

Soil Conservation and Rivers Control Amendment Act 1946

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An Act to amend the Soil Conservation and Rivers Control Act 1941

1 Short Title

This Act may be cited as the Soil Conservation and Rivers Control Amendment Act 1946, and shall be read together with and deemed part of the Soil Conservation and Rivers Control Act 1941 (hereinafter referred to as the principal Act).

2 **Special drainage or river authorities**

For the purposes of this Act and the principal Act, unless the context otherwise requires,—

Special Act means the Swamp Drainage Act 1915, the Hauraki Plains Act 1926, or any other local Act (except the Waihou and Ohinemuri Rivers Improvement Act 1910) which confers any functions or powers in respect of land drainage or river control on any Minister of the Crown or other person

Special Act: inserted, as from 19 November 1948, by section 15(1)(a) Soil Conservation and Rivers Control Amendment Act 1948 (1948 No 40).

Special Act: amended, as from 1 April 1957, by section 20(5) Rangitaiki Land Drainage Act 1956 (1956 No 34) by omitting the words “the Rangitaiki Land Drainage Act 1910”.

Special Act: the Hauraki Plains Act 1926 was repealed, as from 1 December 1961, by section 14(12)(a) Reserves and Other Lands Disposal Act 1961.

Special drainage or river authority means a Board, Trust, or other body which is constituted or established by an Act and which has powers or functions similar to the powers or functions of Drainage Boards or River Boards, and includes every Minister of the Crown and other person on whom any functions or powers in respect of land drainage or river control are conferred by a special Act

Special drainage or river authority: amended, as from 19 November 1948, by section 15(1)(b) Soil Conservation and Rivers Control Amendment Act 1948 (1948 No 40) by inserting the words “and includes every Minister of the Crown and other person on whom any functions or powers in respect of land drainage or river control are conferred by a special Act”.

Special drainage or river district means the district of a special drainage or river authority, and includes every district or locality in respect of which any functions or powers in respect of land drainage or river control are conferred by a special Act on any Minister of the Crown or other person.

Special drainage or river district: amended, as from 19 November 1948, by section 15(1)(c) Soil Conservation and Rivers Control Amendment Act 1948 (1948 No 40) by inserting the words “and includes every district or locality in respect of which any functions or powers in respect of land drainage or river control are conferred by a special Act on any Minister of the Crown or other person”.

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Section 3 was repealed, as from 1 April 1983, by section 4(2)(a) Soil Conservation and Rivers Control Amendment Act 1983 (1983 No 152).

4

(1)

(2)

(3)

(4) Any bylaw made under section 150 of the principal Act may provide for a right of appeal by any person aggrieved by anything done pursuant to the bylaw.

Subsection (3) was repealed, as from 1 April 1988, by section 43(5)(a) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48).

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Section 5 was repealed, as from 1 April 1988, by section 44(1) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48).

6**7****Delegation of powers, etc by Boards to local authorities**

In any case where pursuant to section 130 of the principal Act any watercourses have been placed under the exclusive care, control, and management of a Catchment Board it shall be lawful, notwithstanding anything in that section or in section 125 of the principal Act, for the Catchment Board, pursuant to the said section 125, to enter into a contract with the Board, local authority, or body corporate in which functions, powers, and duties in respect of the watercourses were formerly vested, whereby that Board, local authority, or body corporate agrees upon such terms and conditions as are contained in the contract to exercise functions, powers, or duties of the Catchment Board with respect to the care, control, and management of the watercourses, and it shall be lawful for that Board, local authority, or body corporate to exercise the functions, powers, and duties accordingly.

8**Report as to dissolution of special drainage or river authorities**

(1) In any case where there is a special drainage or river district either wholly or partly within a catchment district, the Catchment Board shall in the report referred to in subsection (1) of section 141 of the principal Act, and may in any further report under that section, report as to the advisability of dissolving

the special drainage or river authority or abolishing the special drainage or river district.

- (2) The Minister after considering the report may, if the Minister thinks fit, require the Catchment Board to present a petition to the Governor-General praying that the special drainage or river authority be dissolved and that the powers and functions thereof be transferred to the Catchment Board, or praying that the special drainage or river district be abolished.
- (3) At any time after a special drainage or river authority has been dissolved and the powers and functions thereof transferred to a Catchment Board, the Board or the Minister may, if the Board or the Minister thinks fit, present a petition to the Governor-General praying that the special drainage or river district be abolished.

Subsection (2) was amended, as from 1 April 1988, by section 44(2)(a) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48) by substituting the words "the Minister" for the word "it".

Subsections (2) and (3) were amended, as from 1 April 1988, by section 44(2)(a) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48) by substituting the word "Minister" for the word "Authority".

Subsection (3) was amended, as from 1 April 1988, by section 44(2)(c) Soil Conservation and Rivers Control Amendment Act 1988 (1988 No 48) by substituting the words "the Board or the Minister thinks fit" for the words "it thinks fit".

9 Procedure on petition

- (1) On the presentation to the Governor-General of a petition pursuant to the last preceding section, the Minister of Internal Affairs shall publicly notify a notice setting out the proposal contained in the petition, and calling upon all persons affected to lodge their objections (if any) within one month after the first publication of the notice. Every such objection shall be in writing and shall be lodged in accordance with the terms of the notice.
- (2) After considering the petition and the objections so lodged (if any) the Governor-General may, if he thinks fit, direct a Commission consisting of a District Court Judge either with or without one or 2 other persons to inquire and report to him upon the subject-matter of the petition and the objections

thereto, and to make such recommendations therein as it thinks fit:

Provided that if an objection is duly lodged by the special drainage or river authority to which the petition relates the Commission shall consist of a District Court Judge and 2 other persons of whom one shall be nominated by the special drainage or river authority, unless the special drainage or river authority refuses to make a nomination in which case the Commission shall consist of a District Court Judge alone.

- (3) Every Commission appointed under this section shall have the powers of a Commission under the Commissions of Inquiry Act 1908, and all the provisions of that Act shall apply thereto accordingly.

10 Dissolution of special drainage or river authority and substitution of Catchment Board

- (1) If the Commission reports to the Governor-General that the special drainage or river authority should be dissolved and that the powers and functions thereof should be transferred to the Catchment Board, or if the special drainage or river authority has not duly lodged an objection, the Governor-General may by Order in Council dissolve the special drainage or river authority and transfer the powers and functions thereof to the Catchment Board.
- (2) On the coming into force of an Order in Council dissolving a special drainage or river authority and transferring the powers and functions thereof to a Catchment Board—
 - (a) The whole of the property, debts, liabilities, engagements, powers, and functions of the special drainage or river authority shall vest in and become the property, debts, liabilities, engagements, powers, and functions of the Catchment Board:

Provided that where the special drainage or river authority is a Minister of the Crown or any other person on whom any functions or powers in respect of land drainage or river control are conferred by a special Act, only property, debts, liabilities, engagements, powers, and functions of the Minister or of that person in respect of those functions and powers shall vest in and become

the property, debts, liabilities, engagements, powers, and functions of the Catchment Board:

- (b) Until the special drainage or river district is abolished the Catchment Board if it thinks fit may, subject to the provisions hereinafter contained, exercise all or any of the powers and functions of the special drainage or river authority within the special drainage or river district in the same manner and to the same extent as if it were the special drainage or river authority and that authority had not been dissolved:
- [Repealed]*
- (c) All references to the special drainage or river authority in any Act, regulation, rule, bylaw, order, or other enactment, or in any contract, agreement, application, licence, notice, or other document whatsoever, shall thereafter be read as references to the Catchment Board.
- (3) Except as provided in subsection (4) of section 13 of this Act, the powers of a special drainage or river authority of making and levying rates shall not be exercised by the Catchment Board after the expiration of 6 years from the date of the coming into force of the Order in Council, and rates levied or collected by the Catchment Board under the authority of this section shall be applied only for purposes for which rates could have been applied by the special drainage or river authority and shall not be applied towards the construction or maintenance of any works which were not in existence or under construction on the coming into force of the Order in Council.
- (4) On the dissolution pursuant to section 142 of the principal Act of any internal Drainage Board or River Board, the provisions of subsections (2) and (3) of this section shall extend and apply with the necessary modifications for a period of 6 years from the date of the dissolution aforesaid, notwithstanding that the drainage district or river district has been abolished, as if the Board dissolved were a special drainage or river authority.

The proviso to subsection (2)(a) was inserted, as from 19 November 1948, by section 15(3) Soil Conservation and Rivers Control Amendment Act 1948 (1948 No 40).

The proviso to subsection (2)(b) was amended, as from 29 June 1988, by section 208(1) Rating Powers Act (1988 No 97) by substituting the words "the total amount of general and separate rates levied pursuant to the Rating Powers Act

1988 shall not exceed the amount of the maximum general rate referred to in section 39 of that Act” for the words “the total amount of general and separate rates levied pursuant to the principal Act, shall not exceed the amount of the maximum general rate referred to in section 85 of the principal Act”.

The proviso to subsection (2)(b) was repealed, as from 1 July 2003, by section 137(1) Local Government (Rating) Act 2002 (2002 No 6). *See* section 137(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

11 Abolition of special drainage or river district

(1) If the Commission reports to the Governor-General that the special drainage or river district should be abolished, or if in the case of a petition for the abolition of the special drainage or river district the special drainage or river authority has not duly lodged an objection, the Governor-General may by Order in Council abolish the district and may, if the special drainage or river authority has not previously been dissolved, in like manner dissolve that authority.

(2) Where a special drainage or river district is abolished and the powers and functions of the special drainage or river authority have not been previously transferred to a Catchment Board as provided in the last preceding section, the whole of the property, debts, liabilities, and engagements of the special drainage or river authority shall vest in and become the property, debts, liabilities, and engagements of the Catchment Board:

Provided that where the special drainage or river authority is a Minister of the Crown or any other person on whom any functions or powers in respect of land drainage or river control are conferred by a special Act, only property, debts, liabilities, and engagements of the Minister or person in respect of those functions and powers shall vest in and become the property, debts, liabilities, and engagements of the Catchment Board.

The proviso to subsection (2) was inserted, as from 19 November 1948 by section 15(4) Soil Conservation and Rivers Control Amendment Act 1948 (1948 No 40).

12 Creditors not to be affected

No action taken under either of the last 2 preceding sections shall in any way affect the rights or interests of any debenture holder or other creditor of the special drainage or river authority, or shall affect any special rate, and every such rate shall

continue to be charged upon the whole of the area upon which it was charged before the action was taken, and it shall not by reason thereof become a charge on any additional area.

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Repealed, as from 29 June 1988 by section 209(1) Rating Powers Act 1988 (1988 No 97).

14 Abolition of county drainage districts

- (1) In any case where a district has been constituted under the Local Government Act 1974 for the construction of drainage works and, pursuant to the principal Act, it has become the function of a Catchment Board to undertake the care, control, and management of the aforesaid drainage works, the territorial authority may by special order abolish the district constituted by it as aforesaid under the Local Government Act 1974.

(2)

Subsection (2) was repealed, as from 29 June 1988, by section 209(1) Rating Powers Act 1988 (1988 No 97).

In subsection (1) the former reference to the “Counties Act 1956” was substituted, as from 1 April 1957, for a reference to the “Counties Act 1920” pursuant to section 453(1) Counties Act 1956.

Subsection (1) was amended, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59) by substituting the words “the Local Government Act 1974” for the words “the Counties Act 1956”.

Subsections (1) and (2) were amended, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59) by substituting the words “territorial authority” for the words “County Council”.

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Section 15 was repealed, as from 17 November 1964, by section 5(2) Soil Conservation and Rivers Control Amendment Act 1964 (1964 No 59).