council or
the Catchment Commission (if any) has presented
35 to each County Council, City Council, Borough
Council, and Town Council whose district is
affected, a general statement of the work or
operation proposed and conditions to be overcome;
and the County Council, City Council, Borough
40 Council, or Town Council has, in the opinion of
the Soil Conservation and Rivers Control Council,
had sufficient opportunity of making representa-
tions to the Soil Conservation and Rivers Control
Council or to a Tribunal established by it for the
purpose of receiving and reporting to it upon those
45 representations; and

“(b) The Soil Conservation and Rivers Control Council
has resolved that the work or operation shall be
undertaken under this section.

“(3) Subject to the provisions of this section, for the purpose of giving effect to any decision of the Soil Conservation and Rivers Control Council made under subsection one of this section, that Council so far as it has not delegated its powers as aforesaid, and a Catchment Commission and every local authority (or Permanent Head of a Department of State) to which (or whom) any work or operation is delegated under that subsection, shall have and may exercise of its (or his) own motion and in its (or his) own name, all of the powers, authorities, duties, and liabilities which the Catchment Board would have and could exercise if the works or operations had been situated in a catchment district, including all incidental powers that are necessary for the classification of lands, rating, and directions to local authorities to rate, the raising of finance, the payment and receipt of subsidies, the taking or purchase of and entry upon land, and all matters necessary for or incidental to the complete execution, operation, and maintenance of those works or operations:

“Provided that no rate shall be levied under this section within a catchment area or other catchment territory, except to defray the expenses, actual or estimated, of surveys, investigations, works, operations, maintenance, or administration, undertaken or proposed to be undertaken by the Soil Conservation and Rivers Control Council or under its authority, and intended for the benefit, direct or indirect, of the land to be rated or of the population by whom generally the rate is to be paid, or intended for the remedying of or avoidance of danger or damage to persons or property arising directly or indirectly from the use to which the land to be rated is put.

New

“(3A) The Permanent Head of any Department of State may, on behalf of the Soil Conservation and Rivers Control Council, give effect to any resolution of that Council regarding any matter that is consistent with the functions and operations of that Department.

“(4) A local authority shall not proceed in the undertaking, construction, operation, or maintenance of any work or operation in exercise of the powers and authorities conferred by this section, except pursuant to a direction given by or under a resolution of the Soil Conservation and Rivers Control Council expressly referring to the particular work or operation or kind of work or operation and defining the extent of the delegation; and every notice, document, and statement issued in connection with the exercise of any power, authority, duty, or liability of the local authority under this section shall include express reference to the direction of the Soil Conservation and Rivers Control Council under which the local authority is proceeding.

“(5) Where any Catchment Commission, local authority, or Permanent Head of a Department of State purports to act pursuant to any delegation under this section, it or he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

“(6) Every such delegation shall be revocable at will, subject to reasonable notice being given, and no such delegation shall prevent the exercise of any power by the Soil Conservation and Rivers Control Council.

“(7) Until any such delegation is revoked it shall continue in force according to its tenor.

“(8) Where any such delegation has been made to the Permanent Head of a Department of State and that Permanent Head ceases to hold office, the delegation shall continue to have effect as if made to the person for the time being holding office as Permanent Head of that Department or, if there is no such Permanent Head in office or if the Permanent Head is absent from duty or from his headquarters, to the person for the time being authorised to exercise and perform the powers, duties, and functions of that Permanent Head.

“23B. **Administrative rates in catchment areas**—The Council, through the Catchment Commission (if any), may from time to time, as it thinks fit, make and levy on a uniform scale on all property in a catchment area which is rateable property within the meaning of the Rating Act 1925, an administrative rate to provide for the payment of the general expenses of administration and of the cost of making surveys; and every such rate shall be subject at all times to all of the provisions of this Act and any other Act which affects the amount, incidence, and collection of an administrative rate made and levied by a Catchment Board, and the expenditure of and accounting for the sum realised:

“Provided that, instead of levying a rate, the Council may, by agreement with the local authority, accept in respect of any year a lump sum estimated to meet, or ascertained by the Council to be equal to, the costs which in a catchment district would be chargeable to an administrative rate for that year.”

8. Financing local authority's share of cost of works it undertakes by agreement with Council—The principal Act is hereby amended by inserting, after section twenty-four, the following section:

“24A. (1) Where any work is constructed, undertaken, or maintained by a local authority with the approval of the Council under an agreement (whether made before or after the commencement of this section) between the local authority and the Council providing for payment by the Council of the whole or part of the cost of the work or of the maintenance

or operation thereof, and the work (whether undertaken before or after the commencement of this section and whether completed or not) benefits a particular portion of the local authority's district, the local authority may, by special order defining the portion, declare the work to be a special work, and may make and levy a special works rate (whether or not the work is on a navigable river) on all property within the portion so defined for the purpose of defraying the local authority's share of the cost of the work and of the maintenance and operation thereof.

“(2) Where any agreement to which this section applies has been made between the Council and a County Council in respect of work in a watercourse, the County Council may, by resolution, declare the work to be a drainage work, and thereupon the provisions of Part XVI of the Counties Act 1956 (excepting subsection five of section two hundred and twenty-seven of that Act) shall apply to that work.”

9. Grants and loans by Council—Section thirty of the principal Act is hereby amended by repealing subsection three, and substituting the following subsections:

“(2A) No grant or loan shall so be made by the Council to the owner or occupier of any land except on terms or conditions which require him, within or during a specified period, to maintain or to construct and maintain works or do work on his land of value at least equal to the amount of the grant or loan or to apply specified farming practices to or on his land; and to repay the grant or loan or such proportion thereof as the Council shall stipulate if he fails to comply with the terms or conditions, or if, without written approval of the Council, he sells or leases or otherwise disposes of the land within a period, being not less than five years, specified by the Council.

“(3) Any grant or loan made under this section may be made directly by the Council to the person or body; or by the Council to a Catchment Board or local authority under an arrangement that the Catchment Board or local authority shall become at law the grantor or lender of the money to a person or body specified by the Council, upon the terms and conditions required by this Act and by the Council and, so far as they do not conflict with those terms and conditions, by the Board or local authority; and, except as expressly provided in this section, any such grant or loan may be made either without security or upon such security as the Council thinks fit; and where security is required in respect of money to be expended in the improvement of land, it shall be by way of a land improvement agreement as hereinafter specified made between the person or body receiving the grant or loan and the Council or Board or local authority from which it is received.”

10. Land improvement agreements—The principal Act is hereby amended by inserting, after section thirty, the following section:

5 “30A. (1) Every land improvement agreement under sub-
section three of section thirty of this Act shall be in a form approved by the Council, either for a specific transaction or generally for a particular class of transactions, specifying the obligations of the parties in respect of work and payment, and including a covenant by the owner or occupier binding him-
10 self and his successors in title to perform and observe the terms and conditions upon which the grant or loan was made.

“(2) Where in the opinion of the Council such a course is appropriate, any land improvement agreement may relate portions of a grant to specified works, or to specified periods
15 of maintenance, or to the application of particular farming practices during specified periods; and may provide for any sum repayable upon default to be diminished in proportion to the extent to which the agreement has been performed or observed.

20 “(3) Where the owner or occupier of any land has entered into a land improvement agreement, that agreement may be registered against the title of that owner or occupier to the whole or any part of the land to which the agreement relates. Registration of a land improvement agreement may be effected
25 by depositing with the Registrar a duplicate of the agreement, certified under the hand of the authorised officer specified in subsection fourteen of this section, together with an application for the registration of the agreement, which application shall be signed by the authorised officer and shall specify the
30 land against which it is desired to register the agreement, and shall certify that the agreement is one that may be registered against the land under this section. On receipt of the duplicate agreement and application as aforesaid, and on payment of a fee of five shillings, the Registrar shall enter a memorial
35 of the agreement upon the register against the title to the land of the owner or occupier who is a party to the agreement specified in the application. In any such case it shall not be necessary for the Registrar to record the like memorial on the duplicate certificate of title or lease. The memorial may suffi-
40 ciently describe the agreement as a land improvement agreement under the Soil Conservation and Rivers Control Act 1941.

“(4) Any land improvement agreement which varies or is in substitution for an earlier land improvement agreement
45 (whether that agreement is registered or not) may be registered under this section.

“(5) Upon the expiration or termination of a registered land improvement agreement, the authorised officer shall sign a certificate stating that the agreement has so expired or been terminated, and shall deposit the certificate with the Registrar, who shall thereupon without fee enter a memorial of the expiration or termination of the agreement on the register against the appropriate title. 5

“(6) While the land improvement agreement is registered against the title of any owner or occupier to any land, and until the expiry of the agreement by effluxion of time or (where the agreement is registered against the title of a lessee) the sooner determination of the lease and every renewal thereof by effluxion of time or otherwise, the agreement shall run at law with the land against the title to which it is registered, so as to confer and impose upon every person who at the date of registration of the agreement, or at any time thereafter, is for the time being the occupier of that land, or of any part thereof, a right to enforce and an obligation to observe and perform the agreement during the period of his occupancy of the land, or of any part thereof in the same manner as if the occupier had been a party to the agreement. 15
Where there are two or more such occupiers, the obligation and liability so imposed on them shall be borne by them in such manner as the Council and those occupiers may agree or in default of agreement shall be borne by those occupiers jointly. 20 25

“(7) Where the lessee for the time being under any lease of the land or of any part thereof surrenders his lease and obtains a new lease in exchange therefor, the land improvement agreement and the provisions of this Act shall continue to apply as if the new lease were a renewal of the surrendered lease. 30

“(8) Where the lessee for the time being under any lease of the land or of any part thereof obtains a title in fee simple to the land or any part thereof, the land improvement agreement and the provisions of this Act shall continue to apply to the land to which the title in fee simple has been obtained as if the agreement, so far as it affects that land, had been made with the legal owner in fee simple of the land. 35

“(9) No land improvement agreement which runs with the land in accordance with this section shall confer any right or impose any obligation on any party to the agreement or any occupier of the land, except in respect of the period of his occupation of the land. 40

“(10) If at any time there is default in the observance or performance of any of the obligations in respect of the land which are specified in the land improvement agreement, the authorised officer may, on payment of a fee of five shillings, 45

deposit with the Registrar a certificate under his hand specifying the amount payable and unpaid under the agreement in respect of the default by any owner or occupier of the land and the registered estate or interest of that owner or occupier
5 in any land against the title to which the agreement is registered, and the Registrar shall thereupon register the certificate in respect of the said estate or interest of that owner or occupier.

“(11) Upon registration of the certificate, the amount
10 mentioned therein, and all money which after the signing of the certificate and before the release thereof accrues due by that owner or occupier under the land improvement agreement, shall, until payment thereof, be a charge on the said estate or interest in the land of that owner or occupier.

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New

Every charge in respect of which a certificate is registered under subsection ten of this section shall have priority in relation
20 to all other transactions affecting the land as if it had been registered at the time when the land improvement agreement was registered under subsection three of this section.

“(12) Where any occupier has an interest in the land as lessee under a lease, the charge shall extend to the interest (if any) of the lessee in any improvements to the land and
25 in any money that may be payable by the lessor and by an incoming tenant and otherwise for any such improvements whether during the term of the lease or thereafter.

“(13) For the purpose of enforcing any charge under this section, the Supreme Court or a Judge thereof may make
30 such order as he or it thinks fit, either for the sale of the estate or interest which is subject to a charge, or for the appointment of a receiver or otherwise; and any order for sale shall be carried into effect by the Sheriff in the same manner as in the case of a writ for sale, with any modifications
35 that may be necessary or may be provided by rules of Court in that behalf:

“Provided that, in the case of Maori freehold land within the meaning of the Maori Affairs Act 1953, the charge shall be enforceable only by the appointment of a receiver in accordance with section thirty-three of that Act and subsections
40 three to five of that section shall apply to the receiver so appointed.

“(14) For the purposes of this section, unless the context otherwise requires,—

45 “(a) All land which is not otherwise occupied shall be deemed to be in the occupation of the owner in fee simple thereof:

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- “(b) ‘Authorised officer’, in relation to a land improvement agreement means the Secretary or Clerk to the Council, Catchment Board, or local authority, which is a party to the agreement:
- “(c) ‘Lease’ means a registered lease and any lease or licence, registered or unregistered, from the Crown, including a registered or unregistered licence from the Crown to occupy any land pending the completion of the purchase of that land under a system of deferred payment:
- “(d) ‘Registrar’, in relation to any land (including the land comprised in a mining privilege that is registered under the Land Transfer Act 1952), means the District Land Registrar or the Registrar of Deeds, as the case may require, for the land registration district within which the land is situated; and, in relation to any land comprised in a mining privilege that is not registered under the Land Transfer Act 1952, or in relation to a coal-mining lease or coal-mining right under the Coal Mines Act 1925 that is ~~registered~~ **recorded** in the office of a Mining Registrar, means the Mining Registrar in whose office the mining privilege or lease or right is registered.”

11. Representation of combined districts—Section forty-two of the principal Act is hereby amended by repealing the proviso to subsection one, and substituting the following proviso:

“Provided that no borough or town district shall be combined with a county or road district unless the Council of each of them, by resolution, consents to the proposed combination and agrees with the others of them upon a formula which has regard to the matters prescribed in subsection two of this section, and provides an equitable basis for the election of the representative or representatives of the combined district. Every such agreement shall have effect according to the tenor thereof, except that no change in the formula shall become effective between the closing of nominations in respect of any election and the closing of the polling booths for that election.”

12. Remuneration of Chairman—(1) Section fifty-nine of the principal Act, as amended by section five of the Soil Conservation and Rivers Control Amendment Act 1952, is hereby further amended by omitting the words “two hundred pounds”, and substituting the words “three hundred pounds”.

(2) Section five of the Soil Conservation and Rivers Control Amendment Act 1952 is hereby consequentially repealed.

13. **Annual meetings**—(1) Subsection one of section sixty-five of the principal Act, as substituted by section one hundred and two of the Local Elections and Polls Act 1953, is hereby further amended by inserting, after the words “at the office
5 of the Board”, the words “or such other place as the Board may appoint”.

(2) Section sixty-five of the principal Act is hereby further amended by adding the following subsection:

“(4) The Chairman or (*Clerk*) [**Secretary**] shall give
10 public notice of the date, time, and place of the annual meeting.”

14. **Minutes of meeting**—(1) Subsection one of section seventy-five of the principal Act is hereby amended by omitting the words “in a book”.

15 (2) Subsection two of section seventy-five of the principal Act is hereby amended by omitting the words “read at”, and substituting the words “submitted to”.

15. **Administrative rates**—The principal Act is hereby amended by repealing section eighty-four, and substituting the
20 following section:

“84. (1) Notwithstanding anything to the contrary in section one hundred and one or section one hundred and two of this Act, any Board may from time to time, as it thinks fit, make and levy, on a uniform scale on all property in its
25 district which is rateable property within the meaning of the Rating Act 1925, an administrative rate not exceeding in any one year one-twelfth of a penny in the pound on the capital value of the rateable property or its equivalent on the unimproved value or annual value:

30 “Provided that, before the first day of April, nineteen hundred and sixty-one, an administrative rate not exceeding in any year one-eighth of a penny in the pound on the capital value of the rateable property or its equivalent on the unimproved value or annual value may be made and levied
35 on a uniform scale under this subsection.

“(2) The proceeds of every administrative rate shall be kept in a separate account to be called the Administrative Account, and may be applied only to paying the expenses of the Board’s administration (including expenditure authorised by
40 [section one hundred and sixteen of this Act and expenditure authorised by] section (*twenty-one*) [**twenty-two**] of the Finance Act (No. 2) 1947), the costs of professional and technical supervision of works and operations, the costs of surveys and investigations relating to proposed or possible works
45 or operations under this Act (including land surveys and soil

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conservation, technical, engineering, and economic surveys and investigations), the costs of technical and general reports leading to, amplifying, or in connection with all such surveys and investigations, the costs of education, demonstration, and publicity in promoting catchment control schemes, and the costs of implementing this Act in respect of the control of fires and pests, in each case whether or not a decision is made to proceed with any work or operation in consequence of the survey, investigation, or report. 5

“(3) From the money that becomes available by way of local share of the cost of any work and any operation undertaken by the Board, whether the money is obtained by rating, by borrowing, or by contribution from any person or local authority, the Board shall [*wherever practicable first*] [as soon as practicable] recoup to the Administrative Account 15

Struck Out

the amount drawn from that account in respect of those works or operations:

“Provided that the amount so drawn may be the actual costs, the estimated costs, or a percentage surcharge calculated upon the average cost of all such works undertaken by the Board.” 20

New

the amount drawn from that account in respect of that work or operation: 25

“Provided that the amount so to be recouped may be the actual or the estimated amount of the expenses and costs so drawn in respect of the work or operation under subsection two of this section, or the estimated or percentage surcharge calculated upon the average amount of the expenditure and costs so drawn in respect of all such works and operations undertaken by the Board.” 30

16. Apportionment of rateable value—Subsection three of section ninety-two of the principal Act, as substituted by section thirteen of the Soil Conservation and Rivers Control Amendment Act 1952, is hereby amended by omitting the words “pursuant to section one hundred and two hereof”, and substituting the words “for the purposes of rating, other than acreage rating, under this Act”. 35

17. General classification of lands—(1) Subsection two of section one hundred and two of the principal Act, as substituted by section two of the Soil Conservation and Rivers Control Amendment Act 1954, is hereby amended by repealing the proviso, and substituting the following proviso: 40

“Provided that where, because of disparity between the relationship of valuation to area or for other good reason, urban lands which benefit cannot equitably be classified within the same classification scale as the rural lands which benefit, the Board may direct the provision of not more than four additional classes named U 1, U 2, U 3, and U 4 respectively, within which the urban lands shall be classified.”

(2) Subsection four of section one hundred and two of the principal Act, as substituted by subsection one of section fifteen of the Soil Conservation and Rivers Control Amendment Act 1952, is hereby further amended by adding to paragraph (d) the following proviso:

“Provided that this paragraph shall not apply where no poll of ratepayers can be required.”

(3) Section one hundred and two of the principal Act, as amended by subsection one of section fifteen of the soil Conservation and Rivers Control Amendment Act 1952, is hereby further amended by repealing subsection six, and substituting the following subsection:

“(6) Upon the completion of any such classification list, the Board shall forthwith cause public notice thereof to be given in the form prescribed in the Second Schedule to this Act, as added by subsection four of section seventeen of the Soil Conservation and Rivers Control Amendment Act 1959.”

(4) The principal Act is hereby amended by adding as a Second Schedule thereto the Second Schedule set out in the Schedule to this Act.

New

(5) Where any classification has been prepared but has not become effective before the commencement of this Act, the Governor-General may, by Order in Council, prescribe to what extent (if any) the provisions of this Act shall apply to the classification; and except as may be so prescribed appeals against the classification may be made, polls may be taken, and all matters and proceedings dependent on the classification list may be commenced, continued, and completed under the principal Act as if this Act had not been passed.

18. Appeals—(1) The principal Act, as amended by section sixteen of the Soil Conservation and Rivers Control Amendment Act 1952 and by section three of the Soil Conservation and Rivers Control Amendment Act 1954, is hereby further amended by repealing section one hundred and three, and substituting the following section:

“103. (1) Any person who is dissatisfied with any classification or apportionment of rateable values or fixing of proportions in which the rates are to be borne by the various classes may appeal against the same on all or any of the following grounds: 5

- “(a) That the classification does not fairly classify the land of the appellant: 5
- “(b) That any land liable to be classified is omitted from the classification or is not fairly classified:
- “(c) That any land is improperly included within or excluded from the area to which the classification relates: 10
- “(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 rate imposed on any particular class or classes is too great or too small: 15
- “(e) That the rateable value of any piece of land is not fairly apportioned between the portions thereof which are classified in different classes: 20
- “(f) That any information in the classification list has been incorrectly transcribed from the valuation roll:
- “(g) That the number of votes that may be exercised by him is not in accordance with section one hundred and ten of this Act: 25
- “(h) That the Board or the classifier has not complied with the requirements of this Act for the making of a valid classification. 30

“(2) The Valuer-General and any employee of the Valuation Department authorised by him in that behalf, and the Board and any member thereof authorised by it in that behalf, shall have a right of appeal as if he or it were a dissatisfied person. The Valuer-General and any employee of the Valuation Department authorised by him in that behalf shall be entitled to be heard on any question of valuation arising directly or indirectly in any appeal. 35

“(3) Where any question arises as to whether the classification provides a basis of rating that is equitable as between groups of ratepayers, or as to whether any urban land and any rural land should be placed in the same class, or as to whether any such land should be placed in a higher class or a lower class, any person who represents not less than ten per cent of the persons in a specified area who are 45

entitled to appeal in the matter shall have a right to appeal in respect of those questions on behalf of the persons whom he represents as if he were a dissatisfied person, and the appeal may in the discretion of the Magistrate be treated
5 as an appeal by all persons in the area or any part thereof.

“(4) In the case of an appeal under this section, a notice of appeal describing the land in respect of which the appeal is made and setting out the grounds of the appeal shall be filed, as the case may require, in the office of the Magistrate’s
10 Court or the Land Valuation Court nearest to the office of the Board not later than twenty-one days after the expiration of the twenty-eight days appointed for the inspection of the classification list. Not later than the last day on which the notice may be so given, one copy thereof shall be lodged
15 at the office of the Board and another at the office of the Valuer-General; and where the appeal is by the Valuer-General or an employee of the Valuation Department or by the Board or any member thereof, a copy thereof shall be served by the appellant on every owner and every occupier of
20 the land to which the appeal relates; and a copy thereof shall be published by the appellant twice at an interval of not more than one week in a newspaper circulating in that district.

“(5) Every appeal impeaching the validity of the classification as a whole shall be heard and determined by the
25 Land Valuation Court. Every other appeal shall be heard and determined by the Magistrate for the time being appointed by the Minister of Justice to hear all such appeals:

“Provided that if, in the hearing and determination by that Magistrate of an appeal, the Magistrate doubts the
30 validity of the classification as a whole he shall refer that question for decision by the Land Valuation Court.

“(6) The Magistrate may state a case for decision by the Supreme Court upon any question of law arising in proceedings in a Magistrate’s Court under this section, and the
35 Land Valuation Court may state a case for decision by the Court of Appeal upon any question of law arising in the Land Valuation Court under this section.

“(7) No person may object to or appeal under this section against any such classification, apportionment, or fixing of
40 proportions on any grounds other than those specified in this section; and no classification shall be liable to be challenged, reviewed, quashed, or called in question on any appeal or in any proceedings whatsoever commenced after the last day on which notice of appeal may be given under
45 this section.

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“(8) Every appeal shall be heard at such convenient time and place as the Registrar of the Court, on the application of the appellant or the Board, shall appoint. The Registrar shall give notice of the time and place of the hearing to the Valuer-General and the Board and to any other parties to the proceedings of whom he is aware. 5

“(9) Where any appeal or application in respect of any classification is made to the Land Valuation Court or the Supreme Court, the Registrar shall give notice to the Magistrate appointed to hear all appeals to a Magistrate’s Court under this section; and that Magistrate shall stay all proceedings in respect of that classification in any Magistrate’s Court until the proceedings before the Land Valuation Court or the Supreme Court, as the case may be, have been determined. 10

“(10) On the hearing by the Land Valuation Court or the Supreme Court of any appeal or application, the Court may dismiss the appeal or application, or set aside the classification, or order that the classification be amended in such respects as shall be specified in the order. 15

“(11) No appeal shall lie from any order or decision of the Land Valuation Court in any proceeding under this section, and, except on the ground of lack of jurisdiction, no such order, decision, or proceeding shall be liable to be challenged, reviewed, quashed, or called in question in any Court. 20

“(12) On the hearing by a Magistrate’s Court of any appeal, or in accordance with the order of the Land Valuation Court or the Supreme Court upon any appeal or application heard by it, the Magistrate shall either confirm the classification list or amend the classification list or any detail therein in such manner as he thinks reasonable to give effect to the decisions upon all appeals, and shall sign the list as so amended and every amendment made by him. 25 30

“(13) The fees prescribed in respect of proceedings in the respective Courts shall be payable on any such appeal.

“(14) On any such appeal such costs as the Court deems just may be awarded either in favour of or against the appellant.” 35

(2) The following enactments are hereby consequentially repealed:

(a) Section sixteen of the Soil Conservation and Rivers control Amendment Act 1952: 40

(b) Section three of the Soil Conservation and Rivers Control Amendment Act 1954.

19. Amendment of classification list—(1) The proviso to subsection one of section one hundred and five of the principal Act is hereby amended by omitting the words “in the next succeeding subsection”, and substituting the words “in this section”.

(2) Section one hundred and five of the principal Act is hereby further amended by repealing subsection two, and substituting the following subsections:

“(2) Where any land appearing in the classification list is subdivided or proposed to be subdivided for disposal for uses which would not have altered its classification, the Board may appoint a classifier who, subject to the directions of the Board, shall classify the separate pieces of that land so that each piece is classified in accordance with the principles on which the classification list was made and so that each class will include the same proportion of that land as previously. A copy of the classification of each piece, as recommended by the classifier, shall be served by the Board on the owner of that piece; and if within fourteen days thereafter the Board receives notification from the owner of any of the pieces that he is dissatisfied with the classification of his piece, the Board shall notify each owner of a day, time, and place for discussion of the classifications; and after hearing each owner who attends and the classifier, or if no such notification is received within that period then after the period of fourteen days has expired, the Board shall amend the entries in the classification list in respect of that land so as to show separately the particulars in respect of the several pieces and the classification of each; and when the amendments have been made and signed or initialled by the Chairman of the Board they shall be a part of the classification list and become final and binding on all persons who may be affected thereby.

“(3) Where land becomes rateable after the classification list has been signed by the Chairman, whether or not the list has been signed by a Magistrate, or where by error land within a rating district and benefiting or likely to benefit from works within the rating district has not been included in the classification list or plans, or no classification has been assigned to it, the Board shall forthwith add the land to the classification list or plans and appoint a classifier to classify it.

“(4) Where, because of any of the changed circumstances referred to in subsection six of this section, the classification of particular land will no longer provide a basis of rating that is equitable as between the owner and other ratepayers or any group of ratepayers with whom he should be included, the Board shall forthwith appoint a classifier to reclassify the land.

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“(5) Every classification or reclassification made under subsections three and four of this section, and every appointment of a classifier, shall be made and have effect in accordance with the provisions of this Act for a new classification, except that:

“(a) No classification of land other than the particular land shall be altered by the Board or a Magistrate or authority, judicial or otherwise, in consequence of the classification or reclassification of the particular land; and, 5

“(b) No appeal or other proceedings shall lie in respect of the classification or reclassification of the particular land on any ground other than— 10

“(i) That the prerequisites of classification or reclassification of that land under this section do not exist; or 15

“(ii) That the classification or reclassification of that land of which the Board has given notice will not provide a basis of rating of that land that will be equitable as between the owner of that land and other ratepayers or the group of ratepayers with whom he should properly be included. 20

“(6) For the purposes of subsection four of this section, there shall be deemed to be changed circumstances in relation to any classification of land in any of the following cases, but in no others, namely— 25

“(a) If in the opinion of the Board benefit or damage allowed for in classifying that land in the classification list ~~will not accrue,~~ **[will be substantially greater or substantially less than has been so allowed for;]** or 30

“(b) If in the opinion of the Board the use in respect of which that land was classified at the time of classification has been changed in any respect that would or might affect the classification.”

20. New sections inserted—The principal Act is hereby amended by inserting, after section one hundred and six, the following sections: 35

“106A. **Rating by agreement**—(1) Notwithstanding any provision of this Act or any other Act or any rule of law, any classification of land for the purposes of any rate that may be levied under this Act may be made by written agreement between the Board and all of the persons whose names appear on the district valuation roll as the owners and occupiers of the 40

land which is thereby classified. Every such agreement shall define the portion of the district to which it applies, the classification of the lands therein, and the proportions in which the rate is to be imposed on the several classes of lands therein.

5 “(2) An agreement under this section shall be effective as between all parties who execute it and their successors in title, whether or not it names the individual parties, if it purports to be an agreement between the Board and the owners and occupiers of the land which is thereby classified; and it may
10 be in the form of a number of copies of the agreement, each signed by one or more of those persons and sealed by the Board, if the copies are bound together after execution by all of the parties.

“ (3) Any classification of land made by agreement under
15 this section shall, for the purpose of rating the defined area for the purpose for which the rate is levied, be deemed to have been made under sections one hundred and one to one hundred and three of this Act.

“106B. **Rating on acreage system**—(1) In addition to every
20 other power conferred by this Act of making and levying rates, any rate which is authorised under this Act may be made and levied under this section on a graduated scale on the basis of an amount for each acre of each class of land liable to be rated according to the classification made under the principal Act
25 of the rateable property upon which the rate is to be levied. In this Act, this system of rating is referred to as acreage rating or as the acreage system; and any rate so made and levied is referred to as an acreage rate.

“ (2) The power of levying acreage rates shall be exercised,
30 in the case of any Board, only by special order of the Board; and, in the case of the Council, only by equivalent procedure by the Council; and the power shall be so exercised only in respect of lands defined in the public notice of the special order, which notice shall specify also the nature and purpose
35 of every rate to be made and levied under the acreage system.

“ (3) Where any person considers that the acreage system will operate unfairly in the area where it is to apply, he may, within fourteen days after the date on which the special order is confirmed, appeal on that ground to the Land Valuation
40 Court against the special order. On hearing the appeal the Land Valuation Court may cancel or vary the special order, or may confirm it either absolutely or subject to such conditions and modifications as the Land Valuation Court deems just, and the decision of that Court shall be final.

“(4) In classifying for the purpose of an acreage rate a holding of land which falls into two or more classes, the acreage of that land that is in each class shall be specified:

“Provided that in any such case, for the purpose of recovering the rate, the whole of the holding of land shall be charged with the total amount of all rates made and levied on all the classes of land that comprise the holding. 5

“(5) The Valuer-General shall upon request supply to the Board or the Council, as the case may require, a valuation roll of the lands within the rating district defined pursuant to subsection two of this section; and— 10

“(a) Section twenty-eight of the Valuation of Land Act 1951 shall, with the necessary modifications, apply to the valuation roll and to the supplying thereof:

“(b) Section twenty-nine of the Valuation of Land Act 1951, with the exception of paragraph (b) thereof, shall apply to any roll supplied to the Board under the foregoing provisions of this subsection: 15

“(c) For the purposes of the making and levying of any acreage rate, the areas appearing on the valuation roll as corrected from the district valuation roll up to the thirty-first day of March last preceding the date of the levy, shall be sufficient evidence of those areas in the absence of proof to the contrary: 20

“(d) Where land is classified and is or is proposed to be rated under the acreage system, the Valuer-General shall from time to time, in every case where portions of the land are classified in different classes, specify in the valuation roll supplied to the Board or Council the acreage of the part in each class. 25 30

“(6) For the purposes of acreage rating, subsection four of section one hundred and two of this Act, as substituted by section fifteen of the Soil Conservation and Rivers Control Amendment Act 1952, shall be read as if paragraph (c) were repealed, and the following paragraphs were substituted therefor: 35

“(c) Include, from the valuation roll of the district for the time being in force, particulars of the defined lands, of the valuation number, situation, description, and area, and of the names of owners and occupiers of those lands: 40

“(cc) Specify the acreages of the parts of any of the defined lands falling into two or more classes.’

“(7) For the purposes of acreage rating, the form of public notice prescribed in the Second Schedule to this Act, as added by subsection four of section seventeen of the Soil Conservation and Rivers Control Amendment Act 1959, shall be read as if paragraph (c) was repealed, and the following paragraph was substituted therefor:

“(c) The classification list shows the division of properties into classes to be rated according to a graduated scale:’

“(8) For the purposes of acreage rating, subsection one of section one hundred and three of this Act, as substituted by section eighteen of the Soil Conservation and Rivers Control Amendment Act 1959 shall be read as if the words ‘or apportionment of rateable values’ were omitted, and the words ‘or the division of a property into classes’ were substituted therefor; and also as if paragraphs (e) and (g) were repealed, and the following paragraphs were substituted therefor:

“(e) That the area of any land included in a class is not correct:

“(g) That the number of votes that may be exercised by him is not correctly specified.’

“(9) The number of votes that may be exercised by a ratepayer upon a proposal to raise a special loan to be secured by an acreage rate shall be determined according to the following provisions, instead of according to subsections one, two, and three of section one hundred and ten of this Act, as amended by section nineteen of the Soil Conservation and Rivers Control Amendment Act 1952:

“(a) If the area of his rateable property included in the defined lands (determined in accordance with paragraph (b) of this subsection) does not exceed one hundred acres, he shall have one vote; if it exceeds one hundred acres but does not exceed two hundred acres, he shall have two votes; and if it exceeds two hundred acres, he shall have three votes:

“(b) For the purposes of this section the area in respect of which a ratepayer’s entitlement to vote is determined shall be the sum of the areas appearing in his name in all classes of the classification list except Class G, including the areas of Class A lands without alteration; and instead of the actual areas of lands in each other class, including in each case an adjusted area which bears to the actual area thereof the same proportion as the rate per acre proposed to be levied in respect of that class bears to the rate per acre proposed to be levied in respect of Class A lands.

“(10) For the purposes of acreage rating, section fifty-one of the Rating Act 1925, shall be read as if paragraphs (d) and (f) were repealed, and the following paragraphs were substituted therefor:

“(d) In the case of every acreage rate, that it be of a stated amount for each acre of land in each class of land classified as rateable which is comprised in the property as appearing in the valuation roll:

“(f) Where the total amount of rates due by any one rate-payer would on the basis prescribed by this section be less than five shillings, he shall be rated at five shillings.’

“(11) In the case of every acreage rate the particulars to be transcribed in the rate book shall include the total areas of the properties, and the areas of the several classes of land in each property as appearing in the valuation roll, and the amount per acre payable as a rate with respect to each part or the whole of the property, as the case may be; and it shall not be necessary for the rate book to contain particulars of rateable values.

“(12) Section fifty-two of the Rating Act 1925 and form number seven in the First Schedule to that Act shall apply to any acreage rate with such modifications as are required in consequence of this section.

“(13) In connection with appeals against any rate book prepared with respect to any acreage rate, section fifty-six of the Rating Act 1925 shall be read as if paragraph (a) was repealed, and the following paragraph was substituted therefor:

“(a) That any person is rated in the rate book on property not appearing in the valuation roll, or that the area of any property or of any class of land in any property is different from the area thereof set out in the valuation roll:’”.

21. Unauthorised expenditure—(1) The principal Act is hereby amended by inserting, after section one hundred and fifteen, the following section:

“116. Any Catchment Board may in any financial year, out of its combined General Account and Administrative Account, expend for purposes not authorised by any Act or law for the time being in force any sum or sums not amounting in the aggregate to more than one per cent of the combined general rate, works rate, and administrative rate made for that year by the Board, nor in any case to more than one hundred pounds:

“Provided that if one per cent of the combined rates as aforesaid for any financial year does not amount to thirty pounds, the Board may in that year expend the sum of thirty pounds for the purposes aforesaid:

- 5 “Provided also that, where the finances of the Board or any part of them are provided by levies upon or contributions from constituent local authorities instead of by rates, the amount of every such levy or contribution shall be deemed to be a part of the combined general rate, works rate, and administrative rate made for that year by the Board.”

10 (2) Section twenty-one of the Finance Act (No. 2) 1947 is hereby consequentially repealed.

22. Renewal or replacement funds—(1) Section one hundred and twenty of the principal Act is hereby amended by
15 inserting in subsection one, after the word “purchasing”, the words “or paying for”.

(2) Section one hundred and twenty of the principal Act is hereby further amended by adding the following subsection:

- 20 “(4) For the purposes of this section the property of a Board shall include every work and the results of every operation that is wholly or partly paid for by a Board, whether or not the Board has any estate or interest in the land on which the works exist or on which the operation has been
25 undertaken.”

23. Accounts to be submitted to constituent local authorities—Section one hundred and twenty-one of the principal Act is hereby amended by adding to subsection three the words “and to each constituent local authority [, **Drainage**
30 **Board, and River Board**] which so requests”.

24. Board to furnish information to constituent local authorities—The principal Act is hereby amended by inserting, after section one hundred and twenty-nine, the following section:

- 35 “129A. The Board shall give to each constituent local authority a copy of the administrative estimates and rating proposals for the year within twenty-one days after the date of the meeting of the Board at which *[they are approved]* **[the rating proposals are confirmed.]**”

25. Entry on private land for works—Section one hundred and thirty-seven of the principal Act is hereby amended by adding the following subsection:

“(5) This section shall not apply where the owner and the occupier of the land have entered into an agreement in writing with the Board as to the construction of the work, or where the entry on the land is for the purpose of the maintenance or repair of any existing work on the land and the Board has given to the occupier of the land notice in writing forty-eight hours before entering on the land.”

26. Compensation by Board—Section one hundred and forty-five of the principal Act is hereby amended—

(a) By omitting from subsection one the words “Part VIII”, and substituting the words “or under section one hundred and forty-nine or paragraphs (b), (e), (f), and (g) of subsection one of section one hundred and fifty”:

(b) By repealing subsection two.

27. New sections inserted—(1) The principal Act is hereby amended by inserting, after section one hundred and forty-five, the following sections:

“145A. **Compensation for acts of Council**—Every person having any estate or interest in any land taken under this Act under the authority of powers vested in the Council (whether or not delegated to a local authority or Catchment Commission) or injuriously affected thereby or suffering any damage or injurious affection from the exercise of any other such power shall be entitled to full compensation for the same from the Minister.

New

“Provided that nothing in this Act or any other Act shall operate to make the Council or the Minister liable for compensation or damages in respect of any action or prohibition or refusal by a Catchment Board, whether or not the Council or Minister has approved or consented to or required that action, prohibition, or refusal under this Act.

“145B. **Procedure in respect of compensation claims**—
(1) All claims under this Act for compensation shall be made and determined within the time and in the manner provided by the Public Works Act 1928 in respect of lands taken under that Act or in respect of damage suffered from the exercise of any powers conferred by that Act, and the provisions of that Act shall apply accordingly:

“Provided that:

5 “(a) In determining the amount of compensation to be
awarded on a claim in respect of any work or
operation under this Act (whether for land taken
or injuriously affected or otherwise), being a work
or operation in respect of which the land is or is pro-
posed to be rated on a graduated scale according
to a classification based on benefit to that land
10 from the work or operation, the Land Valuation
Court shall not take into account the matters re-
ferred to in paragraph (c) of subsection one of
section twenty-nine of the Finance Act (No. 3)
1944:

15 “(b) No compensation shall be payable in respect of the
controlling of the lighting of fires, unless the
owner or occupier of the land has applied in proper
form for a permit to light a fire on the land and
the application has been refused, and he has
20 followed and exhausted every right of appeal given
to him by any Act, regulation, or bylaw relating to
applications which have been refused:

25 “(c) No compensation shall be payable in respect of any
measure designed to control soil erosion in any case
where failure to apply that measure of control
would leave insufficient vegetative coverage of the
soil to control movement by natural agency of land
surface materials.”

(2) Section one hundred and forty-six of the principal Act
is hereby consequentially amended by omitting the words
30 “the last preceding section”, and substituting the words “sec-
tions one hundred and forty-five, one hundred and forty-five
A, and one hundred and forty-five B of this Act”.

28. Bylaws—(1) Subsection one of section one hundred and
forty-nine of the principal Act, as amended by subsection one
35 of section thirteen of the Soil Conservation and Rivers Control
Amendment Act 1948, is hereby further amended by repealing
paragraph (i), and substituting the following paragraph:

40 “(i) Preventing any watercourse from being made wider or
deeper than it is at the time, whether by cleaning
or otherwise; or preventing the course thereof
from being altered without the consent of the
Board:”.

(2) Subsection one of section one hundred and forty-nine of the principal Act, as so amended, is hereby further amended by adding to paragraph (j) the words "and prohibiting or regulating the digging, excavating, or quarrying of any material from the vicinity of a watercourse without the consent of the Board". 5

(3) Subsection one of section one hundred and forty-nine of the principal Act, as so amended, is hereby further amended by omitting from paragraph (m), the word "Regulating", and substituting the words "Prohibiting or regulating". 10

(4) Subsection one of section one hundred and forty-nine of the principal Act is hereby further amended by adding the following paragraph:

"(o) Prescribing and providing for the collection of fees payable to the Board to meet the cost of the inspections of any watercourse and land in the vicinity thereof in connection with the issue by the Board of a permit for any work of construction or excavation that would or might affect the flow of water in or into or from or about the watercourse." 20

New

28A. **Disallowance of bylaws**—(1) The principal Act is hereby amended by inserting, after section one hundred and fifty, the following section:

"150A. (1) The Minister may at any time by notice published in the *Gazette*, disallow, either wholly or in part, any bylaw made under section one hundred and forty-nine or section one hundred and fifty of this Act, if in his opinion the bylaw is unreasonable or undesirable. 25

"(2) On any such disallowance the bylaw shall, to the extent to which it is so disallowed, become wholly void as if it had been revoked. 30

"(3) Any such disallowance shall take effect as aforesaid either on the day of the publication of the notice of disallowance in the *Gazette* or on such later date as may be specified in that behalf in the notice." 35

(2) Subsections four, five, and six of section one hundred and fifty of the principal Act are hereby consequentially repealed.

28B. **Effect of bylaws**—The principal Act is hereby amended by inserting, after section one hundred and fifty-two, the following section:

"152A. No bylaw made under this Act shall affect any mining privilege granted or to be granted under the Mining Act 1926 or any coal mining right granted or to be granted under the Coal Mines Act 1925." 45

29. Time for prosecutions—The principal Act is hereby amended by repealing section one hundred and fifty-seven, and substituting the following section:

5 “157. Section fourteen of the Summary Proceedings Act 1957 shall not apply with respect to any prosecution for an offence against this Act or against any regulation made under Part I of this Act.”

30. Loss or destruction of records, etc.—The principal Act is hereby amended by inserting, after section one hundred and sixty-five, the following section:

10 “165A. Where any rate book, valuation roll or list, rate-payers roll, or any book or document of any sort belonging to a Board or Commission or the Council is required for immediate use but is destroyed or lost, a copy thereof sworn to be accurate on the oath of a responsible person may be used
15 in its place; and, if there is no such copy available, the Governor-General may do such acts and things as he thinks best for repairing the loss and for providing for making a new book, roll, list, or document in place of that which was
20 destroyed or lost as aforesaid; and, by Order in Council gazetted, may validate any book, roll, list, or other document so made and may define the time during which the book, roll, list, or document shall remain in force.”

PART II

25 SAFEGUARDS AGAINST EROSION AND FLOODING

31. Interpretation—In this Part of this Act—

“Occupier”,—

30 (a) In relation to land of which there is no apparent occupier, means the owner of the land; and

(b) In relation to all land, but only for the purposes of section thirty-two of this Act, includes a person doing by contract any work for the occupier:

35 “Registrar”, in relation to any land (including the land comprised in a mining privilege that is registered under the Land Transfer Act 1952), means the District Land Registrar or the Registrar of Deeds, as the case may require, for the land registration district within which the land is situated; and, in
40 relation to any land comprised in a mining privilege that is not registered under the Land Transfer Act 1952, or in relation to a coal-mining lease or coal-

mining right under the Coal Mines Act 1925 that is ~~((registered))~~ **[[recorded]]** in the office of a Mining Registrar, means the Mining Registrar in whose office the mining privilege or lease or right is registered.

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32. Safeguards publicly notified—(1) The occupier of any land in any catchment district or catchment territory shall carry out every operation affecting the land in such manner and by such method as will conform to prudent land use practice, being practice which has proper regard to timing and 10 circumstances and is likely to prevent so far as it is economically practicable, or (if prevention is not economically practicable) likely to mitigate soil erosion, and likely to promote soil conservation, the avoidance of deposits in watercourses, and the control of floods.

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(2) No person shall, without the consent of the Catchment Board or the Catchment Commission or the Council, as the case may require, do on or in respect of any such land any act or matter or thing which that Board or Commission or the Council has, by notice publicly notified within the immediately 20 preceding two years, declared to be likely to facilitate soil erosion or floods or cause deposits in watercourses.

(3) Proof that the occupier of any such land has, without ~~{the consent of the Council,}~~ **[[any such consent,]]** carried out any operation affecting the land in any manner or by any 25 method that the Council **[[or Board or Commission]]** has, by notice publicly notified within the immediately preceding two years, declared to be an imprudent land use practice in the area where the land is situated shall be conclusive proof that the occupier of the land has acted in contravention of 30 subsection one of this section.

New

(4) No notice shall be publicly notified under this section except by direction of the Council confirmed by the Minister:

Provided that no notice affecting any mining or coal mining 35 operation or opencast coal quarrying operation shall be confirmed by the Minister without the concurrence of the Minister of Mines.

33. Individual notices of safeguards—(1) In order to check erosion, whether by landslip or water or wind or 40 otherwise, or to promote soil conservation, or to check deposits in watercourses, or to promote the control of floods, the Council may from time to time by resolution ~~((confirmed by the Minister)))~~, in respect of any part of New Zealand,

whether or not it is within any catchment district or catchment area and whether or not any notice has been publicly notified under subsection two of section thirty-two of this Act, require any change, or the prohibition or restriction or regulation of
5 any change, in the use of land affecting the conservation of soil, the stability of detritus, the depositing of materials in watercourses, or flooding.

New

10 Provided that no resolution affecting any mining or coal mining operation or opencast coal quarrying operation shall ~~(((be confirmed by the Minister)))~~ ~~[[[have effect]]]~~ without the concurrence of the Minister of Mines.

(2) For the purpose of ~~(((making effective)))~~ any such requirement of the Council in respect of any land, notice in
15 writing shall be given to the occupier of the land that in the opinion of the Council soil erosion is taking place or is likely to take place on that land, or that the method of using the land is causing or is likely to cause soil erosion to take place on that or
20 other land or movement of detritus or materials towards or into or in a watercourse, or that specified treatment of the land is necessary for soil conservation reasons or to minimise movement of detritus or materials towards or into or in a watercourse, and that the Council requires the occupier of the land to do, within the time specified in the notice, the things speci-
25 fied in the notice, being all or any of the following things:

- (a) To change in accordance with the notice, within such period as is specified therein, the kind and class of stock carried on the land, or the use of the land:
- 30 (b) Not to change the use to which the land is being put at the time of the notice:
- (c) To improve the fertility and structure of the soil by the liming, fertilising, seeding, contouring, and cultivation practices specified in the notice:
- 35 (d) To plant or sow trees, shrubs, grasses, and other plants, or any of them, of such kinds, in such numbers, in such places, and within such times as may be specified in the notice, or to refrain from selling or cutting or killing existing trees or shrubs or grasses or other plants or any of them:
- 40 (e) Forthwith, and at all times while any notice in this respect remains in force, to take all reasonable steps to exterminate, or reduce the numbers of, rabbits, deer, wild pigs, wild goats, and other wild animals upon the land:

- (f) To restrict during any periods specified, the numbers of each kind and class of stock to be depastured on the land to the numbers specified:
- (g) To refrain for periods specified from stocking, ploughing, or cultivating the whole or any specified part of the land, or from depasturing on the land any specified kind or class of stock, or all stock except stock of a specified kind or class or number, or from changing the kind or class of stock carried on the land:
- (h) To carry out any specified works or to do any specified things:
- (i) To abstain from doing any specified things, whether or not they would otherwise be normal incidents of the management of the land.

(3) The notice under subsection two of this section shall be given by the Catchment Board of the catchment district, or the Catchment Commission (if any) of the catchment area, in which the land is situated **[[[and shall show particulars of the rights of objection conferred by section thirty-four of this Act]]]**:

Provided that, in any case where there is no Catchment Board or Catchment Commission, the notice shall be given by the Council.

New

(4) Every occupier of any land to whom a notice is given under this section, whether by the Council or a Catchment Board or Catchment Commission or by any prior occupier, shall give notice of the original notice to the person to whom he gives occupation, and that person shall comply with the original notice as if it had been given to him.

Struck Out

34. Appeals—(1) Any occupier may, within thirty days after he receives a notice under section thirty-three of this Act, appeal to the Council, giving in writing full details of the grounds of his appeal; and the Council shall thereupon refer the appeal to a Tribunal appointed for the purpose, either generally or for the particular case under section thirty-three A of the principal Act. The Tribunal shall fix the time and place of the hearing, and shall notify the Council and the appellant of the time and place so fixed. At any such hearing the appellant and the authority which gave the notice shall be heard in person or by counsel as of right or by any other person subject to permission of the Tribunal. **(Pending the hearing of the appeal the occupier shall comply with the notice.)**

5 (2) On hearing the appeal the Tribunal may cancel or vary the notice to which the appeal relates, or may confirm it, either absolutely or subject to such conditions and modifications as the Tribunal deems just, and the decision of the Tribunal shall be final and conclusive.

New

10 (3) Where a notice requires an occupier to desist or refrain from doing anything upon any land, the lodging of an appeal shall not, unless the notice otherwise directs or the giver of the notice otherwise approves in writing, suspend the liability of the occupier and all other persons to comply with the notice pending determination of the appeal; but where a notice requires an occupier to do anything upon any land, then, if an appeal is lodged against the notice, it shall not be obligatory for any person to comply with the notice pending determination of the appeal.

New

20 **34. Review of notices**—(1) Within thirty days after the date on which he receives a notice under section thirty-three of this Act, the occupier may object in writing to the Council against any requirement of the notice, and the objection shall set out full details of the grounds therefor.

25 (2) Where the requirement is that the occupier desist or refrain from doing anything upon the land, the lodging of an objection shall not, unless the notice otherwise directs or the giver of the notice otherwise approves in writing, suspend the obligation of the occupier and all other persons to comply with that requirement pending determination of the objection; but in every other case the lodging of an objection shall suspend the obligation of the occupier and all other persons to comply with the requirement to which the objection relates.

30 (3) Upon receiving in the office of the Council any objection against any requirement of a notice issued under this section, the Council shall forthwith inquire into the objection; and every requirement to which objection is made shall be deemed to be withdrawn at the expiration of two months after the date on which the objection is so received unless within that period the Council has resolved to refer the objection to a Tribunal appointed or to be appointed for the purpose under section thirty-three A of the principal Act, and has sent to the occupier notice of its decision in writing. Where

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the Council has resolved to refer the objection to a Tribunal the objection shall be so referred as soon as practicable; and if there is no standing Tribunal a Tribunal shall be appointed forthwith.

(4) The Tribunal shall fix the time and place for hearing any party who wishes to be heard, and shall notify the Council, the occupier, and the authority which gave the notice of the time and place so fixed. At any such hearing the parties shall be heard in person or by Counsel as of right, and by any other person subject to permission of the Tribunal; and the Tribunal may itself obtain such independent evidence as it thinks fit upon any matter which might affect its decision.

(5) After hearing the authority which gave the notice, and the occupier and the Council if he or it wishes to be heard, and such other persons as the Tribunal may think fit, the Tribunal may suspend or cancel the notice or may confirm it either absolutely or subject to such conditions and modifications as the Tribunal deems just, and the decision of the Tribunal shall be final and conclusive.

35. Compensation—(1) Any person having any estate or interest in any land which is subject to a notice given under section thirty-two or section thirty-three of this Act and which is injuriously affected or suffers any damage from the compliance promptly and in a workmanlike manner with the requirements of the notice, shall be entitled to full compensation for the same from the Minister **[or Board or Catchment Commission]**, in accordance with the provisions of the principal Act and this section, as if that person were injuriously affected by a public work. Where in the opinion of the Land Valuation Court immediate losses consequent upon compliance with the notice will be offset either wholly or partly by subsequent gains, that Court either shall award such sum only as takes into account both the immediate losses and probable subsequent gains during the ensuing period of fifteen years, or shall award the amount of the immediate losses reserving to the Minister **[or Board or Catchment Commission]** the right to recover as a debt due to the Crown **[or Board or Catchment Commission]** from the person to whom the compensation was paid and his successors in title so much of the amount so paid as is from time to time during a period of fifteen years from the date of the award offset by gains that are made in consequence of the giving of effect to the notice:

Provided that no amount shall be recoverable from any such successor in title who is a purchaser for valuable consideration of the land or who derives his title to the land from such a purchaser, unless—

5 *Struck Out*

(a) The purchaser of the land had notice at the time of the purchase of the Minister's right to recover the amount; or

New

10 (a) The purchaser of the land had, at the time of the purchase, notice of the right of the Minister or Board or Catchment Commission to recover the amount; or

15 (b) A memorial in respect of the amount has been endorsed on the title to the land before the date of the purchase in accordance with subsection two of this section.

(2) Whenever compensation is awarded under this section and a right of recovery of any part thereof is reserved to the Minister **[or Board or Catchment Commission]**, the Registrar shall, on application by the District Commissioner of Works **[or Board or Catchment Commission]**, without fee, endorse on the title to the land to which the compensation relates a memorial of the right of recovery under this section. The Registrar shall, without fee, cancel any such memorial if so requested in writing by the District Commissioner of Works **[or Board or Catchment Commission]**; and may so cancel any such memorial at any time after the expiration of the period of fifteen years during which any amount to which the memorial relates may be recovered by the Minister **[or Board or Catchment Commission]**.

36. **Penalties**—Every person who fails to comply with or acts in contravention of subsection one of section thirty-two of this Act **[or subsection four of section thirty-three of this Act]**, or any requirement specified in any notice duly given under section thirty-three of this Act, commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

37. **Repeals**—The principal Act is hereby consequentially amended by repealing—

40 (a) Paragraphs (c) and (d) of subsection one of section fourteen:

(b) Paragraphs (c) and (d) of subsection one of section one hundred and fifty.

Section 17 (4)

SCHEDULE

NEW SECOND SCHEDULE TO PRINCIPAL ACT

"Section 102 (6) SECOND SCHEDULE

NOTICE OF COMPLETION OF CLASSIFICATION LIST

*Classification under Soil Conservation and Rivers Control Act 1941 of
Land in the (State name) Catchment District*

NOTICE is hereby given that—

- (a) The land in the (State name) Catchment District [or in the part of the (State name) Catchment District described in the Schedule hereto] has been classified under the Soil Conservation and Rivers Control Act 1941, and the classification is deemed a valid classification as from the date **(on which this notice is published) [on which this notice is first published, namely the day of 19.....]**:
- (b) The proportions in which rates are to be imposed under that Act on the several classes of land are as follows:
(State classes and proportions)
- (c) The classification list includes an apportionment by the Valuer-General of the rateable value of the land in those cases where portions of a piece of land are classified in different classes:
- (d) The classification list may be inspected at *(State place(s))* during a period of 28 days hereafter:
- (e) The classification list is deemed to be a special roll of ratepayers for the purposes of the Local Authorities Loans Act 1956:
- (f) Any person who is dissatisfied in respect of any matter appearing in the classification list has the rights of appeal provided for by section 103 of the Soil Conservation and Rivers Control Act 1941, as substituted by section 18 of the Soil Conservation and Rivers Control Amendment Act 1959, which rights, and any other right to commence proceedings affecting the classification, must be exercised within 49 days hereafter. Appeals will normally be made to a Magistrate's Court, but appeals in respect of the method of making or of the form or validity of the classification as a whole may be made to the Land Valuation Court only:
- (g) The classification has been made by *(State names of classifier or classifiers)* :
- (h) Copies of the instructions given by the Board to the classifier(s) and of the resolutions of the Board relative to the classification may be inspected at the place(s) and during the period specified in paragraph (d) of this notice.

Secretary to the"