

Supplementary Order Pa,
HOUSE OF REPRESENTATIVES

Friday, the 30th Day of November 1962

STATUTES AMENDMENT BILL

Further Proposed Amendments

Hon. Mr. HANAN, in Committee, to move the following further amendments:

Clause 25: To omit paragraph (a) of subsection (3) of the proposed new section 30A, and substitute the following paragraph:

“(a) Within seven days after he has been personally notified of the impounding; or

To omit from paragraph (b) of the same subsection the word “seven” in line 21, and substitute the word “twenty-eight”.

Clause 47, subclause (2): To omit this subclause, and substitute the following subclause:

(2) Section 165 of the principal Act (as substituted by section 9 of the Harbours Amendment Act 1961) is hereby amended—

(a) By inserting in subsection (1), after the words “grant to any public body”, the words “either solely or jointly with any other public body”:

(b) By adding to subsection (10) the words “and includes any other incorporated body declared by the Governor-General, by Order in Council, to be a public body for the purposes of this section”.

Clause 112, subclause (1): To add to the proposed new subsection (4) the words “or, being a foreign-going ship for the purposes of the First Schedule to this Act, carries any passenger”.

Clause 112, subclause (2): To add to the proposed new proviso the words “or, being a foreign-going ship for the purposes of the First Schedule to this Act, carries any passenger”.

Clause 112, subclause (4): To insert in the proposed new subsection (1), after paragraph (a), the following paragraph:

“(aa) Being a foreign-going ship for the purpose of the First Schedule to this Act, carry any passenger;
or

Clause 112, subclause (5): To add to paragraph (a) the words “or, being a foreign-going ship for the purposes of the First Schedule to this Act, carry any passenger”.

Clause 112, subclause (6): To insert in the proviso to the proposed new paragraph (c), after the words “fishing boat” in line 35, the words “or, being a foreign-going ship for the purposes of the First Schedule to this Act, carries any passenger”.

New Clauses

To insert, after clause 138, the following headings and new clauses:

Navy

139. Sections to be read with Navy Act 1954—This section and the next succeeding section shall be read together with and deemed part of the Navy Act 1954* (in that section referred to as the principal Act).

*1957 Reprint, Vol. 10, p. 897
Amendment: 1958, No. 22

140. New sections inserted—(1) The principal Act is hereby amended by inserting, after section 13, the following sections:

“13A. Administration of the Naval Forces—Without Limiting the power of the Naval Board to issue Navy Instructions conferred by section 13 of this Act, the Naval Board may from time to time issue Navy Instructions, not inconsistent with this Act, for—

“(a) The terms and conditions of service for officers and ratings, including entry, appointment, enlistment, promotion, advancement, transfer, secondment, attachment, drafting, training, reduction or reversion in rank or rating, retirement, resignation, discharge, leave, leave without pay, discipline, health, and welfare:

“(b) Subject to any regulations made under section 16 of this Act, and to any determination of the Minister under section 13B of this Act prescribing the rates or amounts thereof and to any conditions prescribed under the said section 13B, the conditions for the issue of pay, allowances, expenses, grants, bonuses, and gratuities payable to officers and ratings, and for the payment, forfeiture, and restoration of good conduct badge pay.

“13B. Pay, allowances, grants, and gratuities of officers and ratings—(1) Subject to any regulations made under section 16 of this Act, the pay, allowances, expenses, grants, bonuses, and gratuities payable to officers and ratings shall be at such rates or of such amounts as are from time to time prescribed by the Minister with the concurrence of the Minister of Finance, and shall be subject to any conditions prescribed by the Minister with the like concurrence.

“(2) Any such rates or amounts or conditions may relate to a period commencing on or before or after the date on which they are prescribed.

“(3) All rates of pay prescribed under this section shall be published in the *Gazette*.

“(4) All rates (including rates of pay) and amounts prescribed under this section and the conditions subject to which they are payable shall be promulgated in Navy Instructions.”

(2) Section 16 of the principal Act is hereby amended by repealing paragraphs (a) to (c) of subsection (1), and substituting the following paragraph:

“(a) Provisions as to forfeitures of pay and stoppages from pay of officers and ratings:”

*New Clauses**Auckland Metropolitan Drainage*

141. Sections to be read with Auckland Metropolitan Drainage Act 1960—This section and the next succeeding section shall be read together with and deemed part of the Auckland Metropolitan Drainage Act 1960* (in that section referred to as the principal Act).

*1960 (Local), No. 15

142. Abatement of nuisances created by Board—(1) The principal Act is hereby amended by inserting, after section 36, the following section:

“36A. (1) Where any nuisance within the meaning of section 29 of the Health Act 1956 is created by the Board

in the exercise of any powers conferred on it by paragraph (g) of subsection (1) of section 36 of this Act, the Medical Officer of Health under the Health Act 1956 may, by notice in writing to the Board, require the Board to abate the nuisance and specify the works to be done by the Board in order to abate the nuisance and the time within which they shall be done.

“(2) If the Board considers the requirements specified in any such notice to be unreasonable or impracticable or unnecessary, it may, within three days after service of the notice on the Board, apply to the Magistrate’s Court at Auckland for an order setting aside or modifying the notice. Pending the hearing of the application, the notice shall be deemed to be suspended.

“(3) On the hearing of the application, the Court, whose decision shall be final, shall determine whether the notice should or should not be set aside or modified, and, if the notice is not set aside, the time within which the Board must comply with the notice or, as the case may be, with the notice as so modified.

“(4) If the Board within the time specified in any such notice, or, in the case of an application to the Court, within the time specified in the order of the Court, fails to comply with the notice or order, the Medical Officer of Health, with such assistants as may be necessary and without notice to the Board, may enter on any land or premises of the Board and abate the nuisance.

“(5) All expenses reasonably incurred by the Medical Officer of Health in the abatement of a nuisance under subsection (4) of this section shall be recoverable from the Board as a debt due to the Crown.

“(6) Nothing in this section shall derogate from the provisions of the second proviso to paragraph (g) of subsection (1) of section 36 of this Act or of section 43 of this Act.”

(2) Section 36 of the principal Act is hereby amended by inserting in paragraph (g) of subsection (1), before the words “shall not be liable”, the words “subject to the provisions of section 36A of this Act”.

That *clauses 139 and 140* be a separate Bill, and that for *clause 139* there be substituted the following Title, enacting words, and Short Title:

An Act to amend the Navy Act 1954

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

1. **Short Title**—This Act may be cited as the Navy Amendment Act 1962, and shall be read together with and deemed part of the Navy Act 1954 (hereinafter referred to as the principal Act).

That *clauses 141 and 142* be a separate Bill, and that for *clause 141* there be substituted the following Title, enacting words, and Short Title:

An Act to amend the Auckland Metropolitan Drainage Act 1960

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

1. **Short Title**—This Act may be cited as the Auckland Metropolitan Drainage Amendment Act 1962, and shall be read together with and deemed part of the Auckland Metropolitan Drainage Act 1960 (hereinafter referred to as the principal Act).

EXPLANATORY NOTE

Dogs Registration

Clause 25: The effect of these amendments is that before a local authority may destroy or sell a dog that has been impounded it must notify the owner personally that the dog has been impounded or, if the owner is unknown or cannot be found, it must give at least 28 days' notice in a newspaper.

Harbours

Clause 47, subclause (2): This amendment includes a further amendment to section 165 of the Harbours Act 1950. The effect of the further amendment is that the control of the foreshore of the sea or of the bed of a lake may be granted under that section to a public body, either solely or jointly with any other public body.

Shipping and Seamen

Clause 112: The effect of the amendments to this clause is that a fishing boat that proceeds more than 50 miles from the coast of the North Island or of the South Island or of Stewart Island or of the Chatham Islands may not carry any passenger, except pursuant to a permit issued by the Minister of Marine.

Navy

Clause 140: Section 16 of the Navy Act 1954 specifies the matters in respect of which regulations may be made under that Act. They include regulations as to the appointment, enlistment, promotion, transfer, discipline, training, pay, and allowances of officers and ratings, and as to the retirement and discharge of officers and ratings, and to the payment of gratuities on retirement to officers and ratings.

This clause provides that the provisions as to appointment, enlistment, promotion, transfer, discipline, training, retirement, and discharge are to be prescribed by the Naval Board by Navy Instructions, and also provides that Navy Instructions may be issued in respect of conditions for the issue of pay, allowances, grants, bonuses, gratuities, and good conduct badge pay.

The clause also provides that the rates or amounts of pay, allowances, expenses, grants, bonuses, and gratuities payable to officers and ratings are to be prescribed by the Minister of Defence with the concurrence of the Minister of Finance, and shall be subject to any conditions prescribed by those Ministers.

At present, power to prescribe most of the foregoing matters has been delegated by the Navy Regulations 1958 to the Naval Board or to the Minister of Defence, but, in view of the decision of the Court of Appeal in *Hawke's Bay Milk Producers Coop. Co. Ltd. v. New Zealand Milk Board* [1961] N.Z.L.R. 218, it appears likely that the delegation in respect of some of those matters is *ultra vires*.

Auckland Metropolitan Drainage

Clause 142: By section 36 (1) (g) of the Auckland Metropolitan Drainage Act 1960, the Drainage Board may exercise certain powers relating to the treatment of sewage, refuse, and other matter, and is not liable, except in compensation under section 43 of the Act, for any nuisance or injury necessarily created or caused in exercising those powers, but the Board is not relieved from liability for any nuisance likely to be dangerous to health.

This clause provides that if in the exercise of its powers under section 36 (1)(g) the Board creates a nuisance within the meaning of section 29 of the Health Act 1956, the Medical Officer of Health may, by notice to the Board, require the Board to take steps to abate the nuisance within a time specified in the notice. The Board may appeal to the Magistrate's Court for an order setting aside or modifying the notice.

If the Board fails, within the time specified in the notice or, in the event of an appeal, within the time specified in the order of the Court, to abate the nuisance as required by the notice or order, the Medical Officer of Health may take steps to abate the nuisance and recover the cost of so doing from the Board.