

Dunedin District Drainage and Sewerage Acts Amendment Act 1914

Local Act 1914 No 12
Date of assent 2 November 1914

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**Dunedin District Drainage and Sewerage Acts
Amendment Act 1914**

Preamble.

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An Act to amend the Dunedin District Drainage and Sewerage Act, 1900, and the Acts amending the same.

Preamble.

WHEREAS by the Dunedin District Drainage and Sewerage Acts Amendment Act, 1912, the Board was authorized to borrow a sum not exceeding one hundred thousand pounds, and by the Dunedin District Drainage and Sewerage Acts Amendment Act, 1913, the Board was empowered to borrow any moneys theretofore authorized to be borrowed and not borrowed in pursuance of such authority on such terms as would produce to the lender a rate of interest not exceeding five pounds per centum per annum, but such last-mentioned power was to have operation only until the thirty-first day of March, nineteen hundred and sixteen: And whereas, for the purpose of exercising the said respective powers and authorities, the Board has created one thousand debentures each securing payment of the sum of one hundred pounds, and as to one hundred of such debentures with interest thereon at the rate of four pounds ten shillings per centum per annum, and as to nine hundred of such debentures with interest thereon at the rate of five pounds per centum per annum: And whereas the Board has borrowed ten thousand pounds on the security of the said one hundred debentures bearing interest at the rate of four pounds ten shillings per centum per annum and has duly issued the same: And whereas the Board has deposited the said nine hundred debentures with the Bank of New Zealand as security for advances by the bank to the Board for its temporary accommodation, and the said nine hundred debentures are still held by the bank as security as aforesaid:

Be it therefore enacted by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1 Short Title.

This Act may be cited as the Dunedin District Drainage and Sewerage Acts Amendment Act, 1914, and it shall form part of and be read together with the Dunedin District Drainage and Sewerage Act, 1900.

2 Interpretation.

In this Act, if not inconsistent with the context,—

“The principal Act” means the Dunedin District Drainage and Sewerage Act, 1900:

“The Amendment Act, 1906,” means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1906:

“The Amendment Act, 1907,” means the Dunedin District Drainage and Sewerage Act Amendment Act, 1907:

“The Amendment Act, 1909,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1909:

“The Amendment Act, 1911,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1911:

“The Amendment Act, 1912,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1912:

“The Amendment Act, 1913,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1913.

3 Interpretation.

In the principal Act and all Acts now or hereafter passed amending or extending the same, including this Act, the expression “the said Acts,” if not inconsistent with the context, shall mean and include the principal Act and all Acts amending or extending the same, including this Act.

4 Borrowing-powers.

- (1.) The debentures deposited by the Board with the Bank of New Zealand as aforesaid shall be deemed to have been validly created in exercise of the powers conferred by section three of the Amendment Act, 1912, and section five of the Amendment Act, 1913, and shall be and continue valid and effectual accordingly; and for the purposes of borrowing the sum of ninety thousand pounds, being the balance of the said authorized loan of one hundred thousand pounds, or for obtaining advances for the temporary accommodation of the Board or otherwise for the purposes of the said Acts, may be used and issued by the Board notwithstanding the expiry of the period limited by the said section five.
- (2.) Subject and without prejudice to the last preceding subsection, the Board may, for the purpose of borrowing the said sum of ninety thousand pounds, in lieu of issuing the debentures deposited as security as aforesaid, and notwithstanding that the period limited by the said section five shall have expired, create and issue new debentures for the said sum of ninety thousand pounds; and shall apply so much of the sum so raised as shall be necessary for such purpose in paying off the amount now or hereafter owing to the Bank of New Zealand on the security of and redeeming the debentures deposited as security as aforesaid, which last-mentioned debentures shall thereupon be cancelled.
- (3.) No person lending any money to the Board pursuant to the last preceding subsection shall be concerned to see to the application of such money for the purposes mentioned in such subsection or otherwise.

5 Further borrowing powers.

- (1.) The Board is hereby authorized to borrow further money for the purposes of the said Acts, including the purposes mentioned or referred to in section seventy of the principal Act, not exceeding the sum of thirty thousand pounds.
- (2.) Section fifty-six of the principal Act shall be read and construed as if the words “five hundred and eighty thousand pounds” had been originally inserted therein instead of the words “two hundred thousand pounds.”
- (3.) Section four of the Amendment Act, 1913, is hereby amended by repealing the words “twenty-five thousand pounds,” and substituting therefor the words “fifty-five thousand pounds”; and, as so amended, shall apply to the said sums of ninety thousand pounds and thirty thousand pounds.

6 Terms of loans, and method of raising same.

- (1.) Notwithstanding anything contained in the said Acts, if the Board elects to exercise the powers conferred by subsection two of section four of this Act, the said sums of ninety thousand pounds and thirty thousand pounds or any parts thereof respectively may be raised together in one sum.
- (2.) The said moneys, whether raised in one or more sums, may respectively, notwithstanding the expiry of the period limited by section five of the Amendment Act, 1913, be raised or borrowed on such terms as will produce to the lender a rate of interest not exceeding five pounds per centum per annum.
- (3.) The provisions of subsections two and four of section fifty-eight of the principal Act shall, as to the said sums of ninety thousand pounds and thirty thousand pounds, be read and construed with such modifications in regard to the rate of interest on the said sums as may be necessary for giving effect to the provisions of the last preceding subsection.

7 Sinking funds.

- (1.) Subject and without prejudice to the provisions contained in subsection two of section four of the Amendment Act, 1913, it shall be lawful for the Board to pay to the Commissioners appointed by the Board pursuant to the said Acts the principal-moneys paid to the Board by owners or occupiers under the provisions of the said Acts or of any agreement with the Board or otherwise in respect of works executed by the Board in connection with premises in the district when such moneys are not required for the purposes referred to or contemplated by section seventy of the principal Act:

Provided always that the said Commissioners shall at any time thereafter, upon the written request of the Board signed by the Secretary, repay to the Board all or any of the said moneys which in the opinion of the Board shall be required for the purposes referred to in or contemplated by the said section seventy. The powers contained in this subsection may be exercised from time to time.

- (2.) Subject as aforesaid, the Commissioners shall hold the moneys paid to them as aforesaid as a sinking fund to be applied with the interests and profits accruing therefrom in the payment, as and when directed by the Board and so far as the same will extend, of the moneys borrowed by the Board under or by virtue of the said Acts, including the said section seventy and this Act, and the interest thereon in manner following: the said interests and profits shall be first applied in or towards the payment of interest on so much of the said moneys so borrowed as are equal in amount to the principal-moneys for the time being in the hands of the said Commissioners pursuant to the preceding subsection, and the balance (if any) of the said interests and profits, together with the principal-moneys for the time being in the hands of the said Commissioners pursuant to the preceding subsection, shall be applied in or towards the repayment of the said loan-moneys; and subject thereto the Commissioners shall dispose of such moneys and the interest and profits thereof and therefrom—
 - (a.) By investing the same, together with all interests and profits accruing therefrom, in such securities as the Board from time to time directs, and in particular in the purchase of any debenture issued by the Board in connection with the loan-moneys in or towards the repayment of which the same are applicable as aforesaid.
 - (b.) The surplus moneys (if any) shall be repaid to the Board and applied by it in such manner as the Board shall by special order determine.
- (3.) Before raising all or any part of any loan now or hereafter authorized to be raised, including the said sums of ninety thousand pounds and thirty thousand pounds, or any part or parts thereof respectively, and including moneys re-borrowed under the provisions of the said Acts, the Board may make provision for the repayment of the amount so raised either—
 - (a.) By making with or without a sinking fund the whole amount repayable at a stated period or parts thereof at stated periods, provided that the annual payment to be made by the Board for the purposes of such sinking fund shall not exceed one-half per centum on the amount of loan-moneys in connection with which the sinking fund is created:
 - (b.) By making any debentures of the said loan-moneys repayable by periodical drawings.
- (4.) In order to provide funds for the creation of a sinking fund or for the repayment of debentures becoming due by periodical drawings pursuant to the last preceding subsection, the Board may permanently appropriate any part of the General Fund referred to in section fifty-five of the principal Act, or, without any such appropriation, may pay the same out of such fund.
- (5.) Notwithstanding anything contained in the said Acts, any sinking fund created or moneys permanently appropriated or paid to Commissioners pursuant to the said Acts and the interests and profits accruing therefrom shall be available only as a security for the particular loan-moneys and interest thereon in con-

nection with which the same have been or shall be created, appropriated, or paid. This subsection is in substitution for section seven of the Amendment Act, 1909, which is hereby repealed.

- (6.) Section four of the Amendment Act, 1913, is hereby amended by repealing the words "except that nothing herein contained shall affect the provisions of section seven of the Amendment Act, 1909, and."
- (7.) Section six of the Amendment Act, 1913, is hereby amended by repealing the words "pursuant to the Amendment Act, 1909," in subsection one thereof, and substituting therefor the words "pursuant to the said Acts."

8 Particulars of instalments.

- (1.) A separate book shall be kept by the Board in which shall be entered particulars of the instalments of moneys payable to the Board by instalments pursuant to the said Acts, including section twenty-eight of the principal Act, and of the times when the same are payable, and of the premises in respect of which the same are payable; and such book shall be *Prima facie* evidence of the correctness of its contents. Such book may be in ledger form and form part of the financial books of the Board.
- (2.) This section is in substitution for subsection three of the said section twenty-eight, which subsection is hereby repealed.

9 Loose-leaf books.

All books by the said Acts required to be kept by the Board, including the book referred to in the last preceding section and the Register of Charges, may be kept on the loose-leaf system.

10 Election.

- (1.) A true copy of the district electors roll or rolls of the city and of each of the several boroughs within the district as existing one month previous to any election under the said Acts shall together form and be used as the district electoral roll for the purpose of such election.
- (2.) No person shall have more than one vote at any such election, notwithstanding that his name may appear more than once on the district electoral roll.
- (3.) In addition to the particulars to be written on the voting-paper as provided by the Local Elections and Polls Act, 1908, the Returning Officer shall write thereon the initials of the name of the municipality in whose district electors roll a line is drawn through the name of such voter pursuant to the said Local Elections and Polls Act.
- (4.) The foregoing subsections are in substitution for section six of the principal Act, which is hereby repealed.

- (5.) Subsections one and two of section eight of the Amendment Act, 1913, are hereby repealed, but such repeal shall not affect the validity of any election held after that Act and before this Act.
- (6.) Section ten of the principal Act is hereby amended by repealing the words “the third Wednesday in January” where those words last appear in the said section, and substituting therefor the words “the second Thursday in May.” Such members of the Board as would but for this subsection have retired on the third Wednesday in January in the years 1915, 1916, and 1917 respectively shall respectively hold office until the second Thursday in May in those respective years.

11 Certificate of Drainage Engineer.

The certificate of the Drainage Engineer under or by virtue of any of the provisions of the said Acts may be given notwithstanding that the period of maintenance under any contract for the execution of the works to which such certificate relates shall not have expired, and such certificate shall be valid and effectual accordingly, provided that such certificate shall not affect the rights or liabilities of the Board or the contractor under any such contract.

12 Drain in common.

- (1.) In the said Acts the expression “drain in common” shall, unless inconsistent with the context, include branches of the main drain to within the boundary of each premises which the drain in common serves or is intended to serve.
- (2.) The proviso to paragraph (a) of section eleven of the Amendment Act, 1911, shall not affect or prejudice the provisions of section seventeen of the Amendment Act, 1909.

13 Roof water.

- (1.) In the said Acts, unless inconsistent with the context, the expression “surface water” includes roof water.
- (2.) Section twenty-five of the principal Act is hereby amended by adding thereto, as subsection three a, the following subsection:—

“(3a.) Provide and affix, repair, remove, or replace spouting and downpipes on and from the roof of any building on the said premises (including the roof of any veranda or portico thereto) and such means for the discharge of roof water therefrom as the Board shall direct.”
- (3.) Subsection one of section thirty of the principal Act is hereby amended by adding thereto, after the word “particulars,” the words “of all spouting and downpipes affixed and to be affixed to buildings in the district and means for discharge of roof water and”; and also, after the word “compelling” where that word first occurs in the said subsection, the words “the providing and affixing of spouting and downpipes and means for discharge of roof water and.”

14 Powers of the Board.

- (1.) Section five of the Amendment Act, 1912, is hereby amended by adding thereto, after the word “buildings,” the words “or of any building divided into or occupied as separate tenements”; and, after the word “building,” the words “or tenement.”
- (2.) A building shall be deemed to be divided into or occupied as separate tenements notwithstanding that there is a common means of access to all such tenements, and notwithstanding that there is no structural division between the several tenements.

15 Agreements.

- (1.) It shall be lawful for the owner of any premises in the district to enter into the agreements referred to in section thirty-seven of the principal Act and section twenty-one of the Amendment Act, 1909.
- (2.) This section shall be deemed to have been in force, as to agreements referred to in the said section thirty-seven, from the passing of the principal Act; and as to agreements referred to in the said section twenty-one, from the passing of the Amendment Act, 1909.

16 Rack-rent.

In the said Acts, unless inconsistent with the context, the expression “rack-rent” means rent which is not less than two-thirds of the net annual value of the premises out of which the rent arises; and the expression “net annual value” shall, where such premises are situated in a borough in which the system of rating on the annual value is in force, be taken to be the amount appearing in the valuation roll of such borough as the rateable value of such premises, and where such premises are situated in a borough in which the system of rating on the unimproved value is in force shall be taken to be an amount equal to six pounds per centum on the capital value of such premises as appearing in the valuation roll of such borough, and, subject as aforesaid, shall be taken to be the rent at which the premises might reasonably be expected to let from year to year free from usual tenants’ rates and taxes and after deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent.

17 Owner.

- (1.) In the said Acts, and for all the purposes thereof, including the power to enter into an agreement with the Board, “owner” of any premises shall, if not inconsistent with the context, include—
 - (a.) The person for the time being in actual receipt of the rack-rent of the premises whether on his own account or as agent or trustee for any other person:

- (b.) The person in whom the premises are vested as trustee, executor, or administrator, whether with or without active duties to perform, and whether with or without power to expend money on drainage, sewerage, or sanitation works.
- (2.) The foregoing definitions are in addition to, and shall take effect independently of, the definitions contained in the principal Act and the Acts heretofore passed amending the same.
- (3.) Section three of the principal Act is hereby amended by adding thereto, after the words "owner of any land or building," the words "or premises."
- (4.) Section two of the Amendment Act, 1906, is hereby amended by adding thereto, after the word "trust," the words "and whether at law or in equity, including the purchaser or lessee under an agreement for sale or lease."
- (5.) Nothing in this section contained shall affect or prejudice the provisions of any lease or other document as between the parties thereto.

18 Notices.

- (1.) In the said Acts, unless inconsistent with the context, the word "notice" includes any demand, order, direction, or requisition.
- (2.) The following provisions shall apply to any notice by the said Acts or the by-laws required or authorized to be given or made by the Board or any officer thereof:—
 - (a.) If in the case of any premises there is no owner thereof within any of the definitions contained in the said Acts, or if the owner is not known to the Board, or if the owner is absent from New Zealand and has no agent in New Zealand known to the Board, it shall be sufficient to address such notice generally to "the owner" of the premises to which the notice relates without naming him.
 - (b.) Any such notice as is referred to in the last preceding paragraph may be served by being left with the occupier of the premises or some inmate of his abode, or if there is no person in actual occupation of the premises may be left thereon or affixed thereto.
 - (c.) If there are more owners than one it shall be sufficient if the notice is served on any one of them and the name of any one of them is specified with the addition of the words "and others," whether such owners be two or more.
 - (d.) Any notice given as aforesaid shall be valid and effectual for all the purposes of the said Acts, including section six of the Amendment Act, 1906, and shall bind the premises and the owner for the time being thereof; and, in case of default, the Board may proceed thereon and exercise all the powers vested in it by the said Acts as if notice had been served on the owner personally and default had been made by such owner.

- (e.) In all proceedings against the owner in which the notice has to be proved until the contrary is shown the notice and the due service thereof and the date of such service shall be deemed to be sufficiently proved by the production of what purports to be a copy bearing what purports to be a certificate under the hand of any officer or servant of the Board that the copy is a true copy of the original and that the original was served on the date specified in the certificate.
 - (f.) The validity of the notice or of the service thereof shall not be affected by any error, misdescription, or irregularity which is not calculated to mislead or which in fact does not mislead.
- (3.) Any notice purporting to be signed by the Secretary or the Drainage Engineer of the Board shall be deemed to have been authorized by the Board unless and until the contrary is shown.
 - (4.) Subsection three of section eleven of the Amendment Act, 1907, is hereby repealed.

19 Cost of works.

- (1.) Section forty-four of the principal Act shall extend and apply to works executed by the Board pursuant to section twenty-six of that Act and section twelve of the Amendment Act, 1909, or either of those sections. This subsection shall be deemed to have been in force from the passing of the principal Act.
- (2.) In lieu of the percentage charge mentioned in the said section forty-four, the Board may in any particular case fix a fee not exceeding one pound one shilling, and the provisions of the said section shall apply to such fee.
- (3.) All expenses, legal and otherwise, actually incurred by the Board in connection with or in relation to the works mentioned in the said section forty-four as extended by this section shall be deemed part of the cost of such works and be recoverable accordingly.

20 Rights of way.

- (1.) It shall be lawful for the Board to construct and lay any part of a drain in common pursuant to section twenty-six of the principal Act and section twelve of the Amendment Act, 1907, or either of those sections, or pursuant to any agreement with the owners of the premises to be served by such drain in common, on, in, or through any land over or in respect of which there is a right or easement of way appurtenant to such premises or any of them.
- (2.) No right to payment of compensation shall be created by reason or in consequence of the exercise of the powers conferred by this section.

21 Suspended works.

- (1) Subsection one of section twelve of the Amendment Act, 1913, shall extend and apply to works suspended pursuant to section seventeen of the Amendment Act, 1909.
- (2) The alterations and modifications specified by the Drainage Engineer may be made by the Board without giving any further notices.

22 Addition to district.

The area described in the Schedule hereto is hereby added to and shall form part of the district.

23 Rates.

- (1) Where any premises within the district forms portion of one property which is partly within and partly without the district, such premises shall for the purposes of the said Acts, the Valuation of Land Act, 1908, the Bating Act, 1908, and every other Act dealing with the valuation of land for rating purposes and the levy and recovery of rates by any local authority having power to levy rates thereon (including the Board), be valued separately from the remainder of such property; and until such separate valuation is made the rateable value of the whole property shall be deemed and taken to be the rateable value of the said premises.
- (2) For the purposes of the said Acts (including this Act) so far as they relate to rates and the striking, levy, and collection of rates and, in particular, sections fifty-three and fifty-four of the principal Act and section nine of the Amendment Act, 1911, and this section the word “borough” or any similar expression shall include a town district, a road district, and a county.
- (3) In the case of a borough wherein the system of rating on the capital value is in force and which borough or a portion thereof is included in the district, the rates authorized to be levied by the said Acts shall nevertheless be levied on the annual rateable value of the premises in such borough or portion thereof, and for the purposes thereof the annual rateable value of such premises shall be deemed to be six pounds per centum of the capital value of such premises as appearing in the valuation roll of such borough or of the Board, as the case may be.
- (4) The following paragraph shall be added to section nine of the Amendment Act, 1911, as paragraph (cc), namely:—

“(cc.) In the case of premises in a borough or portion of a borough comprised in the district and in which borough the system of rating on the capital value is in force the foregoing provisions shall apply, except that the annual rateable value of such premises shall be deemed to be six pounds per centum of the capital value of such premises respectively as appearing in the valuation roll of such borough.”

Schedule

All that area in the Otago Land District bounded by a line commencing at a point on the south-western side of Anderson's Bay Road distant 151 links south-easterly from the junction of the eastern side of former Royal Crescent (now closed) with the south-western side of Anderson's Bay Road: thence along the north-eastern boundary of Lot No. 2 on Plan No. 1159, deposited in the office of the District Land Registrar at Dunedin, to the south-western corner of the Bay Town District: thence along the south-eastern boundary of the said Bay Town District to a point on the south-eastern boundary of Section No. 72, Block VII, Town District, distant 572 links from its southernmost corner: thence bearing $302^{\circ} 34' 30''$, distance 151·3 links; bearing $212^{\circ} 34' 30''$, distance 105·5 links; bearing $341^{\circ} 55'$, distance 98·9 links; bearing $251^{\circ} 55'$, distance 9·7 links; bearing $311^{\circ} 28'$, distance 148·3 links; bearing $311^{\circ} 59' 30''$, distance 915 links; bearing $212^{\circ} 34' 30''$, distance 156·9 links; bearing $180^{\circ} 21' 30''$, distance 70·9 links; bearing $212^{\circ} 51'$, distance 275 links; and bearing $302^{\circ} 37'$ to Anderson's Bay Road: and thence along the southern side of Anderson's Bay Road to the place of commencement.