

**Reprint**  
**as at 1 November 2010**

**North Shore Drainage Act 1963**

Local Act 1963 No 15  
Date of assent 25 October 1963

North Shore Drainage Act 1963: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

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**An Act to provide for the drainage of parts of the North Shore comprising the Boroughs of Birkenhead, Devonport, East Coast Bays, and Northcote, the City of Takapuna, and also parts of the Waitemata County**

**1 Short Title**

This Act may be cited as the North Shore Drainage Act 1963.

**2 Interpretation**

(1) In this Act, unless the context otherwise requires,—

**Board** means the North Shore Drainage Board constituted by this Act

**condensing water** has the same meaning as in the Water and Soil Conservation Act 1967

**contributing authority** means the local authority of any local district the whole or any part of which is for the time being comprised within the North Shore Drainage District

**District or drainage district** means the North Shore Drainage District constituted by this Act

**domestic sewage** has the same meaning as in the Water and Soil Conservation Act 1967

**Harbour** means the Harbour of Auckland, the limits of which are defined by warrant dated the twenty-eighth day of November, nineteen hundred and fifty-eight, and published in the *Gazette* of the fourth day of December in that year, or in or by any Act, warrant, or Order in Council made or passed in substitution therefor or extension thereof; and **harbour limits** shall have a corresponding meaning

**loan charges** includes any amounts required to meet interest on loans which have from time to time been raised or which are about to be raised by the Board, and also all such amounts, including interest and principal or sinking fund, as are required to be provided towards and for the purpose of the ultimate repayment of those loans, and any expenses incurred in rearranging those loans

**local authority** means a territorial authority within the meaning of the Local Government Act 1974

**local district** means the district of a local authority

**Secretary** means the Secretary of the Board; and includes any person appointed by the Board to perform for the time being the duties of the Secretary

**trade premises** has the same meaning as in the Water and Soil Conservation Act 1967

**trade wastes** has the same meaning as in the Water and Soil Conservation Act 1967

**trunk sewer** means a sewer designed or intended to convey sewage from the whole or portion of a drainage reticulation system to the final point of discharge

**watercourse** includes all rivers, streams, and passages through which water flows; but does not include drains and sewers.

- (2) For the purposes of this Act **population** means the population as certified to the Board in accordance with the provisions of subsection (3) of this section.
- (3) Where for the purposes of this Act it is necessary to ascertain or estimate the population of any area, that population shall be ascertained or estimated by the Government Statistician, upon receipt of a written request from the Board, as at the first day of April of the year preceding the current year's assessment made under sections 56 and 57 of this Act, and shall be certified by him in writing to the Board as soon as reasonably practicable after the date of the receipt by him of the request.

Condensing water: the reference to the Water and Soil Conservation Act 1967 was substituted, as from 1 April 1972, for a reference to the Waters Pollution Act 1953 pursuant to section 24(1)(a) Waters and Soil Conservation Amendment Act (No 2) 1971 (1971 No 54).

Domestic sewage: the reference to the Water and Soil Conservation Act 1967 was substituted, as from 1 April 1972, for a reference to the Waters Pollution Act 1953 pursuant to section 24(1)(a) Waters and Soil Conservation Amendment Act (No 2) 1971 (1971 No 54).

Local Authority: this definition was substituted, as from 1 April 1980, by section 8(1) Local Government Amendment Act 1979 (1979 No 59).

Local District: this definition was substituted, as from 1 April 1980, by section 8(1) Local Government Amendment Act 1979 (1979 No 59).

Secretary: this definition was substituted, as from 13 August 1983, by section 3 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

Trade premises: the reference to the Water and Soil Conservation Act 1967 was substituted, as from 1 April 1972, for a reference to the Waters Pollution Act 1953 pursuant to section 24(1)(a) Waters and Soil Conservation Amendment Act (No 2) 1971 (1971 No 54).

Trade waste: the reference to the Water and Soil Conservation Act 1967 was substituted, as from 1 April 1972, for a reference to the Waters Pollution Act 1953 pursuant to section 24(1)(a) Waters and Soil Conservation Amendment Act (No 2) 1971 (1971 No 54).

Subsection (3) was amended, as from 27 November 1971, by section 3 North Shore Drainage Amendment Act 1971 (1971 No 11).

### **3 The district**

- (1) There is hereby constituted for the purposes of this Act a district called the North Shore Drainage District which is more particularly described in Schedule 1 to this Act, and which comprises the Cities of Birkenhead and East Coast Bays and the Boroughs of Devonport and Northcote and part of the City of Takapuna and part of the County of Rodney.
- (2) Where provision is made or is intended to be made in any scheme of sewerage works adopted by the Board under the provisions of section 27 of this Act for the construction of common treatment works and a common outfall for the immediate or future service of the local districts or portions of the local districts of any one or more of the contributing authorities, the Board shall forthwith upon the adoption of the said scheme, by special order, determine the ultimate boundaries of the areas to be served by such proposed common treatment works and outfall, and the areas so defined taken together shall, for the purposes of this Act, constitute and be known and hereinafter referred to as a drainage area, having a name or number to be determined by the Board.

- (3) At any time after the constitution of a drainage area, the Board may, by special order, determine that the whole or portion of that drainage area (comprising two or more local districts or portions thereof) shall be connected to and with a common treatment works and common outfall and the total area so determined shall, as from the date of the execution of a contract binding upon the Board and its contractor for the construction of trunk sewers, pumping stations, rising mains, and such common treatment works and common outfall or any part thereof for the service of that area, be known and hereinafter referred to as a combined area, having a name or number to be determined by the Board.
- (4) At any time after a combined area has been constituted in the manner prescribed by subsection (3) of this section, the Board may, by special order, determine that any portion or portions of that combined area which is or are served by a common trunk sewer or pumping station shall be known as a service area, having a name, number, or letter to be determined by the Board. Any such service areas constituted by the Board before the passing of this Act, whether designated by that name or as sub-areas, or by any other name or term, shall be deemed to have been lawfully and validly constituted.
- (5) Where at any time after the passing of this Act the Board is of the opinion that it is advisable to make due provision for the future drainage of any portion of the district which for the time being is not within any special or combined area of the district, but that it is not for the time being practicable or expedient to provide that portion of the district with a drainage reticulation system, the Board may by special order declare that portion of the district to be a future development area, having a name or number to be determined by the Board; and the Board shall thereupon be entitled, either in and by the scheme of sewerage works for the whole of the district prepared by the Board in accordance with and pursuant to the provisions of section 27 of this Act, or by any amendment of such scheme or otherwise, at such time as the Board shall think fit, to provide, construct, and install trunk sewers, treatment works, and outfalls of such capacity and dimensions as it may deem necessary to provide not only for the immediate drainage requirements of

any special or combined area, but also for the future drainage requirements of that future development area as aforesaid.

- (6) The Board may from time to time, by special order, declare any other part of the district, in and for which it is proposed that an entirely separate drainage reticulation system complete in itself and having its own independent treatment or disposal works and outfall should be installed and provided, to be a special area having a name or number to be determined by the Board.
- (7) The Board may from time to time by special order declare that any special area shall, as from a date to be specified in the special order in that behalf (being not earlier than the date at which the Board is of the opinion that the connection hereinafter referred to can be made), be incorporated in the combined area or in any one particular combined area of the district, and the Board shall as soon as practicable after the making of the special order cause the special area to be connected by trunk sewer to and with the treatment or disposal works and outfall of such combined area, whereupon the special area shall thenceforth cease to be a special area and shall be included in and become part of such combined area.
- (8) The Board may from time to time by special order extend the boundaries of any special area or combined area by including therein any portions of the district which may at any time hereafter be reticulated with and served by sewers connected with the treatment or disposal works of the special or combined area.
- (9) The Board may from time to time by special order declare that any future development area shall, as from a date to be specified in the special order in that behalf (being not earlier than the date at which the Board is of the opinion that the connection hereinafter referred to can be made), be incorporated in the combined area or in any one particular combined area of the district, and the Board shall, as soon as practicable after the making of the special order, cause such future development area to be connected by trunk sewer to and with the treatment or disposal works and outfall of such combined area, whereupon the future development area shall thenceforth cease to be



a future development area and shall be included in and become part of such combined area.

Subsection (1) was substituted, as from 13 August 1983, by section 3 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

Subsection (8) was amended, as from 27 November 1971, by section 2 North Shore Drainage Amendment Act 1971 (1971 No 11(L)).

#### **4 Constitution of Board**

- (1) There shall be for the district a drainage board which shall be a body corporate under the name of the North Shore Drainage Board and shall have perpetual succession and a common seal, with power to purchase, take on lease, hold, deal with, and dispose of by sale, lease, or exchange real and personal property, and to do and suffer all that bodies corporate may lawfully do and suffer.
- (2) The Board shall be deemed to be a local authority under the Public Works Act 1928, the Local Elections and Polls Act 1953, the Waters Pollution Act 1953, the Health Act 1956, and the Local Authorities Loans Act 1956, and, subject to the express provisions of this Act, the provisions of the said Acts shall extend and apply to the Board.
- (3) For the purposes of the Soil Conservation and Rivers Control Act 1941, the Board shall be deemed to be a Drainage Board, and the district shall be deemed to be a drainage district constituted under the Land Drainage Act 1908.

#### **5 Members of Board and election**

- (1) Subject to sections 5A and 5B of this Act, the Board shall consist of 12 members who shall represent the districts or parts of the districts of contributing authorities as follows:
  - (a) two members shall be elected to represent the City of Birkenhead:
  - (b) two members shall be elected to represent the City of East Coast Bays:
  - (c) one member shall be elected to represent the Borough of Devonport:
  - (d) one member shall be elected to represent the Borough of Northcote:

- (e) five members shall be elected to represent so much of the City of Takapuna as lies within the drainage district:
  - (f) one member shall be elected to represent so much of the County of Rodney as lies within the drainage district.
- (2) In the district of each contributing authority the electors shall, for their local district or part of their local district, as the case may be, on the date fixed by section 4 of the Local Elections and Polls Act 1976 for each triennial general election, elect persons to so represent the districts or parts of the districts of the contributing authorities, being in each case a person who is not disqualified for election by section 112 of the Local Elections and Polls Act 1976.
- (3) Subject to section 12(3) of the Local Elections and Polls Act 1976, every person who is a parliamentary elector in respect of any electorate (whether within or outside the drainage district) shall be qualified for election to the Board.
- (4) Subject to the provisions of this Act, every such election shall be held in accordance with the Local Elections and Polls Act 1976 and the provisions of that Act shall apply accordingly.
- (5) In respect of every such election the following provisions shall apply:
- (a) the election shall be conducted within the local district of the contributing authority by the Returning Officer of the contributing authority:
  - (b) the roll of electors prepared under the Local Government Act 1974 for each local district shall be the roll of electors for the election; except that where only part of a local district is within the drainage district the only persons entitled to vote at the election shall be those persons who are on the roll by virtue of an address within that part of the local district, and the principal administrative officer of the contributing authority shall indicate on the roll the names of the persons so entitled to vote.
  - (c) in the application to the Board of the Local Elections and Polls Act 1976, every reference in Part 2 of and section 111 of that Act to the local authority shall be read as a reference to the contributing authority:

- (d) if on the day appointed for the election no persons are duly elected, or the number of persons duly elected is less than the number of persons required to be elected, the contributing authority shall appoint such number of qualified persons to be a member or members representing the local district or part thereof, as the case may require, sufficient in number to meet the requirements of subsection (1) of this section, or of any Order in Council made under section 5A of this Act, or of any special order made under section 5B of this Act, as the case may require; and the person or persons so appointed shall hold office in all respects as if such person or persons had been duly elected in accordance with this Act:
  - (e) within 7 days after declaring the result of the election in accordance with section 42(5)(b) of the Local Elections and Polls Act 1976, the Returning Officer shall give written notification to the Secretary of the Board of that result.
- (6) The cost of every election for a member or members of the Board shall be borne and paid by the contributing authority, except the expenses of scrutineers and other expenses incurred by or on behalf of candidates.

Subsection (2) was amended, as from 21 October 1982, by section 2 Local Elections and Polls Amendment Act 1982 (1982 No 33).

Section 5 was substituted, as from 8 October 1983, by section 4(1) North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

Subsection (3) was substituted, as from 17 June 1986, by section 12 Local Government Amendment Act 1986 (1986 No 21).

Subsection (5)(b) substituted, as from 17 June 1986, by section 12 Local Government Amendment Act 1986 (1986 No 21).

## **5A Inclusion in drainage district of new local districts, etc**

- (1) Subject to section 26(5) of the Local Government Act 1974, on the petition of the Board, or of the local authority of any new local district which may be constituted at any time (whether by the union into 1 local district of all or part of 2 or more adjoining local districts, or by the merger of all or part of any local district in any other local district, or in some other manner) and all or part of the area of which is situated within the drainage district, the Governor-General may by Order in Council in-

clude the new local district or part of it, as the case may be, within the drainage district.

- (2) The Governor-General may, by the same or any subsequent Order in Council,—
  - (a) alter the representation of the districts of contributing authorities to provide for the new local district or part; and
  - (b) for that purpose, reduce the membership of the Board or increase it to not more than 15; and
  - (c) subject to subsection (4) of this section, make such provisions as are necessary in respect of the first or any election of members of the Board, or the vacation of office by members of the Board, made necessary by any such alteration of representation or increase or reduction in membership.
- (3) Every Order in Council made under this section shall have effect according to its tenor notwithstanding the provisions of section 5(1) of this Act.
- (4) On—
  - (a) the union into 1 local district of all or part of 2 or more local districts; or
  - (b) the merger of all or part of any local district in any other local district; or
  - (c) the abolition of any local district—

the members of the Board who represent any such local district or any such part shall continue in office until the next triennial general election of members of the Board.

Section 5A was inserted, as from 13 August 1983, by section 6 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

## **5B Review of representation**

- (1) The Board shall, in the year preceding the year in which a triennial general election of members of local authorities is to be held, but not later than 12 months before the date of that election, by special order determine the number of members to be elected to represent the local district or part of the local district, as the case may require, of each contributing authority.

- (2) In any determination made under subsection (1) of this section the local district or part of the local district of each contributing authority shall be represented by at least 1 member.
- (3) Any such special order may also reduce the membership of the Board or increase it to not more than 15.
- (4) For the purpose of giving due representation to the districts or parts of the districts of the contributing authorities, the Board shall have regard to the population, rateable value, and area of each such district or part, as the case may be, and to such other additional factors or combinations of factors as the Board considers relevant.
- (5) The following provisions shall apply to every special order under this section:
  - (a) it shall have effect according to its tenor notwithstanding the provisions of section 5(1) of this Act:
  - (b) it shall come into force at the next triennial general election of members of the Board, except so far as may be necessary to provide for that election:
  - (c) a copy shall be kept at the office of the Board, and shall be available for inspection without fee by any elector during normal office hours.
- (6) The provisions of section 113 of the Local Government Act 1974 shall apply in respect of every special order made or proposed to be made under this section as if references in the said section 113 to a council and a territorial authority were references to the Board.

Section 5B was inserted, as from 1 January 1988, by section 6(1) North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

## **6 Coming into office of members**

*[Repealed]*

Section 6 was repealed, as from 13 August 1983, by section 7 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

## **7 Vacation of office by member**

- (1) The office of a member shall become vacant, and the vacancy shall be an extraordinary vacancy, if the member—
  - (a) dies; or

- (b) resigns the office by writing under the member's hand delivered to the Secretary or Chairman of the Board, or is ousted from office; or
  - (c) is detained in a hospital under the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
  - (d) is convicted of any offence punishable by death or imprisonment for a term of 2 years or more; or
  - (e) is absent without leave from 4 consecutive meetings of the Board.
- (2) In any case to which subsection (1)(d) of this section applies—
- (a) the disqualification shall not take effect until the expiration of the time for appealing against conviction and, in the event of an appeal against conviction, until the appeal is determined; and
  - (b) the member concerned shall be deemed to have been granted leave of absence until the expiration of that time, and shall not be capable of acting as a member during the period of that leave of absence.
- (3) If any person does any act as a member after the person's office has become vacant under this section (other than under subsection (1)(c) of this section) or while on leave of absence under subsection (2) of this section, the person commits an offence and shall be liable on summary conviction to a fine not exceeding \$100.
- (4) During any extraordinary vacancy in the membership of the Board the continuing members may act, and no act of the Board shall be invalid because the vacancy is not filled.

Subsection (1)(c) was repealed, as from 13 August 1983, by section 7 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

Subsection (2) was amended, as from 10 July 1967, pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Section 7 was substituted, as from 17 June 1986, by section 12 Local Government Amendment Act 1986 (1986 No 21).

The reference to the Mental Health (Compulsory Assessment and Treatment) Act 1992 in subsection (1)(c) was substituted, as from 1 November 1992, for a reference to the Mental Health Act 1969 pursuant to section 137(1) Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46).

## **8 Filling of vacancies**

- (1) Subject to subsections (3) and (4) of this section, any extraordinary vacancy occurring in the Board at any time before the next triennial general election of members of the Board shall be filled by the election, in the district or part of the district of the contributing authority represented by the person whose office has become vacant, of a person qualified to be elected as a member of the Board.
- (2) Every such election shall be held in accordance with the provisions of the Local Elections and Polls Act 1976 on the day fixed under that Act.
- (3) If an extraordinary vacancy occurs within 12 months before the date of the next triennial general election of members of the Board, the contributing authority whose district or part of whose district was represented by the member whose office has become vacant may by resolution determine that—
  - (a) the vacancy be filled in accordance with subsections (1) and (2) of this section; or
  - (b) the vacancy shall be filled by the appointment by that contributing authority of a person qualified to be elected as a member of the Board; and any person so appointed shall for all purposes be deemed to have been elected to fill the vacancy.
- (4) If an extraordinary vacancy occurs within 6 months before the date of the next triennial general election of members of the Board, the contributing authority whose district or part of whose district was represented by the member whose office has become vacant may by resolution determine that the vacancy shall not be filled.
- (5) Every person elected or appointed to fill an extraordinary vacancy shall hold office only for the balance of the term of his predecessor.

Section 8 was substituted, as from 13 August 1983, by section 9 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

## **9 Ouster of office**

- (1) Upon proof in the first instance, by affidavit or otherwise, that any member of the Board is or has become incapable under this or any other Act of holding his office, any District Court may

grant a summons calling upon the person holding that office to show cause why he should not be adjudged to be ousted of that office.

- (2) If on the return of the summons it appears to the Court, on affidavit or oral evidence on oath, that such person is incapable under this or any other Act of holding the said office, the Court may adjudge such person to be ousted of the office, and such person shall be ousted of that office accordingly.
- (3) In any such proceeding the District Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases, and the procedure of that Court shall, so far as applicable, apply generally to proceedings had under this section.
- (4) No question which may be tried under this section shall be tried in the High Court; and no proceedings in the District Court hereunder shall be removable into the High Court, by certiorari or otherwise.

The words "District Court" were substituted for the words "Magistrates Court", as from 1 April 1980 pursuant to section 18(1) District Courts Amendment Act 1979 (1979 No 125).

The words "High Court" were substituted for the words "Supreme Court", as from 1 April 1980, pursuant to section 12 Judicature Act 1979 (1979 No 124).

## **10 Chairman of Board**

- (1) The Board shall at the first meeting following the election of a new Board, appoint one of its members to be Chairman of the Board.
- (2) At every meeting for the election of Chairman the Secretary shall preside while the Chairman is being elected, or if there shall be no Secretary, then some person appointed by the Board, not being a member of the Board, shall so preside, and in the case of an equality of votes shall determine the election by lot in such manner as the Board determines.
- (3) The Chairman shall come into office on his election and shall hold office until the election of his successor.
- (4) The Chairman may resign his office by writing under his hand delivered to the Secretary, and in such case or in the case of his ceasing from any cause to be a member of the Board, his office



shall become vacant, and the Secretary shall forthwith convene a meeting of the Board for the election of a new Chairman.

- (5) The Board may from time to time appoint one of its members to be Deputy Chairman either for a specified period or until the election of a new Chairman.

## **11 Remuneration and travelling expenses of Chairman and members**

*[Repealed]*

Subsection (2) proviso was substituted, as from 27 November 1971, by section 4 North Shore Drainage Amendment Act 1971 (1971 No 11(L)).

Section 11 was repealed, as from 30 March 1985, by section 39(2) Local Government Amendment Act 1985 (1985 No 60).

## **12 Committees**

- (1) The Board may from time to time appoint standing or special committees consisting of two or more persons, and may refer to any such committee any matters for consideration, or inquiry, or management, or regulation, and may delegate to any such committee any of the powers and duties by this Act conferred or imposed upon the Board, except the power to borrow money, to make a rate, to make a bylaw, to institute an action, or to make assessments upon contributing authorities; and may delegate to any such committee, in accordance with the provisions of section 4 of the Public Bodies Contracts Act 1959, any power of the Board to enter into a contract.
- (2) Any committee appointed under this section may include any person who is not a member of the Board:  
Provided that, except in the case of a technical or advisory committee, the majority of the members of any committee appointed under this section shall be members of the Board.
- (3) The Board may appoint a member of any committee to be the permanent Chairman thereof, and such power may be exercised by the committee where the Board, on the appointment of the committee, does not appoint a Chairman. Any committee may from time to time appoint a Deputy Chairman to act in the absence of the Chairman.
- (4) The Board may at any time, and from time to time, discharge, alter, continue, or reconstitute any committee or discharge any

member of a committee, and, if it thinks fit, appoint another member in his stead.

- (5) Every committee shall, unless sooner discharged by the Board, be deemed to be discharged on the coming into office of the members elected in accordance with the provisions of section 5 of this Act at the general election of the whole Board next after the appointment of the committee.
- (6) Every committee to which any powers or duties are delegated as aforesaid may, without confirmation by the Board, exercise or perform the same in like manner and with the same effect as the Board could itself have exercised or performed the same.
- (7) Every such committee shall be subject in all things to the control of the Board, and shall carry out all directions, general or special, of the Board given in relation to such committee or its affairs.

### **13 Chairman of meetings**

At every meeting of the Board the Chairman if present or, in his absence, the Deputy Chairman (if any) shall be the Chairman. If the Chairman and the Deputy Chairman (if any) are absent from any meeting of the Board, then such member as the members of the Board then present shall choose shall be the Chairman of such Board meeting.

### **14 Quorum of Board and committees**

- (1) A quorum of the Board shall consist of half the members if the total membership of the Board is even and a majority of the members if the total membership is odd.
- (2) The Board may fix the quorum of any committee appointed by it, and in default of its so doing the committee may fix the quorum.
- (3) A meeting shall be duly constituted if a quorum is present thereat.
- (4) No business shall be transacted at any meeting of the Board or of any committee unless at least a quorum of members is present thereat during the whole of the time at which the business is transacted.

Subsection (1) was substituted, as from 13 August 1983, by section 10 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

## **15 Meetings of Board and committees**

- (1) Meetings of the Board and of every committee of the Board shall be held at such times and places as the Board or committee from time to time appoints.
- (2) The Secretary shall give written notice to members of the Board of the time and place appointed for holding meetings.
- (3) Every question before any meeting of the Board or of any committee of the Board shall be determined, by open voting, by a majority of the votes of the members present and voting on the question.
- (4) At any meeting of the Board or of any committee of the Board the person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.
- (5) Subject to the provisions of this Act, the Board and every committee of the Board may regulate its own procedure.

Section 15 was substituted, as from 13 August 1983, by section 11 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

## **16 Proceedings not invalidated by irregularities, etc**

All acts and proceedings of the Board, or of any committee of the Board, or of any person acting as a member of the Board, shall, notwithstanding that it may afterwards be discovered that there was some defect in the election or appointment of the Board, committee, or person acting as aforesaid, or that they were or any of them was disqualified or incapable of being members or a member of the Board, be as valid as if every such person had been duly elected or appointed and was qualified to be a member as aforesaid.

## **17 Meetings**

*[Repealed]*

Section 17 was repealed, as from 13 August 1983, by section 12 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

**18 Annual allowances and remuneration of Chairman, chairmen of standing or special committees, and members**

- (1) Where any maximum annual allowance or remuneration is determined under section 214B or section 214C of the Local Government Act 1974 in respect of the Chairman, chairmen of standing or special committees, or members of the Board, there may, subject to the conditions of that determination and sections 214K and 214L of that Act, be paid to each of those persons such annual allowance or remuneration, not exceeding that maximum allowance or remuneration, as the Board determines.
- (2) Where any actual allowance or remuneration is determined under section 214B or section 214C of the Local Government Act 1974 in respect of the Chairman, chairmen of standing or special committees, or members of the Board, there shall, subject to the conditions of that determination and sections 214K and 214L of that Act, be paid to each of those persons the annual allowance or remuneration so determined.
- (3) For the purposes of determining the travelling allowances or expenses payable to members of the Board and members of any committee appointed by the Board, the Board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.
- (4) There shall be paid out of the Fund to the members of the Board and any committee of the Board travelling allowances or expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

The words “three dollars” and the words “one hundred and fifty six dollars” in the original section 18 were substituted, as from 10 July 1967, for the words “thirty shillings” and the words “seventy-eight pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Section 18 was substituted, as from 27 November 1971, by section 5 North Shore Drainage Amendment Act 1971 (1971 No 11).

Section 18 was substituted, as from 30 March 1985, by section 39(2) Local Government Amendment Act 1985 (1985 No 60).

Subsections (1) and (2) were amended, as from 30 March 1985, by section 15(1) Local Government Amendment Act (No 3) 1986 (1986 No 50).

**19 Rules as to proceedings of Board or committees, etc**

The Board may by resolution, subject to the provisions of this Act, make rules—

- (a) regulating the proceedings of the Board and any committee thereof and the conduct of meetings thereof respectively:
- (b) regulating the adjournment and postponement of meetings of the Board, and the manner in which resolutions may be revoked or altered:
- (c) prescribing the form and the mode and time of service of notices of meetings:
- (d) regulating debates:
- (e) providing for the calling of special meetings, and the notice thereof to be given to members:
- (f) providing for the notice to be given to members of extraordinary business to be transacted at any ordinary meeting:
- (g) directing minutes to be kept of all proceedings of the Board, and prescribing the mode of confirmation, and custody of the same:
- (h) providing for the custody of documents and the custody and use of the common seal, and prescribing the mode and form of attestation thereof:

Provided that no resolution made or passed under this paragraph shall affect any person acting in good faith, and taking or to take any estate, interest, or advantage under any document having or about to have the common seal affixed thereto:

- (i) prescribing the powers and duties of officers and servants:
- (j) prescribing forms of and in connection with any proceedings of the Board:
- (k) concerning anything incidental to any of the matters hereinbefore referred to.

**20 Board may provide offices**

- (1) The Board may from time to time provide and maintain public offices, within or without the district, with fitting furniture for the same, for holding its meetings and transacting its busi-

ness and for the use of its officers and for any other purposes, and may purchase or take on lease land or buildings for such purposes, or may cause buildings to be erected on any land belonging to or leased to the Board, or any such building to be added to, improved, or demolished.

- (2) The Board may, in addition to the powers hereby conferred or in lieu thereof, as it may determine, enter into such arrangements as it may deem necessary with any contributing authority for the use, on such terms as may be agreed upon, of portion of the offices of that contributing authority and of furniture and office equipment for the same for the purpose of transacting the business of the Board or holding its meetings.

## **21 Board may appoint officers and servants**

- (1) The Board may by resolution from time to time appoint and employ fit persons to be Manager, Engineer, Chemist, Secretary, Treasurer, and other executive officers; and the Board may also employ all such other officers and employees as it thinks necessary to assist in the execution of this Act, and may pay all such persons such salaries and allowances out of the funds of the Board as it thinks fit.
- (2) One person may hold two or more such offices.
- (3)
- (4) Every person appointed to receive any moneys payable to the Board shall give to the Board sufficient approved security for the faithful execution of his office and the due accounting for all moneys received by him on behalf of the Board:  
Provided that, in lieu of or in addition to taking security from any officer, the Board may provide against any losses that may arise in the event of his dishonesty by taking out a guarantee policy and paying the premiums thereon, or by creating a special fund for the purpose, or partly by one method and partly by the other.
- (5) In lieu of appointing or itself employing an Engineer or Chemist as aforesaid, the Board may engage or retain at such remuneration as it thinks fit the services of such consulting engineers, industrial chemists, technicians, and other experts as may, in the opinion of the Board, be necessary to assist in

the execution of this Act; or the Board may, at its option, enter into an agreement or agreements with any other Drainage Board or local authority or other organisation for the use by the Board from time to time of the services of such engineers, chemists, technicians, and other experts as may be employed by such other authority or organisation on such terms and at such remuneration as may be mutually agreed upon.

Subsection (1) was amended, as from 13 August 1983, by section 13(a) North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

Subsection (1) was amended, as from 13 August 1983, by section 13(b) North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

Subsection (1) was amended, as from 13 August 1983, by section 13(c) North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

Subsection (3) was repealed, as from 1 January 2004, by section 76 Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17).

## **22 Acting officer**

During the absence from duty of any officer of the Board by reason of illness, leave of absence, or other cause, the duties and powers of that officer may be performed and exercised by an acting officer appointed by the Board, and any such appointment may be either general or for some occasion only.

## **23 Bylaws**

(1) The Board may from time to time make bylaws for all or any of the following purposes:

- (a) to regulate the management and use of inlet appliances giving access to the sewers and drains of the board, including grids, and to prevent the putting of anything into such sewers or drains or allowing anything to enter such sewers or drains, save such matters as may be carried in with water entering in the course of the legitimate use of such appliances:
- (b) regulating sanitary plumbing and drainage throughout the whole of the district:

Provided that no such bylaw shall override or be in conflict with any provision of the Drainage and Plumbing

Regulations 1959 in their application to the Board's district except in so far as the bylaw may specify—

- (i) requirements of the Board additional to or more detailed than the requirements under the said regulations; or
  - (ii) the nature of the Board's requirements regarding matters which under the said regulations are left to the decision or approval of the various engineers of the local authorities affected:
- (c) protecting from damage, injury, or misappropriation any property belonging to the Board or controlled by it and situate within or beyond the district:
  - (d) prescribing charges to be paid in respect of connections to the Board's sewers by persons and authorities other than local authorities:
  - (e) for the purposes of section 36 of this Act.
- (2) The power to make bylaws under this section is additional to and not in substitution for the powers conferred upon the Board under any other provision of this Act or any other Act.
  - (3) The Board may, by any such bylaw, provide a penalty for every breach thereof to an amount which shall be in the discretion of the Court inflicting the penalty, and shall in no case exceed the sum of \$500 for a single offence or the sum of \$50 a day for a continuing offence.
  - (4) Any bylaw made by the Board shall within the drainage district over-ride any bylaws on the same subject matter made by any local authority.
  - (5) Any local authority may, with the consent of the Board, undertake within its own district the enforcement and administration of any bylaws made by the Board.
  - (6) The Board may, after any person is convicted of a continuing breach of any bylaw, apply to any Court of competent jurisdiction for an injunction to restrain the further continuance of the breach by the person so convicted:  
Provided however that, notwithstanding anything contained in the District Courts Act 1947, every District Court shall have jurisdiction to grant such an injunction for the purposes afore-



said as might be granted in the like case by the High Court in as full and ample a manner.

- (7) The continued existence of any work or thing in a state contrary to any bylaw shall be deemed a continuing offence.
- (8) A bylaw may authorise the Board, or any officer thereof, to give notice in writing to any person by whom any work shall have been begun or done in contravention of any bylaw of the Board to remove, alter, or pull down such work, to such extent as may be required by the Board or by any such officer as aforesaid to ensure compliance with the bylaw, within such time as may be specified in that behalf by the said notice. Any person who fails to comply with any such notice commits a continuing offence against the bylaw under which such notice is given as aforesaid.
- (9) A bylaw may also authorise the Board, or any officer thereof, to pull down, remove, or alter any building, work, material, or thing erected or being in contravention of any bylaw, and to recover from the person committing the breach all expenses incurred by the Board in connection with such pulling down, removal, or alteration.
- (10) The exercise of the authority conferred by the last preceding subsection shall not relieve any such person from liability to any penalty incurred by reason of such breach.
- (11) All bylaws, rules, and regulations in force in the drainage district or any part thereof at the coming into force of this Act shall, so far as not inconsistent with this Act, be and continue in force within the drainage district, or any part thereof as aforesaid until superseded by bylaws made under this Act, and shall be as valid and effectual as if made under this Act, and may be proved and enforced in the manner hereinafter provided.

The words “one hundred dollars” and “ten dollars” in subsection (3) were substituted, as from 10 July 1967, for the words “fifty pounds” and “five pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Subsection (3) was amended, as from 13 August 1983, by section 14(a) North Shore Drainage Amendment Act 1983 (1983 No 3(L)). It was further amended by section 14(b) of that Act.

The reference to the District Courts Act 1947 in subsection (6) was substituted for a reference to the Magistrates’ Courts Act 1947 pursuant to section 2(3) District Courts Amendment Act 1979 (1979 No 125).

The words “District Court” in subsection (6) were substituted for the words “Magistrate’s Court”, as from 1 April 1980, pursuant to section 18(2) District Courts Amendment Act 1979 (1979 No 125).

The words “High Court” in subsection (6) were substituted for the words “Supreme Court”, as from 1 April 1980, by section 12 Judicature Act 1979 (1979 No 124).

## **24 Form of making bylaws**

- (1) Bylaws of the Board shall be made only in the manner and subject to the conditions following:
- (a) they shall be made only by special order:  
Provided that in publicly notifying the resolution making the order it shall not be necessary to set forth the whole of the proposed bylaw if the object or purport of it is stated, and if a copy of the proposed bylaw is deposited at the office of the Board or at some other place in the district which shall be specified in the notification, and is open to inspection by the public during office hours for at least seven days immediately preceding the meeting at which the resolution is to be confirmed:
  - (b) a copy of any proposed bylaw shall be sent by the Board to each of the contributing authorities at least twenty-one days before the date of the special meeting of the Board at which the resolution making the proposed bylaw is to be submitted for confirmation:
  - (c) they may be amended before confirmation of the special order making the bylaws:
  - (d) they shall have the common seal of the Board affixed thereto:
  - (e) they shall be sent to the Minister of Health within seven days after the making of the special order:
  - (f) subject to the next succeeding paragraph, they shall come into force on a day to be named therein or in the special order making them, being a day not earlier than three months after the making of the special order in the case of bylaws made under paragraph (a) of subsection (1) of the last preceding section, and not earlier than one month after the making of the special order in the case of bylaws made under paragraph (b), paragraph (c), paragraph (d), or paragraph (e) of the said subsection (1):

- (g) they may, within three months after the making of the special order, by notice in the *Gazette*, be in whole or in part disallowed or amended by the Minister of Health.
- (2) The production of any document purporting to be a copy of any bylaw made by the Board in whole or in part under the authority of this Act, and to be sealed with the common seal of the Board, shall, until the contrary is shown, be sufficient evidence of such bylaw having been duly made, and that the same duly came into force on the day mentioned in that behalf in such copy of the bylaw.
- (3) The Board shall cause copies of all bylaws to be kept at the office of the Board, and to be supplied to any person applying for the same at such price as may be fixed by the Board from time to time.
- (4) Nothing in this Act or in any bylaw made thereunder shall be deemed to relieve any person from any penalty, action, or other liability to which he would otherwise be liable or subject in respect of anything done by him in breach of any such bylaw.

## **25 Special orders**

Every special order made hereunder may be made and proved in the same way, with the necessary modifications, as a special order of a Borough Council is required to be made, and may be proved under the Municipal Corporations Act 1954: Provided, however, that no confirmation shall be required of any resolution passed by the Board making a special order to raise a loan which has already been sanctioned.

## **26 Contracts of Board, how made**

The Board may from time to time enter into such contracts with any such persons as it thinks fit for the execution of any works directed or authorised by this Act to be done by the Board or for furnishing materials or for any other thing necessary for the purposes of this Act.

## **27 Powers of Board**

- (1) The Board is hereby empowered and shall at all times since the first day of December, nineteen hundred and fifty-one, being

the date of the passing of the North Shore Drainage Act 1951 be deemed to have been empowered, to prepare, adopt, construct, and put into operation a scheme or schemes of sewerage works for the whole or any part of the district and also to make and carry out such detailed investigations, whether technical or otherwise, as in the opinion of the Board may be or were necessary for enabling such scheme or schemes of sewerage works to be prepared, adopted, constructed, and put into operation as aforesaid.

- (1A) The Board shall have the power to carry out the investigation or testing of any reticulation works if the investigation or testing is in any way connected with or is affecting the operations of the Board.
- (2) Any such scheme of sewerage works shall make provision for, *inter alia*, and shall indicate in particular—
- (a) the main trunk sewer systems proposed for the district;
  - (b) the boundaries of the watershed areas which it is intended should be drained into and served by each trunk sewer;
  - (c) the levels and positions of all intakes into such trunk sewers;
  - (d) the proposed grades and capacities of all such trunk sewers;
  - (e) the position of the outfall, or, if more than one, the positions of the outfalls, intended to be used for the disposal of all effluents; and
  - (f) the location and general design of all proposed treatment works, utilisation plants, and other sewerage works.

Provided that nothing in paragraph (e) of this subsection shall be deemed in any way to affect or derogate from the rights and powers conferred upon the Auckland Harbour Board by section 63 of this Act.

- (3) The Board is also hereby empowered, and shall at all times since the first day of December, nineteen hundred and fifty-one, aforesaid be deemed to have been empowered, to make, enter upon, and conduct all such further investigations, research and experiments as the Board thinks fit or has thought fit for the purpose of determining, after taking into consider-

ation the technical and economic possibilities thereof, the extent (if any) to which it may be or was practicable to utilise, in the manufacture and production of organic fertilisers, sewage sludge produced from the treatment of sewage in the manner which it is recommended should be adopted for the district as hereinafter provided combined with such other organic wastes as may or might have from time to time become available to the Board for that purpose.

- (4) The Board is also hereby empowered, and shall at all times since the first day of December, nineteen hundred and fifty-one, aforesaid be deemed to have been empowered, to engage or retain at such remuneration as it shall think or has thought fit the services of such consulting engineers, industrial chemists, technicians, and other experts as, in the opinion of the Board, may be or were necessary in order to enable the investigations and the scheme of sewerage works referred to in this section to be respectively made, carried out, and prepared, adopted, constructed, and put into operation as aforesaid.
- (5) Nothing in this section shall be deemed to prevent or preclude or shall be deemed at any time since the first day of December, nineteen hundred and fifty-one, aforesaid to have prevented or precluded the Board from taking, with the approval of the Minister of Health, the Minister of Works and Development, and the Auckland Harbour Board, such immediate action as the Board thinks or may have thought fit for the purpose of improving the standard of the effluent or effluents discharged from existing outfalls within the district.
- (6) The Board shall cause to be and is hereby empowered, and shall at all times since the first day of December, nineteen hundred and fifty-one, aforesaid be deemed to have been empowered, to put into operation all such proper, efficient, and approved methods of treatment of sewage within the district as are sufficient and effective to ensure that the waters of the Auckland Harbour and the Hauraki Gulf are not polluted by effluents discharged from any of the outfalls owned and operated by the Board to an extent amounting to an infringement of the standards and conditions for the time being fixed under section 42 of this Act.

- (7) In addition to but without in any way derogating from all or any of the powers aforesaid, the Board shall have and shall at all times since the first day of December, nineteen hundred and fifty-one, aforesaid be deemed to have had the sole right within the district—
- (a) to plan for the installation of and to construct all trunk sewers which in the opinion of the Board are or have been necessary from time to time in order to provide for the complete or partial main trunk sewer systems of the district, as the case may be;
  - (b) to prescribe and define those portions of the district which are from time to time to be included within the main drainage reticulation system for the district; and
  - (c) to determine the appropriate levels for and the points at which the sewers serving those portions of the district referred to in the last preceding paragraph shall be connected to the Board's trunk sewers.
- (8) The Board shall have and shall at all times since the first day of December, nineteen hundred and fifty-one, aforesaid be deemed to have had the sole right within the drainage district to construct, control, and manage—
- (a) all trunk sewers and pumping stations which are discharging or which are intended to discharge directly into a trunk sewer; and
  - (b) all storage tanks, outfalls, and sewage treatment and sewage utilisation plants.
- (9) The Board may also at any time and from time to time by notice in writing require any local authority to maintain and manage and to effect such alterations as the Board may consider advisable to any existing sewers, pumping stations, storage tanks, storage culverts, sewage treatment plants, and outfalls while they continue to be in use and operation:  
Provided that nothing in this subsection shall be deemed in any way to affect or derogate from the rights and powers conferred upon the Auckland Harbour Board by section 63 of this Act.
- (9A) Subject to subsection (9B) of this section, in the event of any such local authority failing to fulfil any requirement made under subsection (9) of this section within a period of 2 months after the date on which written notice to that effect

was given to it by the Board, the Board may itself fulfil the requirement and recover the cost of doing so from the local authority.

- (9B) Any local authority on which a notice has been served under subsection 9 of this section shall have the right to refer the matter to arbitration in accordance with section 79 of this Act.
- (10) Nothing in this Act shall operate to prevent the establishment or maintenance of works for the treatment or disposal of trade wastes, refuse, or other substances which the Board's drainage system is not designed to receive or deal with or which the Board will not permit to be discharged into that system:  
Provided that any such works shall be established and at all times maintained only upon and subject to such terms and conditions as shall from time to time be determined and prescribed by the Board:  
Provided also that nothing in this section shall be deemed in any way to affect or derogate from the rights and powers conferred upon the Auckland Harbour Board by section 63 of this Act.
- (11) Any storage tank, storage culvert, storage tunnel, outfall, sewage treatment plant, or sewer which has already been constructed within the drainage district by some local authority, and which is serving two or more local districts, may be taken over by and vested in the Board upon such terms and conditions as may be agreed upon between the Board and the local authority concerned, or, if they are unable to agree, then upon such terms and conditions as shall be settled by arbitration under the provisions of the Arbitration Act 1908.

Subsection (1A) was inserted, as from 27 November 1971, by section 6(1) North Shore Drainage Amendment Act 1971 (1971 No 11).

Subsection (2) was amended, as from 27 November 1971, by section 6(2) North Shore Drainage Amendment Act 1971 (1971 No 11).

Subsection (5) was amended, as from 21 September 1972, by section 6(1) Ministry of Transport Amendment Act 1972 (1972 No 4).

The words "Minister of Works and Development" in subsection (1) were substituted, as from 21 November 1973, for the words "Minister of Works" pursuant to section 2(4)(a) Public Works Amendment Act 1973 (1973 No 44).

Subsections (9A) and (9B) were inserted, as from 27 November 1971, by section 6(3) North Shore Drainage Amendment Act 1971 (1971 No 11).

**28 Authorising Board to permit construction of temporary treatment plants**

- (1) Notwithstanding anything to the contrary contained in subsection (8) of section 27 of this Act but subject in all other respects to the provisions of this Act, the Board may by resolution permit any local authority or person or body of persons to construct, maintain, and manage any temporary sewage treatment plant within the North Shore Drainage District subject to such conditions as the Board may impose including, if so required by the Board, the completion by that local authority of an agreement with the Board embodying those conditions.
- (2) Every such plant shall be constructed in accordance with plans and specifications prepared or approved by the Board and the Medical Officer of Health at the expense in all respects of the local authority concerned and shall be maintained and managed to the satisfaction of the Board and the Medical Officer of Health.
- (3) Any such permission given by the Board and any such agreement entered into between the Board and any local authority at any time before the coming into force of this Act shall, where the approval of the Director-General of Health or the Medical Officer of Health has been given to the plans of the temporary sewage treatment plant, be deemed to be valid and binding.

Subsection (1) was amended, as from 13 August 1983, by section 15 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

**29 Construction of trunk sewers, etc**

The Board may from time to time construct, maintain, and operate within or outside the district all such main sewerage works, trunk sewers, pumping stations, storage tanks, outfalls, treatment works, utilisation works, and other works and things as may in the opinion of the Board be advisable for the proper and efficient drainage of the district:

Provided that no such works shall be constructed within the district or sphere of influence of any other Drainage Board except with the consent of that other Board, which consent shall not be unreasonably or arbitrarily withheld:

Provided also that nothing in this section shall be deemed in any way to affect or derogate from the rights and powers con-



ferred upon the Auckland Harbour Board by section 63 of this Act.

**30 Construction of treatment works, etc**

- (1) The Board is hereby empowered to construct and shall be deemed to have been required and empowered, as soon as practicable after and at all times since the first day of December, nineteen hundred and fifty-one, being the date of the passing of the North Shore Drainage Act 1951, to construct—
- (a) one or more common or unified treatment works for the purpose of treating sewage from the district (being either domestic sewage or domestic sewage and trade wastes as the Board may at the time of construction of the said works determine), and such works shall be so designed, constructed, and operated as to ensure that at all times the effluent conforms to the standards and conditions for the time being fixed under section 42 of this Act;
  - (b) trunk sewers and pumping stations for the purpose of conveying sewage from any part of the district provided with a drainage reticulation system to such common treatment works; and
  - (c) an outfall sewer or outfall sewers for the purpose of discharging into the sea the effluent from such treatment works at such place or places as may be required and approved pursuant to the Harbours Act 1950:  
Provided that, subject to compliance with the provisions of the Harbours Act 1950, the construction of any outfall sewer to tidal waters and of any submarine sewer shall be subject to the approval of the Auckland Harbour Board and the Minister of Health as to location, depth, and other details of construction, and such approval shall be obtained before the construction of the said works is commenced.
- (2) No sewage (including within that term either domestic sewage alone or trade wastes alone or domestic sewage and trade wastes) shall be discharged from any portion of the district into the waters of the Auckland Harbour or of the Rangitoto Channel or of the Hauraki Gulf except through outfalls

owned and operated by the Board or by any person operating pursuant to subsection (10) of section 27 of this Act:

Provided that, subject to the provisions of any enactment relating to pollution or nuisance, and in particular to the provisions of section 41 of this Act, such sewage from the district may be discharged from any existing outfall until such time as the Board has completed the works necessary to convey such sewage to any common or unified treatment works:

Provided also that this subsection shall not apply to existing storm-water overflows forming part of the sewerage system of any local authority.

- (3) No rent, charge, or other fee shall be payable by the Board to, nor shall any rate be levied by any person or corporation in respect of any lands in the Auckland Harbour on, over, or under which any of the said sewers or works are constructed or laid and which therefore are or may from time to time be occupied by such sewers or works.
- (4) The Board may, subject to compliance with sections 175 and 178 of the Harbours Act 1950, and, if the land is within harbour limits, with the precedent consent of the Auckland Harbour Board, reclaim any land that is necessary for the drainage operations of the North Shore Drainage Board as if that Board were a local authority under the Harbours Act 1950. Any land so reclaimed may, without the authority of a special Act, be transferred to the North Shore Drainage Board, or to any local authority the district of which adjoins any such reclaimed land, or may, as the case may require, be vested in the North Shore Drainage Board or in any such local authority as aforesaid under the said section 175.

### **31 General powers of Board**

- (1) The Board may from time to time, in addition to its powers under the Public Works Act 1928, by itself, its surveyors, engineers, agents, officers, and workmen, exercise the following powers or any of them, and may execute, do, or cause to be executed or done any of the following acts, matters, or things:
  - (a) break up the soil of any roads, streets, ways, or foot-paths, and excavate and sink trenches and make and construct tunnels and subways for the purpose of laying

down, making, constructing, altering, cleansing, maintaining, or repairing trunk sewers or other works:

Provided that before interfering with any such road, street, way, or footpath the Board, except in cases of emergency, of which the Board shall be the sole judge, shall give one week's notice in writing to the local authority having control thereof, and shall in any case with all convenient speed reinstate and make good any road, street, way, or footpath that may be broken up or, at the option of the local authority, pay to it the cost of such reinstatement and making good:

- (b) without any previous payment, tender, or deposit—
- (i) enter upon and use any land, other than land occupied as a garden or ornamental shrubbery, for the purpose of taking any earth, stone, clay, or scoria therefrom:

Provided that in the case of lands held for any public purpose within the meaning of subsection (2) of section 2 of the Reserves and Domains Act 1953, this power shall not be exercised without the consent of the controlling authority or administering body, but such consent shall not be unreasonably or arbitrarily withheld, and in the case of other land this power shall not be exercised until twenty-four hours' notice of intention so to do has been given to the occupiers;

- (ii) enter upon and use any land adjacent to or reasonably required for obtaining access to the site of any trunk sewer or other works authorised by this Act or by any legislation repealed thereby to be constructed, or while any such trunk sewer or other works are in course of construction or when the same are or have before the passing of this Act been actually constructed, for the purpose of making temporary roads or approaches to any works or temporarily storing any material therefor and for the purpose of inspecting, altering, renewing, repairing, maintaining, or cleaning any such works; and

- (iii) enter upon any lands or premises within or upon which it is proposed that any works shall be executed under this Act, or any lands and premises adjacent thereto, and make an inspection, survey, and examination thereof, and for that purpose (subject to the provisions of the Underground Water Act 1953) to bore therein:
- (c) make or construct the said trunk sewers, or any part thereof, or any other works, upon or under any lands or buildings, subject to the provisions of section 63 of this Act and also to the following conditions:
  - (i) a plan and description of the trunk sewers or other works, showing how they affect any such land or buildings, shall be deposited for public inspection at the office of the Board, and copies of the plan and description shall also be supplied to the local authority within whose local district the said trunk sewers or other works are to be constructed;
  - (ii) the Board shall give notice in writing to the occupier, and also to the owner so far as he can be ascertained of such land or buildings of the intention to construct the trunk sewers or other works, and shall refer in such notice to the plan and description, and state where they are on view. In the case of unoccupied land or buildings of which the owner is not known, the notice may be served by being affixed in a conspicuous place thereon or thereto;
  - (iii) if within one month after such notice is given the said owner or occupier serves on the Board a written objection to the proposed work, the Board shall appoint a day for hearing the objection, and shall give notice of the day so appointed to the objector; and
  - (iv) the Board shall hold a meeting on the day so appointed, and may, after hearing any person making such objection, if present, determine to abandon the work proposed, or to proceed therewith

with or without such alterations as the Board thinks fit:

- (d) erect and use any buildings, structures, machinery, man-holes and other entrances, light and lamp holes, ventilating grids, and other works and things of every description in connection with drainage and sanitation in, upon, or under any public or private street or public place within or without the district:

- (e) carry any ventilating shaft, pipe, or tube up or upon any external wall of any building, whether private or public, and affix the same thereto:

Provided that the mouth of every such shaft, pipe, or tube shall be at least six feet higher than any windows situated within a distance of thirty feet therefrom, and, where attached to a house, shall be higher than the eaves or parapet thereof:

- (f) during the construction of its works, use any private drain or watercourse within or without the district to carry water from such works:

- (g) treat and deal with, in such manner as to it shall seem best, all sewage, refuse, and other matter, whether for the purpose of deodorising, disinfecting, or destroying the sewage, refuse, or other matter, or of converting the same into an organic fertiliser or other marketable product and selling or otherwise disposing of the same, and subject to the provisions of section 32 of this Act shall not be liable, except in compensation under section 34 of this Act, for any nuisance or injury necessarily created or caused in so doing; and in particular, and without restricting the general powers herein given, it shall have power to treat sewage, refuse, and other matter by any treatment process, septic tanks, or electricity, and, unless prohibited by the Governor-General by Order in Council from so doing, may ship sewage sludge and discharge it into the sea:

Provided that the Board shall not, without the precedent consent in writing of the Auckland Harbour Board, discharge any sewage, refuse, sludge, or other matter, other than the effluent from any treatment works under the

control of the Board, in any place within the limits of the Auckland Harbour or in any place where the same might be carried by wind or tide within the limits of the said harbour, or in any case within three miles from any foreshore or in such a manner that it will be likely to be carried on to any foreshore, or in any tidal waters outside the limits of the Auckland Harbour except with the prior consent of the Minister of Works and Development and in compliance with such conditions as he may impose:

Provided also that nothing in this paragraph shall operate to relieve the Board from liability under any rule of law for any nuisance within the meaning of section 29 of the Health Act 1956:

- (h) acquire and operate ships, boats, barges, cranes, lorries, and other equipment for the purpose of removing, handling, or disposing of sewage, sludge, refuse, or similar matter:
- (i) after giving any notice under the provisions of paragraph (c) of this subsection, and when all objections thereto have been disposed of, the Board may cause a certificate signed by the Secretary describing such trunk sewers or other works and the lands affected thereby, and stating a place or places at which a plan indicating the line or location thereof may be inspected, to be prepared and deposited in the office of the District Land Registrar or the Registrar of Deeds, as the case may be, at Auckland; and, where the land referred to in such certificate is subject to the Land Transfer Act 1952, the District Land Registrar shall register against the title to such land a memorial of such certificate, and in every other case the Registrar of Deeds shall cause an entry thereof to be made under the proper head or title in the index book of the Deeds Register Office:

Provided that, if at any time after the issue of a certificate under the provisions of this paragraph, it is found that the line of any trunk sewer will not pass through such land or any part thereof, or that an error in form or substance exists in or in relation to any such certifi-

cate, the Board may, by depositing at the office of the District Land Registrar or the Registrar of Deeds, as the case may require, at Auckland, a subsequent certificate, signed by the Secretary, wholly revoke the former certificate or amend the same to such extent as the Board may think necessary. A memorial of such subsequent certificate shall thereupon be registered against the title to any land referred to therein which is subject to the Land Transfer Act, and in every other case an entry thereof shall be made in the index book of the Deeds Register Office in the manner hereinbefore provided; and the former certificate shall thereupon be deemed to have been void and of no effect as from the date thereof as if it had not been made or given or registered either wholly, in the case of a revocation thereof, or to the extent to which it has been amended by the subsequent certificate, in the case of an amendment of the former certificate:

Provided also that the District Land Registrar shall not be under any obligation to register any such memorial against the duplicate original copy of any certificate of title affected thereby nor to call in any such duplicate original copy for that purpose:

- (j) notwithstanding anything in paragraph (i) of this subsection (but without derogating in any respect from the powers thereby conferred upon the Board) as soon as practicable after any trunk sewer or other work has actually been constructed, the Board, if it has not already caused a certificate to be deposited in accordance with paragraph (i) of this subsection, may cause a certificate signed by the Secretary to be prepared and deposited in the office of the District Land Registrar or the Registrar of Deeds, as the case may be, at Auckland. Every such certificate shall set forth the following information:
  - (i) a brief description of that trunk sewer or other work and the legal description of the lands affected thereby; and
  - (ii) a statement that a plan or plans defining the location of that trunk sewer or other work in relation

to those lands may be inspected at the office of the Board and also at the office or offices of the local authority or local authorities named in the certificate:

- (k) where the lands referred to in paragraph (j) of this subsection are subject to the Land Transfer Act 1952, the District Land Registrar shall register against the title to those lands a memorial of the certificate referred to in the said paragraph (j), and in every other case the Registrar of Deeds shall cause an entry thereof to be made under the proper head or title in the index book of the Deeds Register Office:

Provided that the District Land Registrar shall not be under any obligation to register any such memorial against the duplicate original copy of any certificate of title affected thereby nor to call in any such duplicate original copy for that purpose:

- (l) no stamp duty shall be charged or payable on or in respect of any such certificate nor shall any fee be payable in respect of the registration of any such memorial as aforesaid.
- (1A) Where, on the subdivision of any land, the local authority with whom copies of the plans of the relative trunk sewers have been lodged is required to approve the subdivisions under Part 25 of the Municipal Corporations Act 1954, or Part 2 of the Counties Amendment Act 1961, as the case may be, the local authority, before granting such approval, shall require the course of the trunk sewer to be defined on the plan of subdivision in terms of the copies of the trunk sewer plans and identified with the registered certificate.
  - (1B) On the deposit under the Land Transfer Act 1952 of any plan of subdivision to which subsection (1A) of this section applies, the District Land Registrar shall make no entry of the registered certificate upon any certificate of title he may issue for any allotment on the plan unless the plan shows the course of the trunk sewer passing through that allotment.
  - (1C) Where the District Land Registrar has registered a certificate against any land under either paragraph (i) or paragraph (j) of subsection (1) of this section, the Board may, in any case to



which subsection (1B) of this section does not apply, lodge with the District Land Registrar a request to cancel any entry made in respect of the certificate in relation to that land or to any sufficiently well defined part thereof; and on receipt of any such request the District Land Registrar shall attach it to the certificate and cancel the entry accordingly.

- (2) The Board shall have power to acquire by licence or otherwise permission or the right to use any land for the purposes for which land may be acquired, and any land owned or otherwise acquired by it may be sold, let, or leased by the Board by public auction, or public tender, or private contract, as it deems proper, at such price, for such term or terms, at such rent or rents, and upon and subject to such terms and conditions in every respect, as the Board thinks fit.
- (3) The Board may purchase and hold any land within or without the district which, in the Board's opinion, may be required for the purposes of this Act, and the Board also may take, in the manner and subject to the provisions of the Public Works Act 1928, and hold any lands within the district which, in its opinion, are required for the purposes aforesaid.

Subsection (1)(g) was amended, as from 21 September 1972, by section 6(1) Ministry of Transport Amendment Act 1972 (1972 No 4).

The words "Minister of Works and Development" in subsection (1)(g) were substituted, as from 21 November 1973, for the words "Minister of Works" pursuant to section 2(4)(a) Public Works Amendment Act 1973 (1973 No 44).

Subsection (1)(j) was amended, as from 27 November 1971, by section 7(1) North Shore Drainage Amendment Act 1971 (1971 No 11).

Subsections (1A) to (1C) were inserted, as from 27 November 1971, by section 7(2) North Shore Drainage Amendment Act 1971 (1971 No 11).

### **31A Gas and electricity**

- (1) The Board may use any sludge gas derived from the treatment of sewage, sewage sludge, or trade wastes for any purpose and in any manner connected with its operations or the works under its control.
- (2) The Board may sell and dispose of any such gas—
  - (a) to the Auckland Gas Company Limited; or
  - (b) to the occupiers of trade premises discharging trade wastes from which a substantial portion of the gas is derived; or

- (c) to the occupiers of any other trade premises—  
and the Board shall accord such parties, in the foregoing order of priority, the opportunity of purchasing such gas as it may desire to sell. The Auckland Gas Company Limited, as a retailer of gas, shall be allowed a rebate in accordance with normal commercial practice.
- (3) The Board may generate electricity and may use such electricity within the limits of the premises in which the same is generated for any purposes and in any manner connected with its operations or the works or property under its control.
- (4) The Board may sell any such electricity to the the responsible department of State or to the Waitemata Electric Power Board.
- (5) Any electric lines, plant, or works necessary for the transmission of any electricity within the limits of the premises in which the electricity is generated may be constructed and maintained by the Board.
- (6) Subject to the provisions of this section, the Board may construct all such works and do all such acts and things as it may deem necessary or expedient to enable it to obtain the full benefit to be derived from the production of gas or the use, sale, or other disposition thereof or to enable it to obtain the full benefit to be derived from the generation and use of electricity within the limits of the Board's premises (but not elsewhere) or the sale of any such electricity.
- (7) In the exercise of the powers conferred by this section in relation to the generation, use, and transmission of electricity, the Board shall comply with the provisions of the Electricity Act 1992 and any regulations made under that Act.
- (8) The powers conferred by this section shall not be limited by the provisions of the Auckland Gas Company's Act 1871 and such powers shall subsist notwithstanding the provisions of the Energy Companies Act 1992.
- (9) In this section the word **premises** in relation to premises of the Board, means any continuous area of land owned or controlled by the Board as one composite block and, for the purposes of this section, an area of land shall be deemed to be continuous notwithstanding that the same is severed by roads or streets

running through the same and leaving part on one side of the road or street and the balance on the other side.

Section 31A was inserted, as from 24 October 1969, by section 2 North Shore Drainage Amendment Act 1969 (1969 No 7(L)).

The words “the Ministry of Energy” in subsection (4) were substituted, as from 1 April 1978, for the words “New Zealand Electricity Department” pursuant to section 18(3)(b) Ministry of Energy Act 1977 (1977 No 33).

The words “the responsible department of State” in subsection (4) were substituted, as from 2 January 1990, for the words “Ministry of Energy” pursuant to section 4(c) Ministry of Energy (Abolition) Act 1989 (1989 No 140).

The reference to the Electricity Act 1992 in subsection (7) was substituted, as from 1 April 1993, for a reference to the Electricity Act 1968 pursuant to section 173(1) Electricity Act 1992 (1992 No 122).

The reference to the Energy Companies Act 1992 in subsection (8) was substituted, as from 7 October 1994, for a reference to the Electric Power Boards Act 1925 pursuant to section 96(2) Energy Companies Act 1992 (1992 No 56).

### **32 Abatement of nuisances created by Board**

- (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 this Act, the local authority of the local district in which the nuisance exists or of any local district any part of which is affected by the nuisance may, with the concurrence of the Director-General of Health, 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 District 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 local authority may, without further notice to the Board, cause the nuisance to be abated, and for that purpose may enter on any land or premises of the Board by its servants or agents and execute or cause to be executed thereon such works as may be necessary.
- (5) All expenses reasonably incurred by the local authority in the abatement of a nuisance under subsection (4) of this section shall be recoverable by the local authority from the Board.
- (6) Nothing in this section shall derogate from the provisions of the second proviso to paragraph (g) of subsection (1) of section 31 of this Act or of section 34 of this Act.

The words "District Court" in subsection (2) were substituted for the words "Magistrate's Court", as from 1 April 1980, pursuant to section 18(2) District Courts Amendment Act 1979 (1979 No 125).

### **33 General powers of dealing with property**

Notwithstanding the provisions of sections 30 and 31 of this Act or any other specific provisions of this Act limiting in any particular case the generality of this section, the Board is hereby empowered and shall, at all times since the first day of December, nineteen hundred and fifty-one, being the date of the passing of the North Shore Drainage Act 1951 be deemed to have been empowered, for the purpose of constructing any works authorised by this Act or any statutory provision repealed by this Act, or for any purpose incidental to the performance or carrying out of the objects or purposes of this Act or of any statutory provision repealed by this Act, to purchase or otherwise acquire, rent or hire, sell, exchange, lease, let, or otherwise deal with or dispose of property, real or personal, of any description, or any estate or interest therein or any rights thereover and whether by public auction, public tender, or private contract, and subject to such terms and conditions in all respects as the Board thinks fit and proper:

Provided, however, that any land which is not required for the purpose for which it was acquired by the Board shall be sold

only pursuant to and by the authority of a special order of the Board.

**34 Compensation for lands taken or damaged**

Every person having any estate or interest in any lands taken under the authority of this Act for any works, or injuriously affected thereby, or suffering any damage from the exercise of any of the powers hereby given, shall be entitled to full compensation for the same from the Board. Such compensation may be claimed and shall be determined and recovered in the manner provided by the Public Works Act 1928.

**35 Protection of Board's sewers and works**

- (1) If any person proposes to erect any buildings or to carry out any works over, under, or within such distance of any sewer or other structure owned by or under the control of the Board that such sewer or structure may be injuriously affected, such person shall notify the Board in writing of his intentions and shall carry out or shall permit the Board to carry out (at the expense in either case of such person) such works for the protection of the Board's sewer or other structure as the Board may deem necessary for the purpose; and, in the event of any damage being caused to any sewer or structure of the Board as a result of or consequent upon any failure by any such person to inform the Board of his proposals or to carry out all necessary protective works, the cost of repair or reinstatement of the Board's works so damaged and all other costs and expenses whatsoever incurred by the Board in connection therewith shall be a debt due by such person to the Board recoverable on demand. The remedies hereby conferred are without prejudice to and shall not by implication derogate from nor limit the powers, rights, or other remedies of the Board.
- (2) The Board may at any time by notice in writing to such person order work on any such erection or works to cease whenever either such notice has not been given or when such work is being performed in such a way that any sewer or other structure under the control of the Board may be damaged or otherwise injuriously affected until the requirements of this section as

to the giving of notice or the carrying out of protective works have been complied with.

- (3) Before granting a building permit to any person who proposes to erect any building or to carry out any works over, under, or within fifty feet (or thirty-three feet if no blasting is to be done and there are no special circumstances or unusual conditions, of which the Engineer to the Board shall be the sole judge) of the line of any sewer forming part of the Board's main sewerage works or within similar distances of any other structure owned by or under the control of the Board, the local authority to which application for such a building permit is made shall require the applicant to produce for its inspection the consent in writing of the Board to the erection of the said building or to the carrying out of the said work; and any building permit granted by that local authority shall be subject to compliance by the applicant with all such conditions for safeguarding and protecting such sewer or other structure as the Board may prescribe, and also to payment by the applicant of all such costs and expenses as may have been incurred by the Board in connection with or incidental to the matters aforesaid.
- (4) Every person who does anything contrary to the provisions of, or who omits or fails to comply with any of the requirements of, this section or with any conditions prescribed by the Board under and pursuant to the provisions of subsection (3) of this section, shall be guilty of an offence under section 69 of this Act; and, notwithstanding the fact that any such condition may be embodied in a permit issued by a local authority in the district, that local authority shall not be under any obligation to see that any such condition is complied with, and all proceedings to enforce compliance therewith may be instituted and taken by the Board.
- (5) The Board shall, upon the request of any local authority in the drainage district affected by any such sewers or other structures as are referred to in subsection (3) of this section, supply that local authority with a plan or plans showing the locations of such sewers or other structures.
- (6) The term **sewer** where used in this section shall be deemed to include any sewer which the Board has already constructed or proposes to construct as part of its main sewerage system for

the drainage district, and the location of which is shown upon any map or plan forming part of or relating to any operative or proposed district scheme under the Town and Country Planning Act 1953, or which is described in any certificate which is prepared, deposited, and registered in the manner prescribed by paragraph (i), paragraph (j), or paragraph (k) of subsection (1) of section 31 of this Act.

Subsections (1) and (2) were substituted, as from 18 December 1968, by section 3 North Shore Drainage Amendment Act 1968 (1968 No 21).

### **36 Powers of contributing authorities to connect sewers**

- (1) For the purpose of carrying off any sewage from any part of its local district within the combined area or combined areas of the drainage district, every contributing authority may from time to time connect sewers and drains at such point and in such manner as the Engineer to the Board may specify so as to discharge, either directly or indirectly, into such trunk sewers or treatment plants as the Board may have constructed or taken over for the service of the district concerned.
- (2) Twenty eight days' notice in writing shall be given to the Board of the intention of the contributing authority to exercise the powers conferred by this section; and there shall be attached to the notice complete plans and specifications of the sewers or drains referred to in the notice.
- (3) No such connection shall be made unless the Engineer to the Board or any other authorised officer of the Board is satisfied that the sewers or drains referred to in any such notice are fit and proper to be so connected and to form part of the drainage system of the Board.
- (4) The Board may make bylaws regulating the procedure under and for giving effect to the purposes of this section.
- (5) Subject to any bylaw in force under subsection (4) of this section, every decision of the Engineer to the Board or other authorised officer under this section shall be subject to review by the Board.

Subsection (1) was amended, as from 13 August 1983, by section 16(1) North Shore Drainage Amendment Act 1983 (1983 No 3).

Subsection (3) was amended, as from 27 November 1971, by section 8 North Shore Drainage Amendment Act 1971 (1971 No 11).

Subsection (5) was inserted, as from 13 August 1983, by section 16(2) North Shore Drainage Amendment Act 1983 (1983 No 3).

**37 Works to be efficiently done**

In making any such connection the contributing authority shall cause it to be done in a skilful, efficient, and workmanlike manner, and so that the efficiency and construction of the trunk sewers shall be in no way impaired, and to the approval of the Engineer to the Board.

**38 Reticulation works**

- (1) Any plan or scheme proposed or devised by any local authority at any time after the first day of December, nineteen hundred and fifty-one, being the date of the coming into force of the North Shore Drainage Act 1951 for the drainage reticulation of the whole or any portion of the local district of that local authority within the drainage district shall, before the plan or scheme or any work in connection therewith is proceeded with or put into operation, be first submitted to and approved by the Board, and the Board may, and shall, if required by such local authority so to do, but at the cost of the local authority requiring the same, furnish all such engineering, technical, and other services and assistance as may be requisite and necessary in order to provide for and carry out the proper and efficient installation of such drainage reticulation works or system.
- (2) The Board may, at the request and cost of any local authority and if the Board thinks fit and proper so to do, undertake and carry out repairs, maintenance, alterations, or improvements to any existing drainage reticulation works in the whole or any portion of the local district of such local authority within the drainage district.
- (3) The Board may undertake and carry out, maintain, and operate drainage works, whether in relation to storm water or sewage, for the benefit of any local districts or areas within or adjacent to the drainage district, and may enter into and enforce agreements with local authorities and other persons for the payment



of the whole or any portion of the cost of construction, maintenance, or operation of any such works:

Provided that the Board shall not carry out in the local district of any local authority any works in respect of storm water except by agreement with that local authority and also with any other local authority the local district of which may be affected by any such works.

**39 Consent of Board required to construction of new sewers, etc**

- (1) No new trunk sewers, pumping stations, storage tanks, outfalls, treatment works, or utilisation works shall be constructed or installed within the drainage district except by the Board, and no alteration, change, or extension shall be made in any existing drainage system within the drainage district except with the precedent consent and approval of the Board in writing first had and obtained. If any question arises as to whether the Board has unreasonably withheld its approval, the matter shall be referred to the Minister of Health, whose decision shall be final.
- (2) If any person or local authority commences construction of any works to which section 38 or section 39 of this Act applies without having first obtained the approval of the Board in writing pursuant thereto, the Board may, by notice in writing, call upon such person or local authority to cease such work until the approval has been given, and failure to comply forthwith with such notice shall be an offence punishable in accordance with section 69 of this Act.

Subsection (2) was inserted, as from 18 December 1968, by section 3 North Shore Drainage Amendment Act 1968 (1968 No 21).

**40 Watercourses**

- (1) The Board may utilise any watercourse for the discharge of storm water overflows or emergency overflows from its trunk sewers, but so that the discharge from any such watercourse to any waters within harbour limits shall not be or grow to become a nuisance and so that such watercourse shall not be or grow to become a nuisance within the meaning of section

29 of the Health Act 1956 anywhere along its course from the point of utilisation onwards.

- (2) In the event of the discharge of storm water overflows or emergency overflows from its trunk sewers to any watercourse being or being likely to become a nuisance upon the discharge of the watercourse to any waters within harbour limits as aforesaid, the Board shall, if the Auckland Harbour Board so requires, effect such improvements or carry out such other works in connection with the watercourse or take such other steps as may be necessary to abate any such nuisance or prevent any such nuisance arising or recurring.
- (3) In the event of the discharge of storm water overflows or emergency overflows from its trunk sewers to any watercourse being or being likely to become a nuisance within the meaning of the Health Act 1956, the Board may, and shall if the Minister of Health so requires, effect such improvements or carry out such other works in connection with such watercourse or take such other steps as may be necessary to abate the nuisance or prevent any such nuisance arising or recurring.
- (4) In any case to which subsection (2) or subsection (3) of this section applies, the cost of any improvements effected or other works carried out for all or any of the purposes referred to in these subsections shall be calculated, arrived at, and recovered by the Board on the basis and in the manner prescribed by sections 57 and 60 of this Act and subject to the provisions of section 58 of this Act.

#### **41 Board may construct drains, etc, for surface water**

- (1) The Board may construct drains for the removal of surface water, or control, alter, and improve any existing drains for that purpose, or any natural watercourse or channel, but all such works shall be done only with the approval of the local authority or local authorities within whose local district or local districts the drain, watercourse, or channel is situated and at the cost of the local authorities affected, and the Board and any such local authority may enter into and carry out agreements for that purpose.
- (2) Except with the approval of the Auckland Harbour Board, no new drain for the discharge of surface water into any harbour

under the control of the said Harbour Board shall be so constructed or used, and no existing drain, natural watercourse, or channel discharging or intended to discharge surface water into any such harbour shall be so used, controlled, altered, or improved, as to cause pollution of the harbour into which it discharges or is intended to discharge:

Provided that this subsection shall not apply to existing storm water overflows or emergency overflows discharging into storm water drains, natural watercourses, or channels, and shall not affect the powers of local authorities under section 221 of the Municipal Corporations Act 1954 and section 248 of the Counties Act 1956 in respect of leading surface water into streams and watercourses so long as the discharge from any such drain, natural watercourse, or channel shall not be or grow to become a nuisance or a nuisance within the meaning of section 29 of the Health Act 1956.

- (3) In the event of the discharge from any such storm water drain, drain, natural watercourse, or channel being or being likely to become a nuisance or a nuisance within the meaning of section 29 of the Health Act 1956 upon the discharge of that storm water drain, drain, natural watercourse, or channel into the harbour, the Board shall, if the Auckland Harbour Board so requires, effect such improvements or carry out such other works in connection with that storm water drain, drain, natural watercourse, or channel, or take such other steps as may be necessary to abate any such nuisance or to prevent any such nuisance from arising or recurring.

#### **42 Standards of purification**

- (1) The Auckland Harbour Board, having already, before the passing of this Act, obtained the concurrence of the Minister of Health and the Minister of Transport, and having already notified the Board of the standards of purity and conditions to be maintained and complied with in respect of the discharge of sewage or sewage effluents to any waters within harbour limits, shall forthwith give notice of such standards of purity and conditions to all local authorities which may be discharging or permitting the discharge of any such sewage or sewage effluents to any such waters as aforesaid.

- (2) In like manner, the Minister of Transport, having already, before the passing of this Act, notified the Board of the standards of purity and conditions to be maintained and complied with in respect of any such discharge to waters outside harbour limits, but within or contiguous to the district of the Board Minister of Works and Development, shall forthwith give notice of such standards of purity and conditions to all local authorities which may be discharging or permitting the discharge of any sewage or sewage effluents to any such waters as aforesaid.
- (3) All or any notifications made or given at any time before the passing of this Act in respect of all or any of the matters referred to in either subsection (1) or subsection (2) of this section, shall be deemed to have been made and given under this section and in compliance with the requirements thereof and are hereby declared to have been validly and lawfully given.
- (4) As from the date of the receipt of any such notification from the Auckland Harbour Board or from the Minister of Works and Development, as the case may be, the Board or the local authority concerned shall, as soon as practicable thereafter (if it has not already done so), commence and with all reasonable expedition complete all such works as may be necessary to ensure that the conditions and standards of purity so notified to it are and shall continue to be complied with and maintained.
- (5) The Auckland Harbour Board, after obtaining the concurrence of the Minister of Health and the Minister of Works and Development in the case of tidal waters within harbour limits, and the Minister of Works and Development in the case of tidal waters beyond harbour limits, may at any time and from time to time notify the Board and any such local authority as aforesaid of any further or different standards of purity and conditions in respect of the discharge of sewage and sewage effluents to such waters as aforesaid; and thereupon the Board, or the local authority concerned, shall, as soon as practicable thereafter, commence and with all reasonable expedition complete such works as may be necessary to ensure that those further or different standards of purity and conditions are and shall thereafter continue to be complied with and maintained.
- (6) The Minister of Health, the Minister of Works and Development, or the Auckland Harbour Board may at any time make

application to the High Court or to a Judge thereof by motion on notice to the Board, to such local authority or local authorities as may be affected, and to such other persons or bodies as the Court or Judge may direct, for an order requiring compliance with the standards of purity and conditions fixed as aforesaid, and the infliction of such penalties as the Court or a Judge thereof may deem appropriate for failure to so comply. Without prejudice to or limitation of any other remedy, any such failure shall be an offence within the meaning of this Act.

- (7) Nothing in section 236 of the Municipal Corporations Act 1954 or section 263 of the Counties Act 1956 shall apply to any discharge of sewage or sewage effluents in accordance with this Act.
- (8) For the purposes of this section, the expression **sewage or sewage effluents** includes trade wastes and any noxious matter.

Subsection (1) was amended, as from 1 September 1972, pursuant to section 6(2)(a) Ministry of Transport Amendment Act 1972 (1972 No 4).

Subsection (2) was amended, as from 1 September 1972, by section 6(1) Ministry of Transport Amendment Act 1972 (1972 No 4).

Subsection (2) was amended, as from 1 September 1972, pursuant to section 6(2)(a) Ministry of Transport Amendment Act 1972 (1972 No 4).

The words “Minister of Works and Development” in subsection (2) were substituted, as from 21 November 1973, for the words “Minister of Works” pursuant to section 2(4)(a) Public Works Amendment Act 1973 (1973 No 44).

Subsections (4) to (6) were amended, as from 21 September 1972, by section 6(1) Ministry of Transport Amendment Act 1972 (1972 No 4).

The words “Minister of Works and Development” in subsections (4) to (6) were substituted, as from 21 November 1973, for the words “Minister of Works” pursuant to section 2(4)(a) Public Works Amendment Act 1973 (1973 No 44).

The words “High Court” in subsection (6) were substituted for the words “Supreme Court”, as from 1 April 1980, by section 12 Judicature Act 1979 (1979 No 124).

## **Accounts**

### **43 Books of accounts to be kept**

The Board shall cause books to be provided and kept and true and accurate accounts to be entered therein of all sums of money received and paid under the authority of this Act and

of the several purposes for which sums of money have been received and paid.

**44 Books to be open for inspection to members of Board**

Such books shall at all reasonable times be open to the inspection of any member of the Board or of any contributing authority or any person appointed by it, who may take copies of or extracts from the same; and any person having the custody of the said books who does not, on the reasonable demand of any member of the Board, or of any contributing authority or any person appointed by it, permit him to inspect or take copies of or extracts from the same shall for every such offence be liable to a fine not exceeding ten dollars.

The words “ten dollars” were substituted, as from 10 July 1967, for the words “five pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**45 Moneys to be paid into bank**

- (1) All money received by the Board shall, as soon as practicable after it has come into the hands of the Treasurer, be paid into the appropriate account at such bank as the Board from time to time appoints.
- (2) No money shall be withdrawn from the bank except by the authority of the Board and by cheque signed by the Chairman or one member and by the Treasurer of the Board.
- (3) Notwithstanding anything in subsection (2) of this section it shall be lawful, with the prior consent in writing of the Audit Office and subject to such conditions as the Audit Office prescribes, for any money to be paid by the Board by cheque issued by means of a cheque-writing machine, and every such cheque so issued and bearing a facsimile of the signature of the persons authorised pursuant to the provisions of this section to sign cheques shall be deemed to have been duly signed in accordance with the provisions of this section.

**46 Accounts to be kept in accordance with requirements of Audit Office**

- (1) The Board shall keep such accounts, and keep them in such manner, as may be prescribed by the Audit Office, but so always that—
  - (a) a General Account shall be kept and credited with all moneys not required by or under this Act to be carried to any other account, and debited with expenditure which is not required by or under this or any other Act to be charged, or which is not otherwise properly chargeable, against any other account; and
  - (b) separate accounts shall be kept and credited with all moneys raised or levied for, or appropriated or allocated to, or held in trust or received for, any special purpose, and debited with expenditure properly chargeable against such accounts.
- (2) Without limiting in any way the provisions of subsection (1) of this section, separate accounts shall be kept by the Board in respect of the design, construction, and operation of main sewerage works for—
  - (a) any combined area or combined areas:
  - (b) any special area or special areas:
  - (c) any future development area or future development areas:
  - (d) any defined part or parts of the drainage district for the benefit of which a loan is raised.
- (3) The decision of the Audit Office as to whether or not any expenditure is properly chargeable against any such account shall be final.

**47 Annual accounts and statements**

As soon as is practicable after the end of each financial year, the Treasurer shall cause the Board's accounts to be balanced and shall prepare an abstract of the transactions for the year of each of the accounts referred to in section 46 of this Act, together with the following statements:

- (a) a statement showing a reconciliation between the balances (if any) of the abstracts prepared as required in

this section, and the bank and cash balances and investments held in respect thereof; and

- (b) a statement of the whole assets and liabilities of the Board at the end of the year, exclusive of the public debt and sinking funds; and
- (c) a statement of the public debt of the Board showing, in respect of loans current during the year, the amount raised in respect of each loan, the amount repaid, the balance outstanding on the thirty-first day of March, and the sinking fund in the hands of the Commissioners to provide for the repayment of each such loan. The statement shall be accompanied by the accounts of the Sinking Fund Commissioners prepared in accordance with section 91 of the Local Authorities Loans Act 1956.

#### **48 Audit of accounts**

The Audit Office shall be the auditor of the Board and shall have the same duties and powers in respect of the moneys and accounts of the Board, and of every person dealing therewith, as if the Board were a local authority within the meaning of the definition of that term in the Public Finance Act 1977.

Section 48 was amended, as from 1 April 1978, by section 160(1) Public Finance Act 1977 (1977 No 65).

#### **49 Abstract of accounts**

The Treasurer shall forthwith after such audit make out a full abstract of the accounts for the year as audited, and cause a copy thereof to be submitted to each contributing authority.

#### **50 Board may establish an Imprest Account**

- (1) The Board may, pursuant to a resolution in that behalf, establish an Imprest Account, which shall be kept at such bank as the Board from time to time appoints.
- (2) The Imprest Account may be held jointly in the names of and be operated on by the Treasurer and one other person to be appointed in that behalf by the Board, or may, with the express approval in writing of the Audit Office but not otherwise, be in the sole name of and be operated on by the Treasurer or other approved officer of the Board. Where the Imprest Account



is held jointly in the names of the Treasurer and of one other person as aforesaid, such last-mentioned person shall be either a responsible officer of the Board or a member of the Board.

- (3) The Board shall from time to time by resolution fix the maximum amount that may be held at any time in the Imprest Account, not exceeding three hundred dollars in any case where the Imprest Account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case.
- (4) Moneys in the Imprest Account shall be available only for the payment of salaries and wages and of emergency expenditure. A statement of all payments made from the Imprest Account shall be submitted to the Board for approval at its first ordinary meeting thereafter. The payment of moneys out of the Imprest Account for any purpose not hereby authorised shall be deemed to be the misappropriation of the funds of the Board.
- (5) The provisions of section 45 of this Act shall be read subject to the provisions of this section.

The words “three hundred dollars” in subsection (3) were substituted, as from 10 July 1967, for the words “one hundred and fifty pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

## **51 Superannuation and other benefits for employees**

- (1) The Board shall be deemed to be a local authority for the purposes of the National Provident Fund Act 1950 and section 6 of the Finance Act (No 2) 1941.
- (2) The Board may from time to time pay by way of subsidy such sums as it thinks fit to the funds of any sick, death, or funeral benefit society, or other like institution established by its employees, or any section of them, the benefits of which are confined to such employees and their dependants.

## **52 Unauthorised expenditure**

The Board may in every financial year, out of the General 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 whole to more than one per cent of the gross receipts of the Board for that year, exclusive of loan moneys, nor, in any case, to more than such sum as may be fixed from time to time

by the Minister of Local Government after consultation with the Minister of Finance.

The words “five hundred dollars” were substituted, as from 10 July 1967, for the words “two hundred and fifty pounds” in the original section 52, pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Section 52 was amended, as from 27 November 1971, by section 9 North Shore Drainage Amendment Act 1971 (1971 No 11(L)).

Section 52 was amended, as from 13 August 1983, by section 17(1) North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

### **53 Borrowing powers**

The Board may from time to time borrow under the Local Authorities Loans Act 1956 such sums as are necessary for carrying out the purposes of this Act:

Provided that the Board shall not be empowered to make and levy a special rate as security for any special loan.

### **54 Preliminary expenses**

The costs of promoting this Act and of any previous enactment repealed by this Act, and of investigating matters preparatory or incidental thereto, including surveys, reports of Commissions, experts, and others, legal expenses, and all expenses in connection with the Board’s main scheme of sewerage works (preliminary or otherwise) and whether paid or incurred by the Board or by the local authorities mentioned and referred to in section 5 of this Act, or by any of them, shall be paid out of the funds of the Board.

### **55 Annual estimates of Board’s proposed expenditure**

(1) The Board shall, on or before the thirtieth day of April in each year, cause an estimate to be prepared of the proposed expenditure of the Board for the ensuing year showing—

- (a) the permanent appropriations for payment of interest and the creation of a sinking fund or for periodical repayments on account of loans:
- (b) the sum or sums that may be required for carrying out or maintaining in good order any works hereby authorised to be constructed and any other works vested in or controlled by the Board and all other expenses in connection therewith:

- (c) the sum or sums that may be required for the administrative costs of the Board:
  - (d) any sums already available for such purposes:
  - (e) the additional sum required.
- (2) Any deficiency or surplus at the end of any year shall be carried forward as an asset or liability, as the case may be, into, and calculated or allowed for in making and assessing, the next year's requirements.

**55A Reserve for replacements and renewals**

- (1) The Board may from time to time by resolution set aside a reserve for any one or more of the purposes set out in subsection (2) of this section—
- (a) out of its general fund:
  - (b) by including a special sum in preparing an estimate in accordance with the provisions of section 55 of this Act.
- (2) The reserve may be set aside or so estimated for any one or more of the following purposes:
- (a) any undertaking, service, or activity pursuant to section 57 of this Act for which it is required to make calculations for the purposes of assessment as therein directed:
  - (b) any special purpose for which a separate account is required to be kept by it pursuant to section 46 of this Act:
  - (c) any repair, renewal, replacement, depreciation, or obsolescence of any of its property, fixtures, structures, plant, vehicles, or appliances:
  - (d) for improvements or additions to any of its property, fixtures, structures, plant, vehicles, or appliances:
  - (e) for the purpose of purchasing additional property, fixtures, structures, plant, vehicles, or appliances to form part of or be used in connection with any such undertaking, service, or activity:
  - (f) for the re-erection, repair, or reinstatement of any buildings or other property (either real or personal) of the Board that may be destroyed or damaged by fire, earthquake, tempest, or other inevitable accident:

Provided that where the Board considers it inexpedient that any building or other property that is destroyed or damaged by fire, earthquake, tempest, or other in-

- evitable accident as aforesaid should be re-erected, repaired, or reinstated, the Board may apply any money forming part of any such fund, not exceeding the insurable value of the building or other property destroyed or damaged, in the acquisition or erection of another building or the purchase of other property (either real or personal) in place of the building or other property destroyed or damaged:
- (g) to meet claims or demands arising from or out of or in connection with or in relation to damage to any property arising out of the exercise and performance by the Board of its powers, duties, and functions under this or any other Act; but no greater sum shall be set aside in any 1 year than the amount that at current rates would have been payable for the year in respect of insurance of any property belonging to the Board and in respect of insurance against such damage:
  - (h) for the strengthening or support of any sinking fund of any loan by whomsoever raised for which the Board is responsible or liable or the depreciation of any of the investments thereof:
  - (i) to meet any other anticipated losses or expenditure of, or in connection with, any such undertaking, service or activity.
- (3) Where the Board, pursuant to subsection (1) of this section, has made provision in any financial year for the setting aside of, or has set aside, any money for any of the purposes referred to in that subsection, the Board shall transfer such money out of the appropriate separate account kept in accordance with section 46(1)(a) of this Act and credit the same to a special account or accounts, but so always that—
- (a) any money provided or set aside to form a fund or funds for any of the purposes provided in paragraphs (c), (d), (e), (h), and (i) of subsection (2) of this section shall each be credited to and held separately in a special account, and shall be applied only for the purpose for which it was provided or set aside:
  - (b) any money provided or set aside to form a fund or funds for any of the purposes provided in paragraphs (f) or (g)

of subsection (2) of this section shall each be credited to and held separately in a special account and shall be applied only for the purpose for which it was provided or set aside.

- (4) Where the Board, in any financial year, credits any money to, or holds any money in, a special account established pursuant to subsection (2) of this section, it shall, not later than 6 months after the close of that financial year, pay that money into a separate bank account or accounts, and, subject to subsection (5) of this section, may invest the whole or any part of it either in the capital works of the undertaking, service, or activity in respect of which the special account was established or in the following manner:
- (a) in public securities;
  - (b) on deposit in any bank lawfully carrying on the business of banking in New Zealand or in the Auckland Savings Bank or the Post Office Savings Bank;
  - (c) in the common fund of Public Trust;
  - (d) in the National Provident Fund;
  - (e) in the debentures or stock of any local authority within the meaning of the Local Authorities Loans Act 1956 which are authorised investments for the investment of trust funds under the provisions of section 4 of the Trustee Act 1956:  
Provided that the Board shall not be entitled under this paragraph to so invest any money provided or set aside to form a fund for any of the purposes provided in paragraphs (f), (g), or (h) of subsection (2) of this section, if at the time of the investment the total amount of the securities of such local authorities held pursuant to this paragraph or to paragraph (f) of this subsection as investments of that fund, together with the money then proposed to be invested, exceeds half the total investments for the time being of the money in that fund;
  - (f) in any other securities that may from time to time be authorised by the Governor-General in Council.
- (5) Nothing in subsection (4) of this section shall authorise the Board to invest any money provided or set aside to form a fund or funds for any of the purposes provided in paragraphs

(f), (g), or (h) of subsection (2) of this section in the capital works of any undertaking, service, or activity of the Board.

- (6) Any income arising out of any investments made pursuant to subsection (4) of this section shall be credited to the special account out of which such money was invested.
- (7) Notwithstanding anything in subsection (2) of this section, the Board may from time to time, if it considers the amount of any money held in any special account or accounts relating to any such fund to be in excess of the amount required to be held therein, by resolution either transfer the whole or any part of such money back into the account from which it was originally transferred or transfer it to the special account or accounts relating to some other fund or funds created under this section:

Provided that no money shall be transferred under this subsection to the special account relating to any other fund unless the money already constituting such other fund was capable of being transferred originally from the same separate account, kept pursuant to section 46(1) of this Act, as the money being transferred under this section was originally taken.

Section 55A was inserted, as from 13 August 1983, by section 18 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

Subsection (4)(c) was amended, as from 1 March 2002, by section 170(2) Public Trust Act 2001 (2001 No 100).

## **56 Annual assessments**

During the month of May in each year the Board shall hold a meeting at which the contributions payable for the current year, commencing on the first day of April, by the contributing authorities shall be assessed, and written notice shall forthwith be given to each contributing authority showing the amount at which every contributing authority is assessed, together with a copy of the estimate of expenditure for the year.

## **57 Calculation of assessments**

- (1) The assessment shall be calculated and arrived at as follows:
- (a) the costs of servicing any special area, including the amounts required to cover investigations, design, and supervision of construction of new works, legal fees,

- loan charges, depreciation, and operating and maintenance costs of the new works (including land), shall be charged and assessed to the local authority of the local district or portion thereof comprising that special area:
- (b) the costs of servicing any combined area, including the amounts required to cover investigations, design, and supervision of construction of new works, legal fees, loan charges, depreciation, and operating and maintenance costs of the new works (including land), shall be charged and assessed to the local authorities of the local districts or portions thereof comprising that combined area in the manner following:
- (i) in the case of trunk sewers and other works (including land) which are serving or which are designed to serve only one local district or portion thereof within the combined area, wholly to that local district:
  - (ii) in the case of trunk sewers, treatment works, outfalls, and other works (including land) which are serving or which are designed to serve two or more service areas within the combined area, in the proportions which the population of each such service area bears to the aggregate population of the respective service areas in that combined area:

Provided that, for the purpose of ensuring that the costs are apportioned in the most equitable manner amongst all portions of any combined area constituted after the passing of this Act, having regard to the successive stages at and to which it is proposed that the said new works should be developed therein, the Board may, if it thinks fit so to do, classify the combined area according to the stages at or to which it is intended that the said new works shall be developed in different parts thereof; and the Board may levy the amount payable under this paragraph on a sliding scale according to the classification. The provisions of the Land Drainage Act 1908 shall, as far as they are applicable and with the neces-

sary modifications, apply to the classification and levy mentioned in this proviso as if set out herein:

Provided also that no amount shall be charged and assessed to the local authority (the local district or portion of the local district of which forms part of any combined area) for the operating and maintenance costs of any such new works in respect of any service area which for the time being is not connected to or with any common treatment works until the first day of April immediately preceding the date when the connection is actually made. For the purposes of this paragraph the term **operating and maintenance costs** shall mean only those amounts which have been incurred at pumping stations in respect of power charges and also repairs carried out otherwise than by the servants or employees of the Board for the operation and maintenance of the said new works for the benefit of those service areas which have actually been or could, in the opinion of the Board, be connected to or with any common treatment works:

- (c) the amount required to cover loan charges, depreciation, operating and maintenance costs in respect of any storage tank, storage culvert, storage tunnel, outfall, sewage treatment plant, or sewer taken over by and vested in the Board under the provisions of subsection (11) of section 27 of this Act, but which for the time being are retained and operated as part of the sewerage works of any two or more local districts or portions thereof, shall be charged and assessed to the local authorities of those local districts or portions thereof in the proportions which the population of each such local district or portion thereof bears to the aggregate population of the respective local districts or portions thereof, as the case may be:
- (d) the cost of the administrative and general expenses of the Board shall be charged and assessed on and borne by all the local authorities in the drainage district in proportion to the population of their respective local districts,



or such portions thereof as are within the drainage district, as the case may be:

Provided that for the purpose of ensuring that the cost is apportioned in the most equitable manner amongst all portions of the drainage district, having regard to the successive stages at and to which it is proposed that the said scheme of sewerage works should be developed therein, the Board may, if it thinks fit so to do, classify the district according to the stages at or to which it is intended that the said scheme of sewerage works should be developed in different parts thereof as aforesaid; and the Board may levy the amount payable under this paragraph on a sliding scale according to the classification. The provisions of the Land Drainage Act 1908 shall, as far as they are applicable and with the necessary modifications, apply to the classification and levy mentioned in this proviso as if set out herein:

- (e) where works of any kind are designed and installed anywhere in a drainage area of sufficient capacity to serve not only the immediate drainage requirements of any combined area but also the future drainage requirements of a future development area or of a special area, the amount required to cover loan charges and depreciation in respect of the works shall as from the first day of April following the date of the special order constituting that future development area or that special area, as the case may be, be charged and assessed to the local authorities of the local districts or portions thereof to be ultimately served by the works in the proportions which the population of each such local district or portion thereof bears to the aggregate population of the respective local districts or portions thereof as aforesaid:
- (f) where land of sufficient area to meet not only the immediate drainage requirements of any combined area but also the future drainage requirements of a future development area or of a special area is at any time acquired by the Board, the net amount required to cover loan charges and all other outgoings payable in respect of any such land, after making due allowance for any

revenue derived from the land pending the use thereof by the Board, shall as from the first day of April following the date of the special order constituting that future development area or that special area, as the case may be, be charged and assessed to the local authorities of the local districts or portions thereof for whose ultimate requirements the land shall have been acquired in the proportions which the population of each such local district or portion thereof bears to the aggregate population of the respective local districts or portions thereof as aforesaid:

- (g) notwithstanding anything contained in paragraphs (e) and (f) of this subsection, no loan charges, depreciation, maintenance, or operating costs payable in respect of any common treatment works or common outfall shall be charged or assessed to any local authority whose local district or part of whose local district comprises a future development area, unless—
  - (i) the common treatment works or common outfall has been designed to serve the future drainage requirements of that particular future development area; and
  - (ii) the local authority has, by special order, consented to the said common treatment works or common outfall being so designed as aforesaid, or a District Court has, in the manner prescribed by paragraph (h) of this subsection, given its consent to the said design:
- (h) if, within three months after notice in writing has been given to it by the Board of any such design of common treatment works or common outfall as is referred to in paragraph (g) of this subsection, any local authority fails or refuses to give its consent to that design, the Board may, at any time within one month after the expiration of the said three months, make application to the District Court in the place nearest to the office of the Board for the approval of the said design. Any such application shall be heard and determined before a District Court Judge, and the Court for the purpose

of hearing and determining the application shall have all the powers vested in it in its ordinary civil jurisdiction. The procedure for the hearing and determination in the District Court of an application under this paragraph shall be in accordance with the ordinary procedure of that Court with respect to originating applications; and the decision of the said Court shall be final and binding on the Board and on all contributing authorities for the drainage requirements of whose local districts or portions of whose local districts the common treatment works or common outfall shall have been designed as aforesaid.

- (2) Where at any time, pursuant to the provisions of subsection (8) of section 3 of this Act, the boundaries of the combined area, known and designated in the Board's plans and records as the "No 1 Combined Area" and comprising the City of Takapuna, the Boroughs of Devonport, Northcote, Birkenhead, and East Coast Bays, and portion of the County of Waitemata, are extended so as to include therein any portions of the Board's district which may at any time hereafter be reticulated with and served by sewers connected with the treatment or disposal works of such combined area, the amount assessed and charged in accordance with the provisions of subsection (2A) of this section shall, having regard to the alteration thereby effected in and to the combined area by the extension of the boundaries as aforesaid, be due and payable as from the 1st day of April next following the date when the estimate of population for the enlarged area has been certified by the Government Statistician.
- (2A) Nothing in paragraph (b) of subsection (1) of this section shall apply in respect of the combined area commonly known and designated in the Board's plans and records as the "No 1 Combined Area" and comprising the City of Takapuna, the Boroughs of Devonport, Northcote, Birkenhead, and East Coast Bays, and portion of the County of Waitemata, and the costs of servicing that combined area (including amounts and costs referred to in paragraph (b) of subsection (1) of this section) shall be charged and assessed to the local authorities of the local districts or portion thereof comprising that combined area in the

proportions which the population of each such local district or portion thereof bears to the aggregate population of the respective local districts or portion thereof.

- (3) Where at any time, pursuant to the provision of subsection (7) of section 3 of this Act, any special area becomes part of or is incorporated in a combined area, then and in any such case, the amount assessed and charged in accordance with the provisions of paragraph (b) of subsection (1) of this section or of subsection (2A) of this section shall, having regard to the alteration thereby effected in the status of any such special area as aforesaid, be due and payable as from the first day of April next following the date when the work of installing trunk sewers is commenced.

Subsection (1)(b)(ii) was amended, as from 7 October 1966, by section 2 North Shore Drainage Amendment Act 1966 (1966 No 19(L)).

Subsection (2) was substituted, as from 27 November 1971, by section 10(1) North Shore Drainage Amendment Act 1971 (1971 No 11(L)).

Subsection (2A) was inserted, as from 1 April 1970, by section 2(1) North Shore Drainage Amendment Act 1969 (1969 No 7(L)).

Subsection (3) was amended, as from 1 April 1970, by section 2(2) North Shore Drainage Amendment Act 1969 (1969 No 7(L)).

Subsection (3) was amended, as from 27 November 1971, by section 10(2) North Shore Drainage Amendment Act 1971 (1971 No 11(L)).

The words "District Court" were substituted for the words "Magistrate's Court", as from 1 April 1980 pursuant to section 18(1) District Courts Amendment Act 1979 (1979 No 125).

The words "District Court Judge" were substituted for the words "Magistrate", as from 1 April 1980 pursuant to section 18(2) District Courts Amendment Act 1979 (1979 No 125).

## **58 Appeal**

- (1) Any contributing authority which is dissatisfied with any such assessment, may, within twenty-eight days after notice of that assessment has been given to it, appeal to a Judge of the High Court at Auckland against that assessment. Such appeal shall be commenced by notice of motion stating the grounds of the appeal being given to the Registrar of the said Court, who shall fix a day for the hearing thereof; and the contributing authority appealing shall serve copies of such notice of motion on the Board and on each of the other contributing authorities stating

the date when the same is to be heard; and thereupon half the amount of such assessment shall be deemed to be set aside.

- (2) The Judge may refer any question which involves or is concerned principally with matters of accountancy, arising on any such appeal, for inquiry and report to a single arbitrator who shall be the Controller and Auditor-General or some other officer of the Audit Office nominated by him for that purpose. The arbitrator shall thereupon determine the question so referred to him pursuant to and with the consequences of a submission to arbitration under the provisions of the Arbitration Act 1908, and pursuant also to the provisions of the Public Revenues Act 1953, so far as the same are applicable, and shall file his report with the Registrar of the said Court in the proceedings relating to the said appeal. The report of the said arbitrator may be adopted wholly or in part by the Judge, at his discretion, and, if so adopted, may form part of his decision on the said appeal: Provided, however, that the provisions of this subsection shall not be deemed to restrict or in any way to derogate from the powers conferred upon the High Court or a Judge thereof by section 14 of the Arbitration Act 1908.
- (3) On any such appeal the Judge shall have the like jurisdiction, rights, and powers as are conferred upon the High Court on an appeal from the decision of a District Court Judge under the District Courts Act 1947 so far as the same are applicable and with the necessary modifications.
- (4) The amount of the assessment upon or contribution payable by each contributing authority shall be settled and determined by the Judge, whose decision shall be final and binding upon the Board and all the contributing authorities and also upon all other parties (if any) to any such appeal.
- (5) The costs of any appeal shall be in the discretion of the Judge, who shall be entitled to make such order as he thinks fit in respect thereof.
- (6) Neither the lodging and service of an appeal against any assessment and the consequent setting aside of half the amount of such assessment, nor any other act or thing done under the authority of and pursuant to the provisions of this section, shall be deemed to restrict or to derogate in any way from the voting powers conferred on members of the Board or the procedure

prescribed by section 15 of this Act, or otherwise affect the provisions of that section.

The words “District Court” and “District Court Judge” were substituted for the words “Magistrate’s Court” and “Magistrate” respectively, as from 1 April 1980 pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

The words “High Court” were substituted for the words “Supreme Court”, as from 1 April 1980, by section 12 Judicature Act 1979 (1979 No 124).

### **59 Production of documents prima facie evidence**

The production in any Court of documents purporting to be—

- (a) a copy of the said estimate of expenditure; and
- (b) a copy of the said notice to each contributing authority purporting to be under the seal of the Board,—

shall be prima facie evidence of the liability of each local authority therein mentioned to pay to the Board the respective amount therein and thereby shown to be assessed as its contribution to the Board for the purposes of this Act.

### **60 Provisions as to payment and recovery of contributions from contributing authorities**

- (1) Each contributing authority shall pay to the Board the amount of the assessment as set out in the notice received by it pursuant to the provisions of section 56 of this Act in 4 equal instalments, one of which shall be payable on each of the 14th days of June, September, December, and March following receipt of the notice of assessment. In case any instalment is not paid the local authority shall be liable to and shall pay interest on any and every amount so remaining unpaid on the due date until payment thereof at the rate for the time being charged by the bankers of the Board for money owing to them by the said Authority or that would be chargeable if the money was owing, as the case may be.
- (2) If any assessment made on a contributing authority is set aside under section 58 of this Act in consequence of an appeal under that section, the amount to be paid by such contributing authority, as settled by the Judge under that section, shall be substituted for the assessment so set aside; but pending the decision of the Judge nothing in this subsection or in section 58 of this Act shall absolve such contributing authority from liability for

any contributions or instalments thereof to which they would have been liable if the assessment had not been set aside and interest shall accrue on any unpaid contributions notwithstanding that an appeal has been lodged.

- (3) If on any such appeal an adjustment is made of the amount of any such assessment and accordingly of any instalment in respect thereof, the Board shall, forthwith upon receipt of the decision of the Judge, adjust the assessment, and shall give credit for any amount overpaid by any contributing authority on any instalment or, as the case may be, require any contributing authority to pay to the Board the amount of any increase of any such assessment payable in accordance with the decision of the Judge, together with interest calculated at the rate fixed by subsection (1) of this section on the amount of any such instalment unpaid within 30 days from the date of the demand thereof by the authority.
- (4) If any contributing authority liable to make any payment under this section fails to make the payment or any part thereof within the time prescribed by this section, the amount so unpaid, together with interest as aforesaid, may be recovered as a debt due to the Board by the contributing authority in any Court of competent jurisdiction:  
Provided, however, and notwithstanding that the amount sought to be recovered under this section is in excess of the jurisdiction of any District Court, the Board may sue for and recover that amount in any such Court.

Subsections (1) to (3) were substituted, as from 13 August 1983, by section 19 North Shore Drainage Amendment Act 1983 (1983 No 3(L)).

Subsection (1A) was inserted, as from 24 October 1969, by section 4 North Shore Drainage Amendment Act 1969 (1969 No 7(L)).

The words "District Court" in the proviso to subsection (4) were substituted for the words "Magistrate's Court", as from 1 April 1980 pursuant to section 18(1) District Courts Amendment Act 1979 (1979 No 125).

## **61 Powers of contributing authorities in regard to payment** *[Repealed]*

Sections 61 and 62 were repealed, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6).

**62 Power of Board to recover from contributing authorities in case of default***[Repealed]*

Sections 61 and 62 were repealed, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6).

**Miscellaneous****63 Restrictions on right to construct works and discharge sewage within harbour limits**

- (1) It shall not be lawful for the Board without the consent in writing of the Auckland Harbour Board, and then only in such manner and upon such conditions as are approved by the Auckland Harbour Board from time to time, to carry out, construct, maintain, or use within harbour limits, or to permit to be or remain or to be used within harbour limits, any structure, sewer, outfall, reclamation, or other works; or to discharge or permit to be discharged any sewage, refuse, sludge, effluent, or other matter within harbour limits or in or on to any place where it may be carried, by the wind or current or tide or otherwise, within harbour limits. Any consent granted by the Auckland Harbour Board under this subsection may, subject to the provisions of the next succeeding subsection, be withdrawn by the Auckland Harbour Board at any time:  
Provided that nothing in this subsection shall nullify or affect any consent heretofore granted by the Auckland Harbour Board in respect of the construction, maintenance, use, or carrying out by any contributing authority within harbour limits of any structure, sewer, outfall, reclamation, or other works, or in respect of the discharge of any sewage, refuse, sludge, effluent, or other matter into the Auckland Harbour.
- (2) In any matter where the consent or approval of the Auckland Harbour Board is required, such consent or approval shall not be unreasonably or arbitrarily withheld, and in the event of any dispute or difference arising between the Board and the Auckland Harbour Board as to any such consent or approval or otherwise in connection with the Board's operations, the dispute or difference shall be referred, if it involves questions relating principally to engineering matters, to a single arbitrator who shall be an engineer nominated for the purpose by



the President for the time being of the New Zealand Institution of Engineers, and, otherwise, to two arbitrators, one to be appointed by each party to the dispute or difference, or to an umpire to be appointed by the arbitrators, and, in either case, pursuant to and with the consequences of a submission to arbitration under the Arbitration Act 1908.

**64 Commencement of action not to stop works of Board**

If any action or claim is commenced or prosecuted touching or concerning the right, title, or interest of any person of or in any lands taken or injuriously affected by anything done in pursuance of this Act, or in the execution of the powers or authorities contained in this Act, or as to the amount of compensation to be paid to such person in respect of any such lands, such action or claim shall not of itself impede, delay, or hinder the Board from proceeding in the execution of the powers vested in it by this Act, and the works or the exercise of the powers and authorities may be proceeded with notwithstanding such action or claim.

**65 Board may enter premises for purpose of inspection**

- (1) The Board and the officers and servants of the Board may enter upon any lands or premises for the purpose of examining as to the existence of any nuisance thereon, or as to the breach of any of the provisions of this Act or the bylaws (with power to examine any drain or other sanitary apparatus or appliances), or for the purpose of enforcing the provisions of this Act or the bylaws, or for the purpose of executing, providing, or doing any works, materials, or things which the Board is authorised or empowered to execute, provide, or do under or by virtue of this Act or the bylaws.
- (2) Any owner or occupier of lands or premises who refuses to permit or allow the Board or any of its officers or servants to enter thereon for any of the purposes mentioned in subsection (1) of this section or in the performance of anything which it or he is empowered or required to do by this Act, and every person who obstructs the Board or any of its officers or servants in the exercise of any of the powers mentioned in subsection (1) of this section shall be guilty of an offence, and shall be li-

able to a fine not exceeding one hundred dollars for each such offence.

The words “one hundred dollars” in subsection (2) were substituted, as from 10 July 1967, for the words “fifty pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

#### **66 Enforcement of bylaws**

Subject to the provisions of section 23 of this Act, the provisions of this Act and of all bylaws made by the Board shall be enforced by the Board or its officers.

#### **67 Property of Board not liable to be rated**

- (1) Where any land vested in the Board on which is situated any sewerage works owned by or under the control of the Board is situated in the district of a local authority where the system of rating on the capital value or on the annual value is in force in respect of any rate to which the land is liable, the amount of rates payable by the Board in respect of that land shall be equal to the amount that would be payable if the system of rating on the unimproved value were in force in respect of all rates made and levied by that local authority.
- (1A) Any sewer or drain of any kind that is the property of the Board that is situated on or in any land that is not vested in the Board is not rateable under the Local Government (Rating) Act 2002.
- (2) The Board shall not be under any obligation to obtain from any local authority any building or other permit in respect of the construction of any sewer, drain, or other drainage works, nor to pay to any local authority any fees or charges in respect of any such works. The Board shall, however, before commencing the erection of any structure above ground level, lodge with the local authority concerned and, where applicable, with the Auckland Harbour Board, plans and specifications thereof, and the Board shall, upon the request of any such local authority, furnish it with such further particulars and information as may reasonably be required by it and shall, when erecting and laying out any such works, comply with any reasonable requirements of that local authority which are designed to preserve the aesthetic qualities and amenities of the area within which such works are to be constructed. If the Board and the

local authority are unable to agree whether all or any of the aforesaid requirements are reasonable the matter shall be decided by arbitration under the provisions of section 79 of this Act.

Subsection (1) was substituted, as from 1 April 1968, by section 176(1) Rating Act 1967 (1967 No 123).

Subsection (1A) was inserted, as from 1 April 1968, by section 176(1) Rating Act 1967 (1967 No 123).

The reference to the Rating Powers Act 1988 in subsection (1A) was substituted, as from 29 June 1988, for a reference to the Rating Act 1967 pursuant to section 209(1) Rating Powers Act 1988 (1988 No 97).

Subsection (1A) was substituted, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6).

## **68 Penalty for damaging sewer, drain, or other works**

Any sewer, drain, or other works constructed or maintained by the Board shall be deemed to be the property of the Board, and any person doing any act whereby such sewer, drain, or other works may be damaged, injured, or the efficiency thereof impaired shall be guilty of an offence under this Act and liable to a fine not exceeding \$500, but without prejudice to the right of the Board to recover by action damages for any trespass, damage, or injury to the said sewer, drain, or other works.

The words “one hundred dollars” were substituted, as from 10 July 1967, for the words “fifty pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Section 68 was amended, as from 13 August 1983, by section 20 North Shore Drainage Amendment Act 1983 (1983 No 3).

## **69 Offences**

Any contributing authority or other person doing anything contrary to the provisions of this Act or any bylaw made by the Board under the authority of this Act or any other Act, or omitting or failing to perform any duty imposed on it or him by or arising under this Act or any such bylaw, shall be guilty of an offence, and, in cases where no other penalty is provided, shall be liable to a fine not exceeding \$500; and whenever such act or omission is of a continuous nature a further offence shall be deemed to be committed on each day on which it is continued; and whenever power is given by this Act or by any such bylaw to order anything to be done

or omitted, an offence shall be deemed to be committed on each day on which any contributing authority or other person disobeys or fails to comply with any such order; and in all cases in which property is damaged, destroyed, or lost, or pecuniary loss is suffered by reason of an offence, the Court may add to the fine compensation for any loss which the Board may have sustained:

Provided that such compensation shall not, excepting as to the amount thereof, relieve such contributing authority or other person of any civil liability in respect of its or his act or omission.

The words “one hundred dollars” were substituted, as from 10 July 1967, for the words “fifty pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Section 69 was amended, as from 13 August 1983, by section 21 North Shore Drainage Amendment Act 1983 (1983 No 3).

## **70 Recovery of fines and penalties**

All fines imposed by this Act or by any bylaw made by the Board under the authority of this Act or any other Act may be recovered in a summary manner under the Summary Proceedings Act 1957:

Provided that any information in respect of an offence against this Act or under any such bylaw may be laid at any time within twelve months from the time when the matter of the information arose.

## **71 Accident fund**

- (1) The Board may from time to time set aside, out of its General Account, any moneys to form a fund or funds to meet claims for accidents arising in connection with any undertaking of the Board, but no greater sum shall be set aside in any one year than the amount that at current rates would have been payable for that year in respect of the insurance of workers employed by or vehicles belonging to the Board and in respect of insurances against public risk.
- (2) The Board may from time to time invest any moneys so set aside and pay the proceeds into the said fund or funds.

**72 Insurance of Board members**

- (1) The Board may from time to time enter into contracts of insurance insuring members of the Board against loss or injury from personal accident arising out of and in the course of the exercise of their powers or duties as members of the Board, and may pay the premiums payable from time to time under and in respect of any such contracts.
- (2) Any such contracts of insurance entered into by the Board before the passing of this Act shall be deemed to have been lawfully made.
- (3) The Board may pay the net proceeds received by it under any such contract of insurance to the member affected or to his personal representatives, as the case may be.

**73 Judges, etc, not disqualified by payment of rates**

The payment of or liability to be rated or to pay rates levied by any contributing authority for the purposes of this Act shall not disqualify any Judge, District Court Judge, or Justice from dealing with any appeal, prosecution, action, claim, or proceedings instituted under or in pursuance of this Act or under any bylaws made by the Board under the authority of this Act or any other Act.

The words “District Court Judge” were substituted for the words “Magistrate”, as from 1 April 1980 pursuant to section 18(2) District Courts Amendment Act 1979 (1979 No 125).

**74 Service of legal proceedings on Board**

Any summons, writ, notice, or other legal proceeding requiring to be served on the Board may be served by being left at the public office for the time being of the Board or by delivering the same personally to the Chairman or Secretary for the time being of the Board.

**74A Custody and use of common seal**

- (1) The common seal of the Board shall be held in the custody of the Secretary.
- (2) If the Board desires or is required to execute any document under the seal of the Board, the document shall be executed

by affixing the seal and by the following persons signing the document below the affixed seal:

- (a) the Chairman of the Board or, in his absence, some other member of the Board; and
- (b) the Manager of the Board or the Secretary.

**75 Authentication of documents by Board**

Every order, notice, or other document requiring authentication by the Board may, unless otherwise provided, be signed by any two members or by the Secretary, and need not be under the common seal of the Board.

**76 Service of notices, etc**

- (1) In any case in which it is provided by this Act or by any bylaw made by the Board under the authority of this Act or any other Act, that an order may be made upon or notice given to any person requiring him to do or abstain from doing anything, or where any notice is required by this Act or by any such bylaw to be given or sent to any person, such order or notice shall be delivered to such person either personally or by posting it by registered letter addressed to that person at his last known place of abode or business in New Zealand. A notice so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.
- (2) If such person is absent from New Zealand, the order or notice may be delivered as aforesaid to his agent in New Zealand. If he is deceased, the notice may be delivered as aforesaid to his personal representative.
- (3) If such person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representative, and the order or notice relates to any land, work, material, building, or other structure, the order or notice, addressed to the owner or occupier of such land, work, material, building, or other structure, as the case may require, may be served on the occupier thereof, or left with some inmate of his abode; or, if there is no occupier, may be put up on some conspicuous part of such land, work, material, building, or other structure. It shall not be necessary

in any such notice to name the occupier or owner of such land, work, material, building, or other structure.

- (4) In all cases other than those provided for in the last preceding subsection, if the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representative, the order or notice shall be delivered in such manner as may be directed by an order of the Court.
- (5) Notwithstanding anything in the foregoing provisions of this section, the Court may in any case make an order directing the manner in which any order or notice is to be delivered, or dispensing with the delivery thereof.
- (6) This section does not apply to orders or notices served in proceedings in the Court.
- (7) Every order or notice required to be sent or served by the Board shall be signed as provided in the last preceding section.
- (8) In all cases in which any matter or thing is required to be published, advertised, or inserted by the Board in a newspaper generally circulating in the district, the said newspaper shall be such newspaper as the Board from time to time appoints in that behalf, or, if there is no Board at the time when that matter or thing ought to be advertised, the said newspaper shall be such as the Secretary appoints in that behalf.
- (9) Any order or notice made or given by the Board before the passing of this Act shall be deemed to have been validly and lawfully given, notwithstanding that such order or notice may not have been made or given in compliance with the requirements of this section.
- (10) In this section the expression **the Court** means—
  - (a) in any case where any order or notice relates to any sum of money not exceeding four thousand dollars, or to any property the value of which does not exceed the sum of four thousand dollars a District Court:
  - (b) in any other case, the High Court.

The words “District Court” in subsection (10)(a) were substituted for the words “Magistrate’s Court” respectively, as from 1 April 1980 pursuant to section 18(1) District Courts Amendment Act 1979 (1979 No 125).

The words “four thousand dollars” in subsection 10(a) were substituted, as from 10 July 1967, for the words “two thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

The words “High Court” were substituted for the words “High Court”, as from 1 April 1980, by section 12 Judicature Act 1979 (1979 No 124).

**77 Governor-General may extend time fixed by Act for exercising powers, etc**

At any time before or after the day appointed for the holding of any meeting of the Board or for the doing of any act, matter, or thing by this Act, or by any bylaw made by the Board under the authority of this Act or any other Act, required to be done by the Board on or before a day certain, it shall be lawful for the Governor-General to extend the time allowed or fix a later day for the holding of the meeting or for the doing of any such act, matter, or thing as aforesaid, notwithstanding that the day may have passed on which the same ought to have been held or done, and to adopt or cause to be adopted such measures as may be necessary to remove any obstacle of a technical or formal nature by which the carrying out of the provisions of this Act may be impeded, and to supply any deficiency which may be required to be supplied in order to enable the said provisions to be carried out.

**78 Government works not to be interfered with**

- (1) Nothing in this Act shall—
  - (a) authorise the Board to interfere with any public work executed or carried on by or under the control of the Government without the previous consent and approval of the Minister of the Crown under whose control the work is being executed or carried on; or
  - (b) prejudice or affect any power or authority vested in Her Majesty, or in the Governor-General, or in any Minister or other person on behalf of Her Majesty or the Governor-General, under any Act relating to the erection, construction, carrying on, or maintenance of any work.
- (2) In giving any consent and approval under the last preceding subsection the Minister of Works, or such other Minister as aforesaid, may impose such conditions as he thinks fit for the protection and safety of the public work.



Subsection (1)(a) was amended, as from 1 April 1988, by section 8 Ministry of Works and Development Abolition Act 1988 (1988 No 42).

The words “Minister of Works and Development” in subsection (2) were substituted, as from 21 November 1973, for the words “Minister of Works” pursuant to section 2(4)(a) Public Works Amendment Act 1973 (1973 No 44).

## **79 Arbitration**

- (1) Any dispute or difference between the Board and any local authority or person which is required by the provisions of this Act to be decided by arbitration shall (subject to any specific provisions of this Act otherwise relating thereto)—
  - (a) if the parties agree upon a single arbitrator, be referred to that arbitrator:
  - (b) if the dispute or difference involves or is concerned principally with questions relating to engineering matters, but the parties are unable to agree upon a single arbitrator, be referred to an engineer nominated for the purpose by the President for the time being of the New Zealand Institution of Engineers, or, if the President is engineer or consulting engineer to the Board or to the local authority or person concerned, then by the senior vice-president for the time being of that institution:
  - (c) if the dispute or difference involves or is concerned principally with questions relating to accountancy matters, but the parties are unable to agree upon a single arbitrator, be referred to a public accountant nominated for the purpose by the Chairman for the time being of the Auckland branch of the New Zealand Society of Accountants:
  - (d) in any case not provided for by paragraph (a), or paragraph (b), or paragraph (c), of this subsection, be referred to two arbitrators, one to be appointed by the Board and one by the other party concerned, or to an umpire appointed by such arbitrators.
- (2) Every such arbitration shall be conducted in the manner provided by and pursuant to the provisions of the Arbitration Act 1908 and this section shall be deemed to be a submission within the meaning of that Act.

**80 Certain enactments not affected**

Except as expressly provided in this Act, nothing in this Act shall derogate from any of the provisions of any of the following enactments:

- (a) The Fisheries Act 1908:
- (b) The Soil Conservation and Rivers Control Act 1941:
- (c) The Boilers, Lifts, and Cranes Act 1950:
- (d) The Harbours Act 1950:
- (e) The Machinery Act 1950:
- (f) The Shipping and Seamen Act 1952:
- (g) The Waters Pollution Act 1953:
- (h) The Health Act 1956:
- (i) The Transport Act 1962.

**81 Repeals and savings**

- (1) The enactments mentioned in Schedule 2 to this Act are hereby repealed.
- (2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not in any way annual or prejudicially or injuriously or otherwise affect any contract or other document made, anything done or agreed to be done or commenced to be done, any appointment made or office filled, any right or property acquired, any security given, any valuation or rate made or levied or directed to be made or levied, any bylaw made or enacted, any election held or in process of being held, any resolutions passed, or any order, notice, or direction made or given under the authority of any enactment so repealed, or the right or power of the Board to raise or complete the raising of any authorised loan, or to issue any debenture or stock prepared for issue under the said enactments, or to continue and carry to completion any power, authority, or right vested in the Board in respect of any such loan or any part thereof.
- (3) All such documents and things, and generally all acts of authority, which originated under any of the provisions hereby repealed and which are subsisting or in force at the time of the repeal, shall enure for the purposes of, and shall continue and have effect as if they had been made or done under the corresponding provisions of this Act and as if those provisions had

been in force when the documents were made or the things were done.

- (4) All actions, matters, and proceedings commenced under any of the provisions hereby repealed, and pending or in progress on the passing of this Act, may be continued, completed, and enforced under this Act.

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## **Schedule 1**

s 3

### **North Shore Drainage District**

ALL that area in the North Auckland Land District, being the Borough of Devonport, part of the City of Takapuna, the Cities of Birkenhead and East Coast Bays, the Borough of Northcote, and part of the County of Rodney, bounded by a line commencing at a point on the line of mean high water of the Auckland Harbour, at the Paremomore Wharf, and running northerly generally along the eastern side of Paremomore Road to the north-western corner of Allotment 200, Paremomore Parish; thence along a right line across the Albany-Paremomore road to and along the eastern side of Hobson's Road to the north-western corner of Allotment 128 of the aforesaid parish, and along a right line, being the production northerly of the northern end of the western boundary of the said Allotment 128, to and north-westerly generally along the north-eastern side of the Birkenhead-Maungaturoto State Highway to and along the eastern side of the public road forming the generally western boundaries of Allotments N 11, 290, 291, 292, Parish of Pukeatua, Allotments 85, 253, 252, and 251 and intersecting Allotment 79, all of Okura Parish, to the Redvale-Silverdale road; thence along the generally eastern side of the last-mentioned road to a point in line with the northern side of the public road intersecting the western portion of Allotment 29, Parish of Okura; thence along a right line across the aforesaid Redvale-Silverdale road, to and along the aforesaid northern side of the road intersecting the said portion of Allotment 29 and Allotment 261 of the Parish of Pukeatua, and along the generally northern side of the public road forming the generally southern boundaries of Allotments 7A, 7B, 7C, 7D of the Parish of Okura, Lots 9, 8, 7, and 6 as shown on the Deeds Plan numbered 1375, being parts of Hatfield's Claim, Lot 82 LC, another part of Lot 82 aforesaid, and Allot-

ments 257, SW 257, and 256 of the Parish of Pukeatua to the northern side of Massey Road; thence along the northern side of the aforesaid Massey Road to and along the eastern side of the public road forming the western boundaries of Allotments 102, 103, 104, 104A to the south-western corner of Allotment 244, the aforesaid allotments all being of the Parish of Pukeatua; thence north-easterly and easterly generally along a right line to Trig Station numbered XII, situated in Block VII, Waiwera Survey District, along another right line to Trig Station Hall's Hill in the aforesaid Block VII, along another right line to Trig Station XIIB in Block III of the aforesaid survey district, and along another right line from the aforesaid Station XII B and passing through Trig Station 917 (Te Whau) in the said Block III to the line of mean high water of the Hauraki Gulf; thence southerly and westerly generally along the line of mean high water of the Hauraki Gulf aforesaid and the shores of the Auckland Harbour to the point of commencement; as the same is more particularly delineated on the plan numbered 36991, lodged in the Office of the Chief Surveyor at Auckland, and thereon edged red.

Schedule 1 was amended, as from 13 August 1983, by section 24 North Shore Drainage Amendment Act 1983 (1983 No 30(L)).

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## Schedule 2

### Enactments repealed

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**Local Legislation Act 1960 (1960 No 107): Section 36**

**Local Legislation Act 1962 (1962 No 117): Section 36**

**North Shore Drainage Act 1951 (1951 No 19 (Local))**

**North Shore Drainage Amendment Act 1954 (1954 No 16 (Local))**

**North Shore Drainage Amendment Act 1956 (1956 No 11 (Local))**

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## **Notes**

### **1 *General***

This is an eprint of the North Shore Drainage Act 1963. The eprint incorporates all the amendments to the Act as at 1 November 2010. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

### **2 *About this eprint***

This eprint has not been officialised. For more information about eprints and officialisation, please *see* <http://www.pco.parliament.govt.nz/eprints/>.

### **3 *List of amendments incorporated in this eprint (most recent first)***

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37): section 113(1)

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