

Auckland Metropolitan Drainage Act 1944

Local Act 1944 No 8
Date of assent 30 October 1944

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An Act to provide for the Drainage of the City of Auckland and the Suburbs thereof.

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

1 Short Title and commencement.

This Act may be cited as the Auckland Metropolitan Drainage Act, 1944, and shall come into operation on the first day of February, nineteen hundred and forty-five.

2 Interpretation.

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

“Board” means the Auckland Metropolitan Drainage Board as constituted by this Act:

“Constituency” means a local authority or group of local authorities entitled to appoint or elect a member or members of the Board:

“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 Inner Area of the district:

“District” means the Auckland Metropolitan Drainage District constituted by this Act:

“Local authority” means the Council of a city, borough, or county or the Board of a town district or road district:

“Local district” means the district of a city, borough, county, town district, or road district:

“Main sewer” or “main drain” means a sewer or drain designed or intended to convey sewage from the whole or portion of a drainage-reticulation system to the point of disposal:

“Secretary” means the Secretary for the time being of the Board, and includes any person for the time being appointed by the Board to perform the duties of the Secretary, whether designated Acting-Secretary or not.

- (2) Where for the purposes of this Act it is necessary to ascertain or calculate the rateable capital value or population of any area, such value or population, as the case may be, shall be ascertained or calculated as at the thirty-first day of March in the preceding calendar year, subject to the provisions of the Population Estimates Emergency Regulations 1942.

3 The district.

There is hereby constituted for the purposes of this Act a district, to be called the Auckland Metropolitan Drainage District, comprising—

- (a) The City of Auckland, the Boroughs of Mount Eden, Mount Albert, Newmarket, One Tree Hill, Onehunga, Otahuhu, and Ellerslie, the Town District of Papatoetoe, the Road Districts of Mount Roskill and Mount Wellington, the Auckland Domain and Hospital Reserve, and the island in the Hauraki Gulf known as Motukorea or Brown’s Island, which shall together comprise the Inner Area of the district; and
- (b) The Boroughs of New Lynn and Manurewa, the Town Districts of Glen Eden, Henderson, and Howick, the Panmure Township Road District, those portions of the Titirangi, Waikumete, Waipareira, and Waitakerei Ridings of the Waitemata County lying within an approximate radius of nine miles from the chief post-office at Auckland, and that portion of the Manukau County lying within an approximate radius of fourteen miles from the said chief post-office, which shall together comprise the Outer Area of the district and which are more particularly described in the First Schedule hereto;

as shown on a plan deposited in the office of the Chief Surveyor at Auckland under Number S.O. 29649.

4 Alteration to boundaries.

- (1) The Governor-General may from time to time, by Order in Council, on the petition of the Board, alter the boundaries of the Inner Area so as to include therein or exclude therefrom any area that in his opinion should be included in or excluded from the Inner Area, as the case may be.

- (2) Such petition shall be publicly notified by means of an advertisement which shall be published at least once in a daily newspaper in general circulation in the district and which shall state the purpose of the petition, describe the area to which the petition relates, and specify a date (being a date not earlier than one calendar month after the date on which such advertisement is first published) before which all objections shall be lodged with the Minister of Internal Affairs and a copy thereof with the Board.
- (3) If any objections to the proposed alteration are lodged as aforesaid, the Governor-General may appoint any person or persons to be a Commission of Inquiry under the Commissions of Inquiry Act, 1908, to inquire into and report upon the said proposals, but no question of the main drainage being under the control of the Board shall be at issue in any such inquiry.
- (4) The Governor-General may, in making any such alteration to boundaries, declare any area which is to become part of the Inner Area, and which is not to be drained by an extension of the main sewerage system of the Inner Area, a special area, and in such case the following provisions shall apply to such special area:—
 - (a) Where the Board proposes to provide for the drainage of the special area by means of a separate sewerage system but utilizing the Motukorea treatment and disposal works, the local authority or authorities of the special area shall be liable only for contributions as hereinafter mentioned required to provide for—
 - (i) The capital costs and charges of constructing the main sewerage system of such special area;
 - (ii) The capital costs and charges (if any) of altering or extending the Motukorea treatment and disposal works to deal with the sewage from such special area;
 - (iii) An equitable annual charge for the use of the Motukorea treatment and disposal works;
 - (iv) The costs of maintenance of the main sewerage system of such special area; and
 - (v) An equitable annual contribution towards the general administrative expenses of the Board:
 - (b) Where the special area is to be drained by means of drainage-works, whether then existing or to be constructed, which comprise a separate system not in any way connected with the Motukorea treatment and disposal works, then the local authorities of the special area shall be liable only for contributions required to provide—
 - (i) The capital and maintenance costs and charges in respect of such separate system; and

- (ii) An equitable annual contribution towards the general administrative expenses of the Board.
- (5) The Governor-General in making any such alteration of boundaries may make provision for equitable representation on the Board of any area then included within the Inner Area, including, if he thinks fit, an alteration in the number of the members of the Board.

5 Constitution of Board.

- (1) There shall be for the district a Drainage Board which shall be a body corporate under the name of the Auckland Metropolitan 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, 1925, the Health Act, 1920, the Local Bodies' Finance Act, 1921–22, the Local Authorities (Members' Contracts) Act, 1934, the Local Bodies' Loans Act, 1926, and the Local Government Loans Board Act, 1926, and, subject to the express provisions of this Act, the provisions of the said Acts shall extend and apply to the Board.

6 Members of Board.

The Board shall consist of fifteen members, of whom eight shall be elected by the Auckland City Council, two by the Borough Councils of Mount Eden and Newmarket, two by the Mount Albert Borough Council and the Mount Roskill Road Board, two by the Borough Councils of One Tree Hill, Onehunga and Ellerslie, and one by the Otahuhu Borough Council, the Mount Wellington Road Board, and the Papatōetoe Town Board.

7 Election of Board.

- (1) In the month of February in the year nineteen hundred and forty-five, and in the month of June in the year nineteen hundred and forty-seven, and in the month of June in every third year thereafter, in each case on a day fixed by the Board in that behalf,—
- (a) The Auckland City Council shall hold a meeting and elect eight of its members to be members of the Board:
 - (b) The other local authorities of the Inner Area shall elect seven members of the Board as provided in the last preceding section hereof:
Provided that in each constituency only members of the electing local authorities shall be eligible for election in such constituency.
- (2) With respect to every election of members by local authorities pursuant to paragraph (b) of subsection one hereof the Board shall make all necessary arrangements for and conduct such election, and each local authority shall be entitled

to nominate one candidate for its own constituency, and the voting-powers of the local authorities in each constituency shall be determined according to the mean proportion of the rateable value and population of the local districts in the constituency. Any question arising as to the relative voting-powers of any local authority shall be settled by the Board.

8 Coming into office of members.

- (1) Every member of the Board elected under the last preceding section shall come into office on the day following that on which he is elected, and, unless his office sooner becomes vacant, shall continue in office until members elected at the next election under that section come into office.
- (2) Every member elected to fill any extraordinary vacancy occurring on the Board shall come into office on the day following that on which he is elected and shall hold office only for the residue of the term for which his predecessor was elected.

9 Vacancies.

- (1) The office of a member shall become vacant if he—
 - (a) Resigns his office by writing under his hand delivered to the Secretary or Chairman of the Board, or is ousted of his office; or
 - (b) Is absent without leave from four consecutive ordinary meetings of the Board; or
 - (c) Ceases to have the qualification by virtue of which he was elected by a local authority or authorities.
- (2) If any person does an act as a member after his office has become vacant under this section, he shall be liable to a fine of fifty pounds.
- (3) Any vacancy occurring under this section shall be deemed an extraordinary vacancy.

10 How vacancies filled.

In the event of an extraordinary vacancy occurring within three months before the month fixed for the next election of members of the Board the same may be filled by the Board, and in other cases an election shall be held by the local authority or authorities represented by the member whose seat has been vacated.

11 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 Act of holding his office, any Magistrate's Court in the district may grant a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of the same.

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

12 Chairman of Board.

- (1) The Board shall at its first meeting, and thereafter 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 fresh 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 next annual meeting of the Board.

13 Allowance to Chairman.

- (1) The Chairman may be paid out of the funds of the Board such annual allowance not exceeding two hundred pounds as may from time to time be fixed by the Board, but no alteration in the amount of the allowance shall take effect during the term of office of the Chairman for the time being.
- (2) For the purpose of this section a person re-elected Chairman shall be deemed a new Chairman.

14 First meeting of the Board.

The first meeting of the Board shall be convened by the Secretary and shall be held at such time and place as he may appoint, and if no quorum is present within half an hour of the time fixed for the holding of such meeting the same shall stand adjourned from day to day at the same time and place until a quorum is assembled.

15 Committees.

- (1) The Board may from time to time appoint standing or special committees consisting of two or more persons, and may relegate to 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 by-law, to enter into a contract, to institute an action, or to make assessments upon contributing authorities.
- (2) It shall not be necessary that any person appointed to be a member of a committee under this section shall be a member 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 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.

16 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.

17 Quorum of Board and committees.

- (1) A quorum of the Board shall consist of eight members.
- (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, whether voting or not.
- (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.

18 Questions to be decided by majority of votes.

- (1) All acts of the Board and of any committee, and all questions before the Board or any committee, may be done and decided at a meeting of the Board or committee by the majority of such members of the Board or committee as are present and vote at such meeting.
- (2) The Chairman of any meeting of the Board or of any committee shall have a deliberative vote, and in case of equality of votes shall have a casting vote also.

19 Member not to vote on matter in which he has pecuniary interest.

- (1) A member of the Board or of any committee shall not vote or take part in the discussion of any matter before the Board or committee in which he has, directly or indirectly, by himself or his partner, any pecuniary interest otherwise than as a member of an incorporated company in which there are more than twenty members and of which he is neither a director nor the general manager.
- (2) A member who knowingly offends against this section is liable to a fine not exceeding fifty pounds for every such offence, and upon conviction his seat on the Board and in any committee shall become vacant.

20 Proceedings not invalidated by irregularities, &c.

No act or proceeding of the Board or of any committee or of any person acting as a member of the Board shall be invalidated in consequence of there being a vacancy in the number of the Board at the time of such act or proceeding, or of the subsequent discovery that there was some defect in the election or appointment of any person so acting, or that he was incapable of being such member.

21 Ordinary and annual meetings.

- (1) The Board shall hold such ordinary meetings at such times and at such places as it from time to time appoints.
- (2) The Chairman or the Secretary shall give notice in writing to each of the members of the time and place appointed from time to time for holding ordinary

meetings, and the members shall attend such meetings without further notice of each meeting.

- (3) The Board shall hold an annual meeting in the month of July in each year.

22 Allowances to members.

There may be paid to the Chairman and to the members of the Board out of the funds of the Board all amounts actually and reasonably expended by them in attending meetings of the Board or of any committee thereof, or travelling on the business of the Board pursuant to a resolution of the Board.

23 Rules as to proceedings of Board or committees, &c.

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

- (a) Regulating the proceedings of the Board and any committee and the conduct of meetings thereof respectively, and the right of persons to attend such meetings:
- (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 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, inspection, and custody of 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.

24 Board may provide offices.

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 business 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 or improved.

25 Board may appoint officers and servants.

- (1) The Board may, by resolution, from time to time appoint fit persons to be Engineer, Secretary, Treasurer, and all such other officers and servants as it thinks necessary to assist in the execution of this Act, and may pay 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 of such offices.
- (3) No person shall be appointed as Engineer to the Board or, if there are more engineers than one, as the chief or principal engineer unless he is registered as an engineer under the Engineers Registration Act, 1924:

Provided that nothing in this subsection shall be deemed to prohibit the appointment of any person as the chief or principal engineer of the Board if that person, at the passing of this Act, is employed by the Auckland and Suburban Drainage Board as an engineer.

- (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 duly 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.

26 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 such 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.

27 By-laws.

- (1) The Board may from time to time make by-laws 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 by means of such appliances, save such matters as may be carried in with water entering in the course of the legitimate use of such appliances:

- (b) To provide for the treatment of trades wastes and other substances before the same are allowed to enter any drain or sewer which is under the control of the Board or which is connected to any such drain or sewer; and the Board by or under such by-laws may require the owners of premises from which such substances are discharged to treat the same on their own premises, or may require the erection of treatment-works by one or more of such owners and provide for contribution towards the cost of providing, maintaining, and running such works, and in case of default by any of such owners the Board may itself provide such treatment-works or undertake the treatment of such substances and provide for reimbursement from the owners of the properties concerned:

Provided that any person affected by any direction or order of the Board given or made pursuant to any by-law made under this paragraph may within a period of twenty-one days after being given notice thereof appeal against the direction or order to a Judge of the Supreme Court at Auckland, and the provisions of section sixty-one of this Act shall, *mutatis mutandis*, apply in respect of any such appeal:

- (c) Regulating sanitary plumbing and drainage throughout the whole of the district:
- (d) Protecting from damage, injury, or misappropriation any property belonging to the Board or controlled by it and situate within or beyond the district.
- (2) The Board may by any such by-law provide a penalty for every breach thereof to an amount which shall be in the discretion of the Court inflicting the same, and shall in no case exceed the sum of twenty pounds for a single offence or the sum of five pounds a day for a continuing offence.
- (3) Any by-law made by the Board shall within the district override any by-laws on the same subject-matter made by any local authority.
- (4) Any local authority may, with the consent of the Board, undertake within its own district the enforcement and administration of any by-laws made by the Board, and in such case all fines imposed for breaches of the Board's by-laws within the district of such local authority shall, subject to the provisions of section thirteen of the Finance Act, 1927 (No. 2), be paid to the local authority and be dealt with by it as if they were fines imposed in respect of breaches of the by-laws of such local authority.

28 Form of making by-laws.

By-laws 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:
- (b) A copy of any proposed by-law shall be sent by the Board to each of the contributing authorities at least twenty-one days before the date of the meeting of the Board at which the resolution making the proposed by-law is to be submitted for confirmation:
- (c) They may be amended before confirmation of the special order making the same:
- (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 the same, being a day not earlier than three months after the making of the special order in the case of by-laws made under' paragraph (a) or paragraph (b) of subsection one of the last preceding section, and not earlier than one month after the making of the special order in the case of by-laws made under paragraph (c) or paragraph (d) of the said subsection one:
- (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.

29 Special orders.

Every special order made hereunder may be made and proved in the same way, *mutatis mutandis*, as a special order of a Borough Council is required to be made and may be proved under the Municipal Corporations Act, 1933.

30 Contracts of Board, how made.

- (1) 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 authorized 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.
- (2) Any contract which, if made between private persons, must be by deed shall, if made by the Board, be in writing under the seal of the Board.
- (3) Any contract which, if made between private persons, must be in writing, signed by the parties to be charged therewith may, if made by the Board, be in writing signed on behalf of the Board by some person duly authorized in that behalf.

- (4) Any contract which, if made between private persons, may be made verbally without writing may be similarly made by or on behalf of the Board.
- (5) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in the manner provided by this section, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board.

31 Auckland and Suburban Drainage Board.

- (1) The main sewers and drains, pumpingstations, storage tanks, outfall, and all other works and property controlled by or vested in the Auckland and Suburban Drainage Board shall, on the coming into operation of this Act, be under the control of or vested in the Board without any conveyance or assignment other than this Act, and all rights and obligations of the Auckland and Suburban Drainage Board shall devolve upon and become the rights and obligations of the Board.
- (2) All debentures and other securities heretofore issued or executed by the Auckland and Suburban Drainage Board shall be deemed to have been issued or executed by the Board, and the provisions of this Act shall apply thereto as if they had been issued or executed by the Board under this Act.
- (3) The Sinking Fund Commissioners appointed by the Auckland and Suburban Drainage Board shall be and become the Sinking Fund Commissioners of the Board under the title of the Auckland Metropolitan Drainage Board Sinking Fund Commissioners, and the Board and the Commissioners shall respectively have the same rights, powers, and obligations as if the Commissioners had been appointed by the Board.
- (4) The officers and employees of the Auckland and Suburban Drainage Board shall be and become the officers and employees of the Board, and until the first meeting of the Board the powers hereby vested in the Board may be exercised on its behalf by the Secretary.

32 Powers of Board.

- (1) The Board shall have within the Inner Area of the district the sole right to construct, maintain, and manage all main sewers and drains, pumpingstations, storage tanks, outfalls, and treatment-works for sewage:

Provided that nothing in this Act shall operate to prevent the establishment or maintenance of works for the treatment or disposal of trades waste, 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 such system.

- (2) Where any main sewer or drain, pumpingstation, storage tank, or outfall has already been constructed within the Inner Area of the district by some local authority, the same shall be taken over by and vested in the Board at such price and upon such terms and conditions as may be agreed upon between the Board

and such local authority or, in the event of their being unable to agree, as may be settled by arbitration under the Arbitration Act, 1908.

- (3) Where any main sewer or drain, pumpingstation, storage tank, or outfall has been constructed by any local authority in any area which is included in the Inner Area at any time after the commencement of this Act, the same shall at that time be taken over by and vested in the Board at such price and upon such terms and conditions as may be agreed upon between the Board and such local authority or, in the event of their being unable to agree, as may be settled by arbitration under the Arbitration Act, 1908.

33 Construction of main sewers, &c.

The Board may construct, maintain, and operate within or outside the district all such main sewers, main drains, pumping-stations, storage tanks, outfalls, treatment-works, and other works and things as may in the opinion of the Board be advisable for the efficient drainage of the district.

34 Works on Motukorea and in Waitemata Harbour.

- (1) The treatment-works and outfall for the district shall be constructed on the island in the Hauraki Gulf known as Motukorea or Brown's Island, and the effluent from the said treatment-works may be discharged by the Board into the waters surrounding the said island.
- (2) The construction of the submarine sewer to Motukorea and of the outfall pipes shall be subject to the approval of the Marine Department and of the Auckland Harbour Board as to location, depth, and other details of construction, and such approval must be obtained before the construction of the said works is commenced.
- (3) The Board shall from time to time obtain the approval of the Auckland Harbour Board as to the degree and character of purification of the effluent to be discharged from the said works, and shall not discharge or permit to be discharged therefrom any effluent not conforming to the degree and character of purification for the time being approved by the said Harbour Board. Such approval may be granted for such period as the Harbour Board thinks fit, and at the expiration thereof a fresh approval shall be obtained.
- (4) No sewage shall be discharged from any portion of the Inner Area of the district into the waters of the Waitemata or Manukau Harbours or of the Tamaki River or the Hauraki Gulf except through the main sewers of the Board, and the Board shall as soon as conveniently practicable provide for the sewage from the Inner Area of the district to be conveyed to Motukorea, to be there treated and discharged:

Provided that any existing drain may be allowed to continue to discharge sewage until the Board has completed provision for conveying such sewage to its treatment-works:

Provided also that this subclause shall not apply to any discharge from storm-water overflow chambers forming part of the drainage system of any local authority.

- (5) The Board shall be entitled to occupy, free of rent to any person or corporation, all lands in the said Auckland Harbour on, over, or under which any of the said sewers or works are constructed or laid, and the Auckland Harbour Board shall at the request and cost of the Board transfer to the Board all its interest in the strip of land forming part of the bed of the Auckland Harbour at Orakei and lying between the storage tanks of the Auckland and Suburban Drainage Board and the cliff.
- (6) The Board may, subject to compliance with the provisions of section one hundred and seventy-one of the Harbours Act, 1923, and with the precedent consent of the Auckland Harbour Board, but without obtaining any special Act of Parliament, reclaim any land in the Waitemata Harbour that may be required by the Board in connection with its drainage operations, and any land so reclaimed shall be vested in the Board.
- (7) The Board shall and will, if and when requested so to do by the Auckland Harbour Board, complete the construction of the main sewer across Hobson Bay up to the western side of the Orakei Basin Channel so as to form such a reclamation wall as will enable the Auckland Harbour Board to reclaim land inside such wall.
- (8) The Board shall be entitled to recover from the Auckland Harbour Board, and the said Harbour Board shall and will, upon demand, pay to the Board, one-half of any amount that may be paid by the Board to any person on account of any injury to or interference with riparian rights or rights of access to water on the foreshore of the said harbour by any of the operations of the Board under the provisions of the last preceding subsection hereof and of any costs that may be incurred by it in connection with any such claim; but the Board shall not, without the previous written consent or approval of the Auckland Harbour Board, make any such payment unless the amount has been fixed and determined by some competent tribunal.
- (9) 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 said Harbour Board as to any such consent or approval or otherwise in connection with the Board's operations such dispute or difference shall be referred to the arbitrament of two arbitrators, one to be appointed by each party in difference or their umpire under and in accordance with the provisions of the Arbitration Act, 1908.

35 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 work-

men, 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 footpaths, 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 main sewers or main drains:

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 section two of the Public Reserves, Domains, and National Parks Act, 1928, this power shall not be exercised without the consent of the controlling authority, 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 the site of any sewer or drain hereby authorized to be constructed, or while it is in course of construction, or when it is actually constructed, for the purpose of making temporary roads or approaches to any works or temporarily storing any material therefor; 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 to bore therein:
- (c) Make or construct the said main sewers or main drains, or any part thereof, upon or under any lands or buildings, subject to the following conditions:—
- (i) A plan and description of such main sewers or main drains, showing how they affect any such land or buildings, shall be deposited for public inspection at some place;
- (ii) The Board shall give notice in writing to the occupier, and also to the owner (when known), of such land or buildings of the

- intention to construct such main sewers or main drains, and shall refer in such notice to such plan and description, and state where the same are on view. In the case of unoccupied land or buildings of which the owner is not known, such 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 such objection, and shall give notice of the same 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 water-course 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 deodorizing, disinfecting, or destroying such sewage, refuse, or other matter, or of converting the same into an organic fertilizer or other marketable product and selling or otherwise disposing of the same, and shall not be liable 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, however, 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 the aforesaid treatment-works on Motukorea) in any place within the limits of the Waitemata or Manukau Harbours or in any place where the same might

be carried by wind or tide within the limits of those harbours, or in any case within three miles from any land or in such a manner that it will be likely to be carried on to any foreshore:

- (h) Acquire and operate ships, boats, barges, and other equipment for the purpose of removing, handling or disposing of sewage sludge, refuse, or similar matter.
- (2) The Board shall have power to acquire by license permission to use any land for the purposes for which land may be acquired, and any land acquired by it may be let or leased by the Board by public auction, or public tender, or private contract, as it deems proper, for such term or terms, and at such rent or rents, upon and subject to such terms and conditions in every respect, as the Board thinks fit.

36 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 in the manner provided by the Public Works Act, 1928.

37 Powers of contributing authorities to connect sewers.

For the purpose of carrying off any sewage from any part of its district within the Inner Area of the district every contributing authority may from time to time connect sewers and drains with the said main sewers or main drains:

Provided that twenty-eight days' notice in writing be given to the Board of the intention of the contributing authority to exercise the powers conferred by this section, and provided also that attached to such notice shall be complete plans and specifications of the sewer or sewers referred to in such notice, and that the Engineer to the Board shall be satisfied that the sewer or sewers referred to therein are fit and proper to be so connected and to form part of the drainage system.

38 Works to be efficiently done.

In making any such connection the contributing authority shall cause the same to be done in a skilful, efficient, and workmanlike manner, and so that the efficiency and construction of such main sewers or main drains may be in nowise impaired, and to the approval of the Engineer to the Board.

39 Connection of drain in different districts.

The Board may permit any local authority outside the Inner Area of the drainage district to connect any drain or sewer within the district of such local authority with any drain or sewer vested in or controlled by the Board upon such terms as may be agreed upon between the Board and such local authority.

40 Reticulation works.

- (1) The Board may, with the consent and at the cost of any local authority, undertake and carry out the drainage reticulation of the whole or any portion of the district of such local authority within the district, or with the like consent and cost undertake and carry out repairs, maintenance, alterations, or improvements to any existing drainage reticulation works in such local district.
- (2) 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 districts or areas within or adjacent to the 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 the construction, maintenance, or operation of any such works.

41 Motukorea.

The Board may acquire or take the whole of the Island of Motukorea for the purpose of the works hereby authorized, and may obtain and pay for options over the said island.

42 Watercourses.

The Board may utilize any natural watercourse for the discharge of storm-water overflows from its main sewers, but so that the discharge from any such watercourse into any harbour under the control of the Auckland Harbour Board shall not be or grow to become a nuisance. Subject as aforesaid, any water-course so utilized shall be under the control and management of the Board.

43 Board may construct drains, &c., 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 authorities within whose district or 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) In any case where the Auckland and Suburban Drainage Board has heretofore exercised control over or expended its moneys on any watercourse the Board may continue to control such watercourse and to expend the moneys of the Board in the maintenance or improvement of any such watercourse.
- (3) 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 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 discharging into stormwater drains, natural watercourses, or channels, and shall not affect the powers of local authorities under section two hundred and twenty-six of the Municipal Corporations Act, 1933, 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.

44 Outer Area.

Within the Outer Area of the district no new main sewers or main drains shall be installed except by the Board, and no existing main sewers or main drains shall be altered or extended or any change or extension made in any existing drainage system except with the approval of the Board. 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.

45 Sphere of influence.

- (1) The area outside the district the natural drainage of which is into the waters of either the Waitemata Harbour or the Manukau Harbour shall be regarded as within the sphere of influence of the Board, and no drainage system for any portion of this area shall be drawn up, carried out, or maintained save with the approval and under the general supervision and control of the Board.
- (2) This section shall not apply to or include the Boroughs of Devonport, Takapuna, Northcote, and Birkenhead.

Accounts

46 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.

47 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 five pounds.

48 Moneys to be paid into bank.

- (1) All moneys belonging to the Board shall, within three days after they have come into the hands of the Treasurer, be paid into an account of the Board at such bank as the Board from time to time appoints.
- (2) No moneys may 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.

49 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) The decision of the Audit Office as to whether or not any expenditure is properly chargeable against any such account shall be final.

50 Yearly balance-sheet and statements.

Before the end of April in each year the Treasurer shall prepare and send to the Audit Office a yearly balance-sheet, being an abstract of all the transactions in each of the accounts above mentioned during the preceding financial year ended the thirty-first day of March then last past, together with the statements following:—

- (a) A statement of the whole assets and liabilities of the Board at the end of the year:
- (b) A statement of the public debt of the Board showing the total debt outstanding under the head of each loan raised, and the sinking fund in the bank or invested to provide for the repayment of each such loan.

51 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 section one hundred and twenty-four of the Public Revenues Act, 1926.

52 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.

53 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 seventy-five pounds 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 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 authorized shall be deemed to be the misappropriation of the funds of the Board.
- (5) The provisions of section forty-eight hereof shall be read subject to the provisions of this section.

54 Superannuation and other benefits for employees.

- (1) The Board shall be deemed to be a local authority for the purposes of the Local Authorities Superannuation Act, 1908, the National Provident Fund Act, 1926, and section six 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.

55 Unauthorized expenditure.

The Board may in every financial year out of the General Fund Account expend for purposes not authorized 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 centum of the gross receipts of the Board for that year, exclusive of loan-moneys, nor, in any case, to more than two hundred and fifty pounds.

56 Borrowing-powers.

- (1) The Board may from time to time borrow by way of special loan such sums as are necessary for carrying out the purposes of this Act.
- (2) Special loans may be raised by the Board by special order without taking the steps prescribed by sections nine to thirteen of the Local Bodies' Loans Act, 1926.

Special order to raise to be gazetted.

- (3) A copy of the special order of the Board authorizing the raising of a special loan, purporting to be sealed with the seal of the Board and signed by the Chairman and two members, shall, without further authentication, be sufficient authority for the raising of the loan thereby authorized or any part thereof, and shall bind the Board accordingly. A copy thereof shall be published in the *Gazette*, and shall be conclusive evidence that the raising of the loan to which it refers is duly authorized and that all proceedings and things under this Act in relation thereto and in the making of such special order have been lawfully taken and done.
- (4) Under the provisions of this section the Board shall be at liberty to raise a loan for an authorized purpose for the benefit of a defined part or defined parts of the district (whether called by a distinctive name or not), and in any such case every local district within the defined part or parts shall, without limiting the meaning of the expression "legal subdivision" as used in section three of the Local Bodies' Loans Act, 1926, be deemed to be a legal subdivision.
- (5) Notwithstanding anything to the contrary in the Local Bodies' Loans Act, 1926, a loan may be raised by the Board for the benefit of defined parts of the district, although such parts may not together form one continuous area.
- (6) The provisions of section ninety-five of the Trustee Act, 1908, or any subsisting statutory modification or re-enactment thereof shall both in respect of trusts heretofore and hereafter created apply to all bonds, debentures, and other securities issued by the Board and forming the whole or any portion of any loan which may be raised by the Board under the authority of this or any other Act.

57 Preliminary expenses.

The costs of promoting this Act and of investigating matters preparatory or incidental thereto, including surveys, reports of Commissions, experts, and others, legal expenses, and preliminary expenses in connection with the Board's main scheme of sewerage-work, and whether paid or incurred by the Board or the Auckland and Suburban Drainage Board, may, to the extent that they have not been provided by loan-moneys already received, be paid out of

the proceeds of any loan raised by the Board or may be paid as expenses in connection with the works hereby authorized to be constructed.

58 Annual estimate of Board's proposed expenditure.

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 the works hereby authorized to be constructed and any other works vested in or controlled by the Board and all other expenses in connection therewith:
- (c) Any sums already available for such purposes:
- (d) The additional sum required.

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.

59 Contributing authorities, 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.

60 How assessment to be calculated.

Such assessment shall be calculated and arrived at as follows:—

- (a) The amount payable in respect of any special area shall be first ascertained and shall be charged and assessed to the local authority or authorities of the local districts or portions thereof comprising the same in accordance with the provisions of section four hereof, and where a special area includes the whole or portion of two or more local districts the local authorities shall be charged with the amount required in respect of such special area in proportion to the mean percentage of the rateable capital value and population of the respective districts or portions, as the case may be:
- (b) The amount payable in respect of the permanent appropriations for payment of interest and the creation of a sinking fund or for periodical repayments on account of any loan raised for the benefit of a defined part of the district shall be ascertained and shall be charged

and assessed to the local authority or authorities of the local districts or portions thereof comprising the defined part, and where such defined part includes the whole or portions of two or more local districts the local authorities shall be charged with the amount of such permanent appropriations in proportion to the mean percentage of the rateable capital value and population of the respective districts or portions, as the case may be:

- (c) The residue of the amount shown in the Board's estimate shall be charged and assessed to the local authorities the whole or portion of whose district is within the Inner Area in proportion to the mean percentage of the rateable capital value and population of the respective local districts or portions, as the case may be:
- (d) During the construction of the treatment-works and outfall at Motukorea and of the new main sewer from Mount Roskill to West Tamaki Head the following special provisions shall apply:—
 - (i) The annual cost of the Board's new scheme and the general administrative expenses of the Board shall be borne by all the local authorities in the Inner Area, but the annual cost of the Board's present scheme shall be borne by the local authorities heretofore comprising the district of the Auckland and Suburban Drainage Board; and
 - (ii) So soon as the Board's new main sewers are available for receiving the sewage from any local district the local authority of such local district shall be liable to contribute to the whole annual cost of the Board.

61 Appeal.

If any contributing authority is dissatisfied with such estimate or assessment such contributing authority may, within twenty-eight days after notice of such assessment has been given to it, appeal to a Judge of the Supreme Court at Auckland against such assessment. Such appeal shall be commenced by notice of 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 give notice in writing to the Board and to each of the other contributing authorities stating the date when the same is to be heard and the grounds of such appeal, and thereupon the whole of such estimate and assessment shall be deemed to be set aside, and the estimate of the contribution to be paid by every contributing authority shall be settled by the Judge, whose decision shall be final and binding upon the Board and all the contributing authorities.

62 Jurisdiction of Magistrate's Court.

The Board may, notwithstanding that the amount sought to be recovered is in excess of the jurisdiction of any Magistrate's Court, sue for and recover the amount of any such contribution in any such Court as a debt.

63 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.

64 When contributing authorities to pay their shares.

The local authority of each local district the whole or part of which is comprised within the district shall, within thirty days of receiving the written notice mentioned in section fifty-nine hereof, pay to the Board one-half of the amount of such assessment, and shall pay the other half thereof within six calendar months of the date of the receipt of such notice as aforesaid. In case either half is not so paid such local authority shall be liable to and shall pay interest on any and every amount so remaining unpaid until payment thereof at the rate for the time being charged by the bankers of the Board for moneys owing to them by the said Board or that would be chargeable if such moneys were owing, as the case may be:

Provided that if an appeal against any assessment has been lodged under section sixty-one hereof, then the amount fixed by the Court shall be substituted for the amount of such assessment, and payment of one-half thereof shall be made within thirty days from the date of the Court's decision; but interest on such half shall be payable at the rate aforesaid as from the expiration of thirty days from the receipt of the original assessment.

65 Powers of contributing authorities in regard to payment.

Every such local authority shall, for the purpose of enabling it to make, and making, such payment, have the following powers:—

- (a) It shall be entitled to pay the amount out of its ordinary revenue or funds:
- (b) It shall be entitled to (if it does not pay the same out of its ordinary funds) strike and collect a rate for such an amount in the pound on the rateable value of all rateable property within its district where the whole of such district is within the Inner Area of the district, or where only

part thereof is within such area, within that part, as shall be sufficient to pay the amount of such assessment and interest thereon (if any) and the cost of and incidental to the making and collection thereof, and shall be entitled to make and levy such rate in addition to all rates which it is entitled to make and levy under any other Act, and notwithstanding any provision in any Act limiting or in any way affecting the rating-power of such local authority:

- (c) It may classify the rateable properties within its district or the portion thereof which is within the Inner Area of the district and levy a rate on a sliding scale according to such classification. The provisions of the Land Drainage Act, 1908, shall, *mutatis mutandis*, apply to the classification and rate mentioned in this paragraph as if set out herein.

66 Powers of Board to recover from contributing authorities in case of default.

- (1) If any such local authority, after notice of the said assessment is delivered to it, or in case of appeal after the decision of the said Court, fails to pay the first or last half thereof, or any part thereof, for the period of thirty days after the day on which it should be paid, or the interest thereon, it shall be lawful for the Board, in addition to any other powers or remedies hereby given, to make, levy, and collect such rate, and to pay or retain the amount of such assessment or contribution and interest and all costs and charges it has been put to in consequence of such default or neglect.
- (2) The local authority so in default shall, on request, hand over and supply to the Secretary of the Board correct lists of rateable properties, rate-books, assessment rolls, and all other documents and books of any and every kind necessary, or considered so by the Board or its officers, for the purpose of enabling the Board to make, levy, and collect such rate as aforesaid.
- (3) Such local authority and its officers and servants shall give every assistance to the Board and its officers to make, levy, and collect such rate as aforesaid.
- (4) For the purpose of enabling the Board to collect and recover the amount of such contribution or assessment, interest, and costs, any Judge of the Supreme Court shall, on application by or on behalf of the Board, have the same power, *mutatis mutandis*, with reference to such contributing authority as he would have under the Local Bodies' Loans Act, 1926, if default had been made by that authority in payment of any principal or interest due on any debenture issued by it, and also full power to order, authorize, and empower the Board and its officers to strike, levy, and collect such rate in the same way and to the same extent as such local authority so in default would be entitled to do.

*Miscellaneous***67 Notice of action.**

- (1) A writ or process shall not be issued against or served on the Board or any member thereof, or any officer or servant or workman thereof, or any person acting under its or his directions or in its or his aid, for anything done or intended to be done or omitted to be done after the commencement of this Act, under the provisions of this Act or of any by-law or regulation made or in force hereunder, until one month after notice in writing has been served on the Board or such member, officer, or person, clearly stating the cause of action or grounds of proceeding and the name and address of the intended plaintiff or prosecutor and his solicitor or agent in the action or proceeding; and on the trial or hearing of any such action or proceeding the plaintiff shall not be permitted to go into any cause of action or ground of proceeding which is not stated in the notice so served, and unless such notice is proved there shall be judgment for the defendant.
- (2) Every such action or proceeding shall be commenced within six months next after the act or thing complained of is done or omitted or, in the case of a continuation of damage, within three months next after the doing of such damage has ceased, and not afterwards, and shall be tried in the district and not elsewhere. In any such action or proceeding the defendant may plead generally that the act or thing complained of was done or omitted under the authority or in the execution or intended execution or in pursuance of this Act or of any by-law or regulation made or in force hereunder, and may give all special matter in evidence.
- (3) Any person to whom such notice of action is given as aforesaid may tender amends to the plaintiff, his solicitor, or agent at any time within one month after service of such notice, and in case the same be not accepted may plead such tender in bar; and in case amends have not been tendered, or in case the amends tendered are insufficient, the defendant may within the time allowed for filing a statement of defence, or thereafter at any time before trial, by leave of the Court, pay into Court, in accordance with the practice of the Court in which the action is pending, and in case of an action in a Court in which no defence need be filed at any such time as may be allowed by the practice of such Court, such sums of money as it or he may think proper, whereupon such consequences shall ensue as, under the practice of the Court in which the action is brought, ensue in an ordinary action.
- (4) In cases of injury to the person, the person injured shall permit himself to be examined by any medical practitioner appointed by the Board, and in every case the property injured, and all accounts and vouchers in respect of the injury (whether to person or property), may be examined by any person appointed by the Board or the Chairman of the Board.

- (5) In cases of injury to the person (whether resulting in death or not), the Court may, before or at the trial, waive the non-compliance or insufficient compliance with subsections one and two hereof if satisfied that there was reasonable excuse, and on such terms as the Court thinks fit.
- (6) This section shall not apply with respect to any action or proceeding commenced by the Audit Office under the Public Revenues Act, 1926, the Local Authorities (Members' Contracts) Act, 1934, or any other Act.

68 Commencement of action not to stop works of Board.

If any action is commenced or prosecuted touching or concerning the right, title, or interest of any owner or proprietor of or in any lands taken or injuriously affected by anything done in pursuance of this Act or in execution of the powers or authorities herein, such action shall not impede, delay, or hinder the Board from proceeding in the execution of the powers vested in it by this Act.

69 Board may enter premises for purpose of inspection.

- (1) The Board and the officers and servants of the Board may enter upon any 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 by-laws (with power to examine any drain or other sanitary apparatus or appliances), or for the purpose of enforcing the provisions of this Act and the by-laws, or for the purpose of executing, providing, or doing any works, materials, or things which the Board is authorized or empowered to execute, provide, or do, under or by virtue of this Act or the by-laws.
- (2) Any owner or occupier of 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 the last preceding subsection, and every person who obstructs the Board or any of its officers or servants in the exercise of any of the powers mentioned in the last preceding subsection, shall be guilty of an offence, and shall be liable to a fine not exceeding twenty pounds for each such offence.

70 Recovery of fines and penalties.

All fines imposed by this Act or by any by-law made under the authority hereof may be recovered in a summary manner under the Justices of the Peace Act, 1927.

71 Enforcement of by-laws.

The provisions of this Act and of all by-laws made by the Board shall be enforced by the Board or its officers subject to the provisions of section twenty-seven hereof.

72 Property of Board not liable to be rated.

No property of the Board owned or used by it for the purposes for which it is incorporated shall be liable to be rated by any local authority.

73 Penalty for damaging sewer or drain.

Any sewer or drain 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 may be injured or its efficiency impaired is liable to a fine not exceeding twenty pounds, without prejudice to the right of the Board to recover by action damages for any trespass or injury to the said sewer.

74 Offences under Act.

Any person doing anything contrary to the provisions of this Act or any regulation made hereunder, or omitting or failing to perform any duty imposed on him by or arising under this Act or any such regulation, shall be guilty of an offence, and in cases where no other penalty is provided shall be liable to a fine not exceeding twenty pounds, 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 any Act or regulation to order anything to be done or omitted an offence shall be deemed to be committed on each day on which any 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 the Board may have sustained:

Provided that such compensation, unless awarded at the express request of the Board, shall not, excepting as to the amount thereof, relieve such person of any civil liability in respect of his act or omission.

75 Governor-General may extend time fixed by Act to carry out works.

Within the period of twenty-one days 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 required to be done 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 such meeting or for the doing of any such act, matter, or thing as aforesaid, notwithstanding 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.

76 Government works not to be interfered with.

- (1) Nothing in this Act shall—
 - (a) Authorize 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 Works or, if the work is being executed or carried on by, or under the control of, some other Minister, of that other Minister; or

- (b) Prejudice or affect any power or authority vested in His Majesty, or in the Governor-General, or in any Minister or other person on behalf of His Majesty or the Governor-General, under any Act authorizing 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.

77 Repeals and Savings.

- (1) The enactments mentioned in the Second Schedule hereto are hereby repealed.
- (2) All Proclamations, Orders in Council, orders, regulations, by-laws, offices, appointments, resolutions, agreements, licenses, lists, registers, registrations, maps, records, documents, and generally all acts of authority which originated under any of the Acts hereby repealed and are subsisting and in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (3) All matters and proceedings commenced under the said Acts and pending or in progress on the coming into operation of this Act may be continued, completed, and enforced under this Act.

SCHEDULES

FIRST SCHEDULE

All that area in the North Auckland Land District, bounded by a line commencing at the East Tamaki Head, thence in an easterly direction generally following the mean high-water mark along the foreshore of the Tamaki Strait to its intersection by the Maraetai-Whitford Road in Te Puru Bay, Block I, Wairoa Survey District; thence in a south-westerly direction generally along the generally western side of the Maraetai-Whitford Road to a point in line with the generally eastern boundary of Part Lot 2 on Deposited Plan 3615, situated in Block VIII, Otahuhu Survey District; thence across that road and along the eastern boundary of Part Lot 2 aforesaid to and across a public road; thence along the southern side of that road, the western boundary of Lot 2, and the generally northern boundary of Lot 7, both on Deposited Plan 8689, the crossing of a public road, and the generally western sides of public roads to the southernmost corner of Lot 8 on Deposited Plan 4431; thence by a right line to the north-eastern corner of Allotment 177, Pakuranga Parish; thence along the generally eastern boundaries of Allotments 177 and 138, Pakuranga Parish, the northern boundary of Allotment 153, Manurewa Parish, the western boundaries of Allotments 153 and Part 96, Manurewa Parish, the north-eastern boundaries of Allotments 95, 94, and 93, Manurewa Parish, on Deposited Plan 24002, and the north-western and south-western boundaries of Allotment 93 aforesaid, to a public road; thence along the generally northern boundary of a public road to a point in line with the generally western boundary of Part Clendon's Grant on Deposited Plan 16928, thence across that road and along the last-mentioned boundary to the north-eastern corner of Lot 2 on Deposited Plan 3825, thence along the northern boundaries of Lot 2 aforesaid and Lots 2 and 1 on Deposited Plan 23951, the south-western boundary of Lot 1 aforesaid, the northern boundaries of Lots 1, 2, and 3 on Deposited Plan 20839, the southern boundary of Part Clendon's Grant on Deposited Plan 23967, to and across a public road; thence along the generally western side of that road and the generally northern boundary of another road to the Manurewa Borough, thence along the generally north-eastern, south-eastern, and south-western boundaries of the Manurewa Borough as described in *New Zealand Gazette*, 1937, page 2438, to the south-eastern corner of Lot 50 on Deposited Plan 4436; thence along the north-western boundaries of Lot 13, a public road, and Lot 12 on Deposited Plan 7456, and the north-western boundaries of Lots 38, 39, 40, 41, 42, 43, and 44, all on Deposited Plan 4436, to the Manukau Harbour; thence in generally northwesterly and north-easterly directions following the foreshore of the Manukau Harbour to the Otahuhu Borough, thence along the generally western and southern boundaries of the Otahuhu Borough as described in *New Zealand Gazette*, 1922, page 273, to the Tamaki River; thence in a north-easterly direction generally along the generally eastern foreshore of the Tamaki River to the point of commencement, save and excepting the Papatoetoe Town District as described in *New Zealand Gazette*, 1919, page 885.

Also the Panmure Township Road District as described in *New Zealand Gazette*, 1883, page 651.

Also Wairoa and Puketutu Islands in the Manukau Harbour.

Also all that area in the North Auckland Land District, bounded by a line commencing at a point in Block VII, Titirangi Survey District, where the generally eastern side of Portage Road meets the Manukau Harbour; thence in a southwesterly direction generally along the generally northern foreshore of the Manukau Harbour to a point in Paturua Bay in line with the north-eastern boundary of Allotment 244, Waikomiti Parish; thence in a north-westerly direction generally along a right line, the north-eastern boundary of Allotment 244 as aforesaid, the north-eastern boundaries of Allotments 53 and Part 44, Waikomiti Parish, and their production across School Road; thence along the generally western side of that Road, the southern side of Titirangi Road, the generally eastern side of the Titirangi-Huia Road, the crossing of that road, the generally southern side of Exhibition Drive, the crossing of Waima Road, and again Exhibition Drive to the north-western corner of Lot 2 on Deposited Plan 18839; thence across that drive along the eastern boundary of Part Allotment 26, Waikomiti Parish, on Survey Office Plan 11895/2 and its production across the Waitakere Scenic Drive; thence along the eastern boundary of Lot 1 on Deposited Plan 7428, the southern, eastern, and northern boundaries of Part Allotment 11 on Deposited Plan 7429, the eastern boundary of Part Allotment 112 on Deposited Plan 2773, the eastern and northern boundaries of Allotment 15, and the eastern and northern boundaries of Allotment 251, all of Waikomiti Parish, to a public road; thence along the generally eastern side of that road to and across the Waikumete - West Coast Road; thence along the northern side of that road to and across a public road to Part Allotment 14, Waikomiti Parish; thence along the generally north-eastern side of a public road to and across Forest Hill Road to the southernmost corner of Lot 7 on Deposited Plan 20073; thence along the generally north-western side of Forest Hill Road to its junction with the Henderson Valley Road; thence across that road and along the north-eastern boundaries of Lots 40 and 39 on Deeds Plan Whau 13 to the Opopuku Creek; thence down that creek to the easternmost corner of Lot 39 on Deposited Plan 9813; thence along the north-eastern boundary of Lot 39 aforesaid to and across a public road; thence along the south-eastern and north-eastern boundaries of Lot 1 on Deposited Plan 15929, the south-eastern boundary of Lot 24, and the south-eastern and north-eastern boundaries of Lot 23, both on Deposited Plan 1467, to and across a public road; thence along the north-western side of that road to and across the North Auckland Main Trunk Railway; thence along the northern side of Ranui Railway-station, the western side of a public road passing through Lot 15 on Deposited Plan 2027 to and across a public road; thence along the southern and eastern boundaries of Parts Allotments 6a and 15, Waipareira Parish, containing 35 acres, and the eastern boundary of Part Allotment 15, Waipareira Parish, containing 15 acres, to and across a public road to the southernmost corner of Lot 3 on Deposited Plan 19247; thence along the south-eastern boundary of Lot 3 aforesaid, to and across the Huruhuru Creek; thence up that creek to and along the south-western boundary of Section 18, Block XIV, Waitemata Survey District, to and across a public road; thence

along the generally north-western side of that road, to and along the north-eastern boundary of Section 7 of aforesaid Block XIV, to and across a public road; thence along the generally north-eastern and eastern sides of that road to and across the Great North Road, along the generally eastern side of the Great North Road and the generally southern side of the Hobsonville Main Road to the western corner of Section 50, Waipareira Parish; thence across that road and along the north-eastern boundary of Lot 44 on Deposited Plan 2088 to the Totara Stream; thence down that stream to the north-western corner of Lot 9 on Deposited Plan 24410; thence along the northern boundary of that Lot, the north-western boundary of Lot 7 on Deposited Plan 24410, the crossing of a public road, and the generally eastern side of another public road and its production to the north-western corner of Lot 1 on Deposited Plan 9146; thence along the north-eastern boundary of the aforesaid Lot 1, the western side of a public road, and the south-western boundary of Lot 7 on Deposited Plan 9146 to the Rurawaru Inlet; thence in a south-easterly direction generally along the generally western foreshore of the Waitemata Harbour and the left bank of the Whau River to a point in line with the generally eastern side of Portage Road; thence following the Auckland City boundary along the generally eastern side of Portage Road to the point of commencement.

SECOND SCHEDULE
Enactments repealed

1908, No. 25 (Local)—

The Auckland and Suburban Drainage Act, 1908.

1909, No. 6 (Local)—

The Auckland and Suburban Drainage Amendment Act, 1909.

1919, No. 55—

The Appropriation Act, 1919: Section 20.

1923, No. 2 (Local)—

The Auckland and Suburban Drainage Amendment Act, 1923.

1929, No. 3 (Local)—

The Auckland and Suburban Drainage Amendment Act, 1929

1931, No. 2 (Local)—

The Auckland and Suburban Drainage Amendment Act, 1931.

1933, No. 14 (Local)—

The Auckland and Suburban Drainage Amendment Act, 1933.

1936, No. 54—

The Local Legislation Act, 1936: Sections 47 to 49.

1938, No. 18—

The Local Legislation Act, 1938: Section 40.

1939, No. 25—

The Local Legislation Act, 1939: Section 43.

1941, No. 1 (Local)—

The Auckland and Suburban Drainage Amendment Act, 1941.