



## ANALYSIS

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1960, No. 105

**An Act to amend the Public Works Act 1928**

[25 October 1960]

**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**—This Act may be cited as the Public Works Amendment Act 1960, and shall be read together with and deemed part of the Public Works Act 1928\* (hereinafter referred to as the principal Act).

\*1957 Reprint, Vol. 12, p. 475  
Amendment: 1958, No. 28

## PART I

## IRRIGATION

**2. Part I to be read with Part XI of principal Act—**

(1) This Part of this Act shall be read together with and deemed part of Part XI of the principal Act.

(2) Nothing in this Part of this Act shall restrict or interfere with any of the other provisions of Part XI of the principal Act.

**3. Interpretation—**In this Part of this Act and in Part XI of the principal Act, unless the context otherwise requires,—

“Irrigation charge” means the charge which is payable under section 12 of this Act:

“Irrigation district” means an irrigation district constituted by Order in Council made under section 11 of this Act:

“Irrigation season” means the period between the fifteenth day of September in any one year and the thirtieth day of April in the following year, or such other period as may be prescribed by Order in Council in respect of any irrigation district:

“Land commanded by supply points” means land of any occupier which is lower in altitude than the places in the water supply works at which provision is made by the Minister for the taking of water by that occupier:

“Occupier”, in relation to any land, means the person in actual possession of the land and if there is no such person then the legal owner in fee simple of the land:

“Water quota” means the quantity of water determined by Order in Council as the irrigation requirement for a normal irrigation season:

“Water supply works” include any irrigation works or water race.

**4. Proposed irrigation district—**(1) If in the opinion of the Minister the construction of water supply works for the irrigation of any area of land is warranted he may, by notice publicly notified, declare the area of land to be a proposed irrigation district and define the boundaries of the proposed irrigation district.

(2) For the purposes of any such notice the proposed irrigation district may be defined by survey data or by physical features or by such other means as, in the opinion of the Minister, may seem best suited in the circumstances.

(3) Any notice under this section may from time to time be amended or revoked by a subsequent notice publicly notified.

**5. Notification of charge and terms**—At the time of the public notification of a notice declaring any area of land to be a proposed irrigation district or at any time thereafter the Minister may publicly notify—

- (a) The irrigation charge which will be payable for half the water quota in respect of every acre of land in the proposed irrigation district commanded by supply points, including any reductions during the first ten irrigation seasons of supply: AMD. 19  
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- (b) The charge which will be payable for such water as may be supplied in excess of half the proposed water quota but not in excess of the total proposed water quota:
- (c) The proposed water quota and the general terms and conditions of supply.

**6. Poll for water supply works**—The Minister shall ensure that a poll is taken, not later than six months after the date of the public notification of the irrigation charge in any proposed irrigation district, on the question of whether construction of water supply works for the proposed irrigation district shall be undertaken.

**7. Preparation of rolls**—(1) For the purpose of any such poll, the Clerk of each County Council, Borough Council, Town Council, and Road Board whose district or part thereof is included in the proposed irrigation district shall, on request by the Minister, prepare a special roll of those of its ratepayers who are ratepayers in respect of areas of land in the proposed irrigation district comprising in the aggregate not less than ten acres.

(2) Where the proposed irrigation district extends over the districts of two or more such local authorities the special rolls so prepared for the several districts taken together shall be the special roll of electors for the purposes of the poll to be taken under this Part of this Act.

**8. Voting**—Only those persons appearing on the special roll referred to in section 7 of this Act shall be entitled to vote on any such poll, and each such person shall be allowed one vote. Where more than one person appears on the roll as

a ratepayer in respect of any one property, only the person whose name appears first on that roll in respect of that property shall be entitled to vote by virtue of that qualification.

**9. Publication of proposal to take a poll**—The Minister shall publish in any newspaper circulating in the proposed irrigation district, once in each week for two successive weeks, a notice setting forth the day on which, and the place or places where, the poll is to be taken.

**10. When and how poll to be taken**—(1) The day on which the poll shall be taken shall be the day specified in that behalf in the notice mentioned in section 9 of this Act, which day shall be not less than one week nor more than three weeks after the date of the last publication of the said notice.

(2) On the day so specified a poll shall be taken by each County Council, Borough Council, Town Council, and Road Board whose district or part thereof is included in the proposed irrigation district; and, subject to any necessary modifications and to any directions given by the Minister, the poll shall be taken in the manner provided by the Local Elections and Polls Act 1953.

(3) In any case where under this Part of this Act a poll is to be taken of all or any of the ratepayers in the districts of two or more local authorities jointly, the Minister may select and appoint one of those local authorities to be the principal authority for the purposes of the election.

(4) The reasonable cost of every poll under this Part of this Act that is not held simultaneously with the election of members of any local authority, and the reasonable additional cost incurred by a local authority in respect of any poll under this Part of this Act that is held simultaneously with the election of members of the local authority, may be paid by the Crown out of money appropriated by Parliament.

(5) Any dispute arising as to the amount to be paid by the Crown to any local authority under this section shall be determined by the Audit Office after such inquiry as it thinks fit, and the decision of the Audit Office in any such dispute shall be final.

**11. Authorising district and charge**—(1) If not less than sixty per cent of the valid votes cast at the poll are in favour of the construction of the water supply works for the proposed irrigation district, the Governor-General may, by Order in Council,—

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- (a) Constitute as an irrigation district the area of land declared under section 4 of this Act to be a proposed irrigation district:
  - (b) Specify the irrigation charge which will be payable for half the water quota, being the charge which has been notified under section 5 of this Act and is to be payable on every acre of land in the irrigation district commanded by supply points, including any reductions during the first ten irrigation seasons of supply:
  - (c) Specify the charge for such water as may be supplied in excess of half the water quota but not in excess of the total water quota:
  - (d) Specify the water quota and the terms and conditions of supply.
- (2) Without restricting the application of section 18 of this Act, it is hereby declared that any such Order in Council may from time to time, after the expiration of ten years from the date of the completion of the water supply works, be amended in respect of any of the matters referred to in paragraphs (c) and (d) of subsection (1) of this section.

**12. Irrigation charge**—Subject to any reductions during the first ten irrigation seasons of supply that may be authorised by the Order in Council issued under section 11 of this Act, and subject to any exemption that may be made by the Minister in accordance with section 13 of this Act, the occupier of any land in the irrigation district shall, as from the time when water is first made available to his land from the water supply works, pay to the Minister at the end of each irrigation season, for each acre of land in the irrigation district occupied by him and commanded by supply points, the irrigation charge for the supply of half the water quota, being the charge specified as aforesaid by Order in Council, and the irrigation charge so payable shall be recoverable as a debt due to the Crown.

**13. Exemption of areas**—Where the Minister is satisfied that, because of the topography or nature of any land of the occupier or the existence on the land of any afforested area, lake, swamp, river, or other physical feature, it would be inequitable for the irrigation charge to be payable in respect of every acre of land commanded by supply points, the Minister may from time to time exempt from the irrigation charge such number of acres of the occupier's land as the Minister considers reasonable.

**14. Penalty for late payment**—If default is made after the thirty-first day of May in any year in payment of the total irrigation charge and any charge for extra water in respect of the immediately preceding irrigation season, or any such charge, the occupier shall pay to the Minister, in addition, an amount equal to ten per cent of the amount in respect of which default is made:

Provided that the Minister may, where he considers the circumstances so warrant, reduce or waive the additional amount to be so paid.

**15. Water entitlement**—From the time when water is made fully available to any land in the irrigation district, the occupier of that land shall, subject to the provisions of sections 16 and 17 of this Act and subject to all amounts due to the Minister under sections 12 and 16 of this Act having been paid, be entitled to receive from appropriate supply points, at such rate of flow and for such periods as may from time to time be determined by the Minister, the water quota in each irrigation season for each acre of land commanded by supply points and not exempted under section 13 of this Act until the water supply works are at the discretion of the Minister abandoned, discontinued, or disposed of by the Minister.

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**16. Extra water**—(1) Any water in excess of half the water quota, but not exceeding the total water quota, that may be supplied by the Minister in any irrigation season at the request of the occupier of any land in an irrigation district shall be paid for by the occupier at the rate per acre-foot from time to time specified by Order in Council in accordance with section 11 of this Act.

(2) Any water in excess of the water quota that may be supplied by the Minister at his discretion in any irrigation season at the request of the occupier of any land in an irrigation district shall be paid for by the occupier at such rate as the Minister may specify.

(3) Every amount payable by the occupier in accordance with this section shall be recoverable as a debt due to the Crown.

**17. Diminished supply**—Notwithstanding anything to the contrary in section 15 of this Act, if during any irrigation season water from the water supply works fails or becomes diminished so that it is impracticable to supply to any land

the quantity of water referred to in section 15 of this Act or such further supply as may have been agreed to by the Minister, no person shall by reason of any such failure or diminished supply have any claim to compensation or any right of action or other remedy against the Crown or the Minister, but the occupier of the land shall be entitled to such reduction in the irrigation charge payable for that season as the Minister considers reasonable.

**18. Alteration of irrigation charge**—Notwithstanding anything to the contrary in this Act, the irrigation charge may, after the expiration of ten years from the date of the completion of the water supply works and after giving reasonable notice to the occupiers, be altered by the Governor-General by Order in Council to cover any difference between the estimated and actual costs of construction of the works, including any compensation paid; and thereafter at yearly intervals may likewise be altered to cover any variations in the cost of operation and maintenance and in the quantity of water bought, and the cost of any renewal of the water supply works.

**19. Registration of charge**—(1) As soon as water is made available by the Minister from the water supply works to any land in an irrigation district, the District Commissioner of Works in whose district the land is situated shall, without fee, deposit with the District Land Registrar or the Registrar of Deeds or the Mining Registrar, as the case may require, in the land registration district or mining district in which the land is situated a certificate under his hand describing the land to any part of which water is so made available and specifying the total irrigation charge payable in respect of the land for each irrigation season during the first ten irrigation seasons of supply and for each irrigation season thereafter; and the Registrar shall thereupon, without fee, register the certificate in respect of that land.

(2) The provisions of section 9 of the Public Works Amendment Act 1935 shall apply to—

(a) Every certificate registered under this section as if it were a certificate registered under subsection (1) of the said section 9:

(b) All money due in respect of water supplied under this Part of this Act.

(3) An amended certificate under the hand of the appropriate District Commissioner of Works to give effect to any

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amendment to the irrigation charge in accordance with section 18 of this Act or to any exemption or variation thereof in accordance with section 13 of this Act may at any time be deposited, without fee, with the District Land Registrar or the Registrar of Deeds or Mining Registrar, as the case may require, and that Registrar shall thereupon register the amended certificate in respect of the land; and, where that certificate states that it is in substitution for an earlier certificate, the Registrar shall cancel that earlier certificate.

(4) In the event of the water supply works being abandoned, discontinued, or disposed of by the Minister, the District Commissioner of Works shall, upon payment to Her Majesty of all money payable under the registered certificate, cause a release of the certificate to be registered; and the District Land Registrar or Registrar of Deeds or Mining Registrar shall, without fee, register the release.

## PART II

### MISCELLANEOUS PROVISIONS

**20. Width of garages**—Section 132 of the principal Act is hereby amended by omitting from paragraph (a) of subsection (2) the words “ten feet”, and substituting the words “twelve feet”.

**21. Deposit of notice stopping road**—Section 148 of the principal Act is hereby amended by adding the following subsection:

“(11) The Board shall cause a copy of every public notice referred to in subsection (10) of this section and of every plan referred to in the notice to be deposited in the office of the District Land Registrar of the district where the stopped road is situated. On receipt thereof the District Land Registrar shall note his records in such manner as may be appropriate.”

**22. Description of stopped road**—The principal Act is hereby amended by inserting, after section 151, the following section:

“151A. Before any stopped road is sold or exchanged under section 150 or section 151 of this Act, the Chief Surveyor of the district shall assign to the stopped road a description sufficient for the purpose, and shall cause that description to be marked on the record maps.”

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**23. Regulations may bind the Crown**—Section 319 of the principal Act is hereby amended by inserting, after sub-section (2), the following subsection: REP. 196/

“(2A) Any regulations made under this section may expressly provide that the Crown shall be bound by all or any of the provisions of the regulations, and any such express provision shall have effect according to its tenor.” No. 84

**24. Deposit of Order in Council declaring motorway**—Section 3 of the Public Works Amendment Act 1947, as substituted by section 44 of the Public Works Amendment Act 1948, is hereby amended by adding the following subsection:

“(3) The Minister shall cause a copy of every Order in Council made under paragraph (b) of subsection (1) of this section and of every plan referred to therein to be deposited, without fee, in the office of the District Land Registrar of the district in which the motorway is to be constructed; and on receipt thereof the District Land Registrar shall note the Order in Council upon the appropriate folio of the proper register book.”