

Hon. Mr. Skinner

SWAMP DRAINAGE AMENDMENT

ANALYSIS

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A BILL INTITULED

AN ACT to Amend the Swamp Drainage Act, 1915.

Title.

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

1. This Act may be cited as the Swamp Drainage Amendment Act, 1948, and shall be read together with and deemed part of the Swamp Drainage Act, 1915 (hereinafter referred to as the principal Act).

Short Title.
See Reprint
of Statutes,
Vol. IV, p. 560

10 2. The Governor-General may, from time to time, by Order in Council, declare any area of land described in the Order to be included in or excluded from a drainage area or from a subdivision or special subdivision of a drainage area constituted under the
15 principal Act or under this Act.

Lands may be
included in or
excluded from
drainage area
or from a
subdivision.

3. (1) For the purpose of the better carrying-out of drainage and other works, and to facilitate the general administration of the principal Act, the Governor-General may, from time to time, on the petition of not less than

Constitution of
special
subdivisions.

one-half of the occupiers of the land in any portion of a drainage area or in any portion of a subdivision of a drainage area, or on the petition of the occupiers of not less in the aggregate than one-half of the land in any portion of a drainage area or in any portion of a subdivision of a drainage area, by Order in Council, constitute that portion a special subdivision, to be known by a distinctive name, in which drainage works of a general nature may be carried on. 5

(2) The Governor-General may in like manner also constitute any portion of a drainage area a special subdivision within which, in addition to drainage works of a general nature, pumping schemes may be arranged and carried on. Any special subdivision constituted under this subsection shall be known by a distinctive name or number, and may be wholly within the boundaries of any subdivision constituted under the Swamp Drainage Amendment Act, 1926, or of any special subdivision constituted under the *last preceding* subsection, or may be partly in one such subdivision or special subdivision and partly in another or others. 10 15 20

See Reprint
of Statutes,
Vol. IV, p. 565

(3) Notwithstanding the constitution of a special subdivision under this section, the lands situated therein shall continue to be liable to be rated as part of any existing subdivision or drainage area in respect of rates from time to time levied on the whole subdivision or drainage area, as the case may be, under section two of the Swamp Drainage Amendment Act, 1928, as amended by section forty-three of the Finance Act, 1930 (No. 2). 25 30

Ibid., p. 568

(4) The Governor-General may, by Order in Council, abolish any special subdivision on the petition of not less than one-half of the occupiers of the land in that special subdivision or on the petition of the occupiers of not less in the aggregate than one-half of the land in the special subdivision. 35

Power to levy
additional rates
in respect of
new works.

Ibid.,
pp. 565, 566,
572, 573
1943, No. 9

4. (1) Notwithstanding anything to the contrary in section four or section five of the Swamp Drainage Amendment Act, 1926, or in section twenty-six of the Finance Act, 1929, or in section forty-four or section forty-five of the Finance Act, 1930 (No. 2), or in subsection eight of section ten of the Finance Act (No. 2), 1943, or in any other Act, the Minister of Lands 40

may from time to time make and levy on the lands in any drainage area or in any subdivision or special subdivision of a drainage area an additional rate or additional rates for the repayment of the whole or such
5 part as the Minister of Finance from time to time determines of any expenditure incurred after the passing of this Act for the construction of works authorized by the principal Act which are requested by not less than
10 one-half of the occupiers of the land in the drainage area or by the occupiers of not less in the aggregate than one-half of the land in the drainage area or in the subdivision or in the special subdivision, as the case may be, and for
15 the payment of the expenses of the general administration and maintenance of those works, together with interest at such rate as the Minister of Finance from time to time determines.

(2) Any such rate may from time to time be adjusted in accordance with any such determination of
20 the Minister of Finance as to the amount of expenditure, administration and maintenance expenses, and interest to be recovered as aforesaid.

(3) Notwithstanding anything to the contrary in section two of the Swamp Drainage Amendment Act,
25 1928, any such rate in respect of any expenditure incurred in installing and operating pumping schemes, and administration and maintenance expenses, and interest in respect thereof, may be made and levied on an acreage basis.

(4) Subject to the *last preceding* subsection, the provisions of section two of the Swamp Drainage Amendment Act, 1928, as amended by section forty-three of the Finance Act, 1930 (No. 2), and of section three of the said Swamp Drainage Amendment Act, 1928,
35 as amended by section twenty-one of the Land Laws Amendment Act, 1947, shall, so far as applicable and with the necessary modifications, apply to any rate levied otherwise than over the whole of the land within the drainage area.

(5) Notwithstanding any classification made at any time in respect of drainage works carried out before the passing of this Act, separate and additional classifications or reclassifications may from time to time be made

See Reprint
of Statutes,
Vol. IV, p. 568

1947, No.64

of any land in a drainage area or in a subdivision or special subdivision of a drainage area for the purpose of making and levying any rate under the authority of this section.

Regulations.

5. (1) The Governor-General may from time to time, by Order in Council, make such regulations as may in his opinion be necessary or expedient for giving effect to the provisions of the principal Act and for the due and proper administration thereof. 5

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:— 10

(a) Requiring owners or occupiers of land to obtain the consent of the Minister of Lands before installing and operating land-drainage pumps, and generally regulating and controlling the use and operation of any such pumps, whether installed before or after the passing of this Act: 15 20

(b) Prescribing offences against the regulations:

(c) Prescribing fines for offences against any regulation made under this section, not exceeding fifty pounds in any case, and, where the offence is a continuing one, a further fine not exceeding five pounds for any day or part of a day during which the offence continues. 25

(3) The power of making regulations hereby conferred is in addition to and not in substitution for the power of making regulations conferred by section twelve of the principal Act. 30

(4) Where any person has failed to comply with the provisions of any regulation made under this section or has done any act in contravention thereof or has failed to comply with any notice under any such regulation, he shall, in addition to his liability for any penalty provided for an offence against the regulation, be under a liability to make good his default or to remedy the breach or to repair any damage caused by his act or omission. The Minister of Lands or his authorized agent may, by notice in writing, require any such person 35 40

to make good his default or to remedy any such breach
or to repair any such damage caused by his act or
omission as aforesaid, in such particulars as shall be
specified in the notice and within a time specified
5 therein, and the said Minister or his authorized agent
may, if the notice is not complied with to his satis-
faction within the specified time, execute the work
required by the notice to be done, or as the case may
be, execute and complete the said work to his satis-
10 faction, and the cost thereof shall be recoverable by the
said Minister or by his duly authorized agent from that
person in any Court of competent jurisdiction as a debt
due to the Crown.