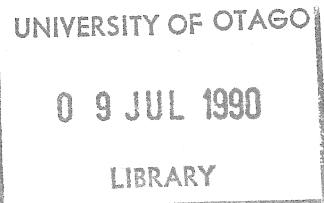


HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 29 March 1988

MINISTRY OF WORKS AND DEVELOPMENT ABOLITION BILL
Proposed Amendments



Hon. RICHARD PREBBLE, in Committee, to move the following amendments:

Clause 122: To omit lines 2 to 4 on page 38, and substitute the words:

4. (3) of the principal Act is hereby amended—

- (a) By omitting the words “, and give effect to the policy and directions communicated to them from time to time by the Authority”:
- (b) By repealing the first proviso.

Clause 130 (3): To insert, after the word “consider” (page 46, line 10), the words “or hear”.

Clause 160: To omit this clause, and substitute the following clause:

160. Fees and travelling allowances—(1) Section 29 (1) of the principal Act is hereby amended by omitting the words “The Authority and all”, and substituting the word “All”.

(2) Section 29 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) There may be paid to the members of any Regional Water Board, advisory or technical committee, or Tribunal (whether appointed by the Minister or a Regional Water Board) remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly as if the members of any Regional Water Board, advisory or technical committee, or Tribunal were members of a statutory Board within the meaning of that Act.”

(3) So much of the Schedule to the Water and Soil Conservation Amendment Act 1983 as relates to section 29 of the principal Act is hereby consequentially repealed.

Clause 191 and new clauses 191A to 191E: To omit clause 191, and substitute the following clauses:

191. Repealing certain provisions relating to National Water and Soil Conservation Authority—(1) Sections 32 and 33 of the principal Act are hereby repealed.

(2) Section 2 of the Soil Conservation and Rivers Control Amendment Act 1970 is hereby consequentially repealed.

191A. Minister or Tribunal to hear matters—(1) The principal Act is hereby amended by repealing section 33A, and substituting the following section:

“33A. (1) Where under this Act or the Water and Soil Conservation Act 1967 any matter is referred to the Minister for consideration, hearing, or decision, the Minister may consider or hear, and decide the matter according to such procedure as the Minister determines, or may appoint 1 or more persons to be a Tribunal to consider or hear and decide the matter. The decision of any such matter by a Tribunal so appointed shall have the same effect as a decision of the matter by the Minister.

“(2) For the purposes of inquiring into any matter, the Tribunal shall have the same powers as are conferred on Commissions of Inquiry by section 4 and sections 4B to 9 of the Commissions of Inquiry Act 1908.

“(3) Section 4 and sections 4B to 9 of the Commissions of Inquiry Act 1908 shall apply to all persons involved in any capacity in any such inquiry as if it were an inquiry conducted by a Commission under that Act.

“(4) The Tribunal shall have, in relation to any such inquiry, and any decision on any such matter, the same immunities and privileges as are possessed by a District Court Judge in the exercise of that Judge’s civil jurisdiction.”

(2) The following enactments are hereby consequentially repealed:

- (a) Section 2 of the Soil Conservation and Rivers Control Amendment Act 1958;
- (b) Section 12 of the Soil Conservation and Rivers Control Amendment Act 1983.

191b. Appeal on a question of law—Section 33B of the principal Act (as inserted by section 13 of the Soil Conservation and Rivers Control Amendment Act 1983) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where any party to any proceedings before—

- “(a) The Minister under this Act or the Water and Soil Conservation Act 1967; or
- “(b) Any Tribunal under section 33A of this Act; or
- “(c) Any assessor under section 137 of this Act or under section 11 of the Soil Conservation and Rivers Control Amendment Act 1948 or under section 34 or section 36 of the Soil Conservation and Rivers Control Amendment Act 1959—

is dissatisfied with any decision of the Minister or Tribunal or assessor as being erroneous in point of law, that party may appeal to the High Court on that question of law.”

191c. Notice of appeal—(1) Section 33c (1) of the principal Act (as so inserted) is hereby amended by repealing paragraph (b), and substituting the following paragraphs:

- “(b) The Minister, where the Minister or a Tribunal is the respondent; and
- “(c) The Secretary of the Board which appointed the assessor, where an assessor is the respondent.”

(2) Section 33c (2) of the principal Act (as so inserted) is hereby amended by omitting the words “Authority or Tribunal”, and substituting the words “Minister, Tribunal, or assessor”.

(3) Section 33c(4) of the principal Act (as so inserted) is hereby amended by omitting the words "Secretary of the Authority", and substituting the words "Minister or Secretary of the Board".

191D. Right to appear and be heard on appeals—Section 33D(1) of the principal Act (as so inserted) is hereby amended by omitting the words "Authority or Tribunal", and substituting the words "Minister, Tribunal, or assessor".

191E. Orders relating to determination of appeals—Section 33E of the principal Act (as so inserted) is hereby amended by omitting the words "Authority or Tribunal" wherever they occur, and substituting in each case the words "Minister, Tribunal, or assessor".

New clause 194A: To insert, after clause 194, the following clause:

194A. Remuneration, etc., of assessors—The principal Act is hereby amended by inserting, after section 113, the following section:

"113A. (1) This section applies in respect of every assessor appointed under—

"(a) Section 137 of this Act; or

"(b) Section 11 of the Soil Conservation and Rivers Control Amendment Act 1948; or

"(c) Section 34 or section 36 of the Soil Conservation and Rivers Control Amendment Act 1959.

"(2) There shall be paid to every assessor, out of the Board's funds, remuneration by way of fees or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly as if the assessor was a member of a statutory Board within the meaning of that Act.

"(3) The Board shall provide, or pay the expenses of, all accommodation for the purpose of hearing and considering objections, and all secretarial and administrative services, reasonably required by the assessor appointed by the Board."

Clause 201: To insert, after the words "objector, the Board" (page 66, line 39), the words ", after consultation with the objector,".

To omit from the proposed new subsection (3B) (page 67, line 6) the word "Every", and substitute the words "Subject to section 33B of this Act, every".

Clause 209 (2): To omit from page 69, line 9 the word "Valley".

To omit from page 69, line 14 the word "Valley".

Clause 213: By omitting the word "subsection" (page 72, line 19), and substituting the word "subsections".

By omitting the proposed new subsection (5) and subclause (2) (page 72, lines 20 to 25), and substituting the following:

"(5) If any such objection is lodged and agreement cannot be reached between the Board and the objector, the Board, after consultation with the objector, shall appoint an independent assessor and refer the matter to that assessor whose decision, subject to section 33B of the principal Act, shall be final.

"(5A) After giving the Board and the objector an opportunity to be heard, the assessor shall consider the matter fairly and without bias and make a decision.

“(5B) The assessor shall supply the Board and the objector with a written copy of the decision and the reasons for it.

“(5c) Where no such objection is lodged within the said period of 1 month, or where (in respect of every objection lodged) either the assessor or the person objecting consents to the execution of the work, the Board may forthwith proceed with the work.”

(2) Section 11 (6) of the Soil Conservation and Rivers Control Amendment Act 1948 is hereby amended by omitting the word “Authority”, and substituting the word “assessor”.

To omit lines 1 to 3 on page 73, and substitute the following:

“this section had not been enacted and as if section 33A of the principal Act and section 29 of the Water and Soil Conservation Act 1967 had not been amended.

“(4) For the purposes of sections 33B to 33J of the principal Act, every Tribunal to which subsection (3) of this section applies shall be deemed to have been appointed by the Minister for the Environment.”

Clause 216 (4): To insert, after the words “objector, the Board” (page 73, line 40), the words “, after consultation with the objector,”.

To omit from the proposed new subsection (2D) (page 74, line 8), the word “Every”, and substitute the words “Subject to section 33B of the principal Act, every”.

Clause 218 (2): To insert, after the words “objector, the Board” (page 75, line 17), the words “, after consultation with the objector,”.

To omit the proposed new subsection (5) (page 75, lines 25 and 26), and substitute the following subsections:

“(5) The assessor shall supply the Board and the objector with a written copy of the decision and the reasons for it.

“(6) Subject to section 33B of the principal Act, every decision under subsection (4) of this section shall be final.”

Second Schedule: To omit from the proposed new subsection (2) of section 17B of the Auckland Regional Authority Act 1963 the figure “4”, and substitute the figure “5”.

To insert in that subsection, after the word “Agriculture,”, the words “1 of whom shall be appointed by the Minister for the Environment,”.

To omit the first 2 amendments to the Wellington Regional Water Board Act 1972, and substitute the following amendment:

By omitting from section 16 (2) the words “Minister of Works”, and substituting the words “Minister for the Environment”.

Clauses 326 and 327: To omit these clauses, and substitute the following clause:

326. Additional functions of Department—The principal Act is hereby amended by inserting, after section 7, the following section:

“7A. The Department shall—

“(a) Provide and carry out advisory and policy undertakings and services in respect of building, construction, and development:

“(b) Carry out inspections appropriate to the functions of the Department and ensure compliance with any legal requirements or standards appropriate to any such inspection.”

EXPLANATORY NOTE

Clause 122: Under the Bill as introduced the Minister for the Environment assumed the power of the National Water and Soil Conservation Authority to formulate and give policy directions to various bodies in relation to natural water.

The amendment removes the power to give such directions.

Clause 130 (3): Under the Bill as introduced the Minister for the Environment is empowered to consider applications for national water conservation orders.

The amendment empowers the Minister to also hear such applications and any submissions and objections.

Clause 160: The new clause enables the payment of remuneration and expenses to the members of any Tribunal appointed by the Minister for the Environment under the reinstated section 33A of the Soil Conservation and Rivers Control Act 1941.

Clause 191 and new clauses 191A to 191E: The Bill as introduced repeals section 33A of the Soil Conservation and Rivers Control Act 1941 under which the National Water and Soil Conservation Authority could appoint a Tribunal to hear and decide matters referred to the Authority.

The new clause 191A provides for section 33A to continue in force but substitutes the Minister for the Environment for the Authority.

In addition, the new section 33A empowers the Minister to refer to a Tribunal matters referred to the Minister under the Water and Soil Conservation Act 1967.

New Clauses 191B to 191E: As section 33A of the Soil Conservation and Rivers Control Act 1941 is reinstated by *clause 191A*, *clauses 191B to 191E* reinstate and amend sections 33B to 33J of the Soil Conservation and Rivers Control Act 1941 relating to appeals on questions of law.

Such appeals will lie against decisions of the Minister for the Environment or a Tribunal (appointed under section 33A) under the Soil Conservation and Rivers Control Act 1941 and the Water and Soil Conservation Act 1967 and decisions of any assessor appointed under *clause 201*, *clause 213*, *clause 216*, or *clause 218* of the Bill.

New Clause 194A: The new clause provides for the payment, by a Catchment Board, of remuneration and travelling allowances and expenses to any assessor appointed by the Board to hear objections under *clauses 201*, *213*, *216*, and *218*.

In addition, the new clause requires the Board to provide, or pay the expenses of, accommodation for the purpose of hearing and considering objections, and all secretarial and administrative services, reasonably required by an assessor.

Clause 201: The amendment requires the Catchment Board to consult with the objector before appointing an assessor to hear the objection.

Clause 209 (2): The proposed amendments provide for the Waikato Valley Authority to be called the Waikato Catchment Board instead of the Waikato Valley Catchment Board.

Clause 213: The first amendment provides for objections under section 11 of the Soil Conservation and Rivers Control Amendment Act 1948 to be heard by an independent assessor instead of by the Catchment Board.

Clause 213: The second amendment is consequential on the reinstatement of section 33A of the principal Act (relating to the appointment of Tribunals).

The third amendment (the new *subclause (4)*) ensures the preservation of the right of appeal on a question of law against the decision of any Tribunal continued in existence by *subclause (3)*.

Clause 216 (4): The amendment requires the Catchment Board to consult with the objector before appointing an assessor to hear the objection.

Clause 218 (2): The amendment requires the Catchment Board to consult with the objector before appointing an assessor to hear the objection.

Second Schedule: The first 2 amendments relate to any committee of the Auckland Regional Authority to which is delegated the Authority's Regional Water Board functions.

The Bill removes from the committee the member appointed by the Minister of Works and Development, without replacement.

The amendments provide for that member to be replaced by a member appointed by the Minister for the Environment.

The third amendment makes a similar amendment in respect of the Wellington Regional Council in its capacity as the Wellington Regional Water Board.

Clauses 326 and 327: The amendment omits the detailed list of additional functions of the Department of Trade and Industry and substitutes a more generalised one.