

New Zealand.

ANALYSIS.

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1938, No. 14.—*Local and Personal.*

AN ACT to amend the Southland Land Drainage Act, 1935. Title.
[16th September, 1938.]

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

1. This Act may be cited as the Southland Land Drainage Amendment Act, 1938, and shall be read together with and deemed part of the Southland Land Drainage Act, 1935 (hereinafter referred to as the principal Act). Short Title.

Interpretation.

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

“ Farm ” means any continuous area of land occupied and used as one holding for agricultural or pastoral purposes, or for both of such purposes. An area of land shall be deemed to be continuous, notwithstanding that it is severed by a public road or by a railway or river, if it is in fact occupied and used as one holding as aforesaid:

“ Farm-drain ” means as to any farm that part of any drain which, being on the farm, or between the farm and any adjoining farm, or along the side of a road fronting the farm, is used for land-drainage purposes in relation to more than one farm, but does not include that part of any drain which, by reason of the natural fall of the land or by means of artificial drains, is used for land-drainage purposes in relation to an area of land in excess of two thousand acres:

Council empowered to require cleaning-out of farm-drains within the district and to recover the cost and expenses of work done by the Council on farm-drains.

3. (1) In addition to the powers conferred upon the Council by the principal Act, the Council may from time to time, by public notice in the form in the Schedule to this Act, require the occupiers, or in cases where there are no occupiers, then the owners, of all farms within the district to cleanse and remove obstructions from all farm-drains thereon within three months from the first publication of such notice.

(2) Such notice shall be published on two days, the second publication being not less than one month and not more than two months after the first publication of the notice. On each day of publication the notice shall be published in two newspapers circulating in the district.

(3) If, with respect to any farm-drain within the district, the work required to be done by such notice is not, at the expiration of the period mentioned in subsection one of this section, carried out and completed, the Council may carry out or complete such work on such farm-drain, and the cost of the carrying-out

of any work by the Council under this section and all incidental expenses incurred in connection therewith shall—

- (a) Constitute a debt forthwith due and payable by the occupier, or if there is no occupier, then by the owner, of the farm upon which is situated the farm-drain or the part of the farm-drain on which such work has been carried out, and shall become and be a charge on the land and may be recovered as rates which have been validly demanded are recoverable under the Rating Act, 1925; and
- (b) In any case where the farm-drain is situated between two adjoining farms, be payable in equal shares by the occupiers or (as aforesaid) the owners of the farms between which such farm-drain runs, so that one-half of such cost and expenses shall as to each of such farms constitute a debt forthwith due and payable by the occupier, or if there is no occupier, then by the owner thereof, and be a charge on the land and may be recovered as rates which have been validly demanded are recoverable under the Rating Act, 1925.

(4) For the purposes of this section a farm-drain along the side of a road fronting a farm shall be deemed to be situated on such farm.

4. In any proceedings brought by the Council under this Act for the recovery of any moneys or brought against the Council in relation to the exercise or purported exercise of any of its powers thereunder, a certificate in writing under the hand of any engineer employed by the Council that a drain or part of a drain is, or was at any time mentioned in such certificate, a farm-drain, shall be conclusive evidence of that fact.

Certificate of Engineer as to farm-drain to be conclusive evidence.

5. For the purposes of any inspection, investigation, or inquiry directed by the Council in relation to any power conferred on the Council by this Act or the principal Act, and for the purpose of carrying out any work authorized by this Act or the principal Act, the Council, or its surveyors, agents, officers, and workmen, may, upon giving the occupier or owner twenty-four

Power of entry on lands for inspections or investigations and for purpose of carrying out works authorized.

hours' notice, enter upon any lands in the district and may do all things necessary or advisable in the opinion of the Council for the purpose of the exercise of such powers.

Prohibiting execution of work upon railway land without authority of Minister of Railways.

6. Nothing in this Act shall authorize the Council to enter into or upon or to execute any work upon or affecting any railway work or railway land except with the previous consent and approval of the Minister of Railways, who, in giving his consent and approval as aforesaid, may impose such conditions as he thinks fit for the protection and safety and generally in the interests of the railway.

Right to recover preliminary expenses where work not done.

7. Expenses incurred by the Council under this Act or the principal Act in relation to any drain shall, notwithstanding that no work has been carried out on such drain by the Council, be recoverable by the Council as moneys are recoverable under subsection three of section three of this Act in the following cases, namely:—

(a) Where in the case of any drain a written request has been received from the owner or occupier of any land for the exercise by the Council of any of its powers with respect to such drain, in which case such expenses shall constitute a debt forthwith due and payable to the Council by such owner or occupier and be recoverable as hereinbefore provided:

(b) Where such expenses have been incurred owing to the failure of any owner or occupier to cleanse or remove obstructions from a drain in accordance with any notice given under this Act or the principal Act, in which case such expenses shall constitute a debt forthwith due and payable to the Council by such owner or occupier and be recoverable as hereinbefore provided.

Right to require payment of expenses in advance.

8. The Council may require any person who shall have requested or applied to the Council to exercise any of its powers under this Act or the principal Act as a condition of its considering the request or application to pay to the Council a reasonable sum for engineering, surveying, and other expenses incurred or likely to be incurred in respect of the request or application.

SCHEDULE.

Schedule.

Southland [or Wallace] County.

NOTICE TO CLEANSE AND REMOVE OBSTRUCTIONS FROM DRAINS.

THE occupiers, or where there are no occupiers, then the owners, of all farms within the County of Southland [or Wallace] are hereby required to cleanse and remove obstructions from farm-drains upon their farms or on roads adjoining their farms within three calendar months from the date of this notice, being the date of the first publication thereof.

The County Council may carry out the work required by this notice in respect to any farm-drain upon which the work has not been done within the period specified, and may recover as rates the cost thereof and all incidental expenses incurred in connection therewith from the occupier or owner of the farm.

“Farm” means any continuous area of land occupied and used as one holding for agricultural or pastoral purposes, or for both of such purposes. An area of land shall be deemed to be continuous, notwithstanding that it is severed by a public road or by a railway or river, if it is in fact occupied and used as one holding as aforesaid.

“Farm-drain” means as to any farm that part of any drain which, being on the farm, or between the farm and any adjoining farm, or along the side of a road fronting the farm, is used for land-drainage purposes in relation to more than one farm, but does not include that part of any drain which, by reason of the natural fall of the land or by means of artificial drains, is used for land-drainage purposes in relation to an area of land in excess of two thousand acres.

“Obstructions” includes all obstructions of any kind calculated to impede the free flow of water in a drain, including earth, stone, timber, and material of all kinds, and trees, plants, weeds, and growths of all kinds.

By order of the Southland [or Wallace] County Council.

Dated this day of , 19 .

County Clerk.