

Mr King

NORTH SHORE DRAINAGE AMENDMENT

[LOCAL BILL]

ANALYSIS

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A BILL INTITULED

An Act to amend the North Shore Drainage Act 1951

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

1. Short Title—This Act may be cited as the North Shore Drainage Amendment Act 1956, and shall be read together with and deemed part of the North Shore Drainage Act 1951 (hereinafter referred to as the principal Act).

No. 45—1

2. Section 4 of principal Act (as to constitution of Board) amended—Section four of the principal Act is hereby amended by inserting in subsection two, after the words “the Health Act 1920”, the words “the Local Elections and Polls Act 1953, the Waters Pollution Act 1953”.

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3. Members of Board and election thereof—(1) Sections five and six of the principal Act are hereby repealed, and the following section substituted:

“5. (1) The Board shall consist of twelve persons, and each of the following local districts, namely, the Boroughs of Birkenhead, Devonport, East Coast Bays, Northcote, and Takapuna, and the County of Waitemata, shall be represented on the Board by two members who shall be elected in the manner hereinafter provided.

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“(2) In each of the said five boroughs referred to in the *last preceding* subsection, and in that part of the Waitemata County which shall from time to time form part of and be included within the North Shore Drainage District, the electors shall for their local district, or part of their local district, as the case may be, on the third Saturday in November in the year nineteen hundred and fifty-six, and on the same day in every third year thereafter on which is held the general election of members of the local authority of that local district or part of that local district, as the case may be, elect one person (being an elector) to be a member of the Board.

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“(3) Every such election shall be held in the manner prescribed by the Local Elections and Polls Act 1953, the provisions of which Act shall, subject to this Act, apply accordingly.

“(4) Notwithstanding anything to the contrary in section twelve of the Local Elections and Polls Act 1953, the Board may, in giving or causing to be given notice of any election of a member or members of the Board, appoint as the day for the nomination of candidates a day not less than seven clear days after the day on which such notice is given and not more than sixty clear days before the day fixed for the election.

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“(5) In the month of January in the year nineteen hundred and fifty-seven, and in the month of January in every third year thereafter, each of the following local authorities, namely, the Birkenhead Borough Council, the Devonport Borough Council, the East Coast Bays Borough Council, the Northcote Borough Council, the Takapuna Borough Council, and the Waitemata County Council, shall hold a meeting and, at such meeting, shall elect one of its members to be a member of the Board.

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“(6) On the petition of the Board, or of the local authority of any new local district which may be constituted at any time after the passing of the North Shore Drainage Amendment Act, 1956 (whether by the union into one local district of two or more adjoining districts, or parts thereof, or by the merger of any local district or part thereof in any other local district, or otherwise howsoever) and the area of which or part of the area of which is situated within the North Shore Drainage District, the Governor-General may by Order in Council, at any time or from time to time include that new local district, or part of that new local district, as the case may be, within the North Shore Drainage District; and the Governor-General may by the same or any subsequent Order in Council declare that the number of members of the Board shall be increased by two persons for every such new local district or part of such new local district which shall have been included within the North Shore Drainage District as aforesaid. One of those two members shall be elected in the manner prescribed by and in accordance with the provisions of subsections *two*, *three*, and *four* of this section; and the other member shall be elected in the manner prescribed by and in accordance with the provisions of subsection *five* of this section:

“Provided that, notwithstanding anything to the contrary expressed or implied in the foregoing provisions of this section, the first election of the members representing any such new local district, or part of such new local district, as the case may be, shall be held, in the case of the member to be elected in the manner prescribed by subsections *two*, *three*, and *four* of this section, in accordance with the provisions of section forty-eight of the Local Elections and Polls Act 1953 (relating to extraordinary vacancies), the provisions of which section shall, with the necessary modifications, apply to any such election as aforesaid as if the date of the publication in the *Gazette* of the said Order in Council were the occurrence of an extraordinary vacancy within the meaning of the said section; and in the case of the member to be elected in the manner prescribed by subsection *five* of this section, not less than thirty-five nor more than forty-two clear days from the date of the publication in the *Gazette* of the said Order in Council.

“(7) On the petition of the Board, or of the local authority of any new local district which may be constituted at any time after the passing of the North Shore Drainage Amendment Act 1956 (whether by the union into one local district of two or more adjoining local districts, or parts thereof, or by the merger of any local district or part thereof in any other local district, or otherwise howsoever) and the area of which or part of the area of which is situated within the North Shore Drainage District, the Governor-General may at any time appoint a person or persons to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 to inquire into and report on the inclusion of that new local district, or part of that new local district, as the case may be, within the North Shore Drainage District and also to inquire into and report on all matters incidental thereto:

“Provided that instead of appointing any such person or persons to be a Commission of Inquiry in the manner and for the purposes aforesaid, the Governor-General may direct the Local Government Commission constituted under the Local Government Commission Act 1953 so to inquire into and report on the inclusion of that new local district, or part of that new local district, as the case may be, within the North Shore Drainage District and also to inquire into and report on all matters incidental thereto.

“(8) Upon the union into one local district of two or more adjoining local districts, or parts thereof, or upon the merger of any local district or part thereof in any other local district, or upon the abolition of any local district, then, and in any such event, those members on the Board who represent the local districts or parts thereof which have become united, or those members on the Board who represent the local district or part thereof which has become merged in any other local district, or those members on the Board who represent the local district which has been abolished, as the case may be, shall continue in office until the next triennial general election of members of the Board to be held in accordance with the provisions of subsections *two*, *three*, *four*, and *five* of this section after such union, merger, or abolition shall have come into effect.”

(2) Sections five and six of the North Shore Drainage Amendment Act 1954 are hereby consequentially repealed.

4. **Coming into office of members**—Section seven of the principal Act is hereby repealed, and the following section substituted:

5 “7. (1) Every member of the Board elected under section five of this Act at the first election of the Board held after the coming into force of this section shall come into office on the first day of the month following that in which those members of the Board who are to be elected in the manner prescribed by and in accordance with the provisions of subsection *five* of section five of this Act are elected; and, unless his office sooner becomes vacant, shall continue in office until the members elected at the next election come into office in the manner and at the times hereinafter provided.

10 “(2) The members of the Board elected under the provisions of section five of this Act at every subsequent election of the Board (other than the first election held after the coming into force of this section) shall come into office at the times hereinafter set forth, namely:

15 “(a) Every member of the Board elected in the manner prescribed by and in accordance with the provisions of subsections *two, three, and four* of section five of this Act shall come into office immediately upon the public declaration of the result of the poll at which he was elected in the manner prescribed by section eighty-six of the Local Elections and Polls Act 1953; and, unless his office sooner becomes vacant, he shall continue in office until the member who is elected in substitution for him, in the manner prescribed by subsections *two, three, and four* of section five of this Act, at the next election by the electors of the local district or part of the local district which the retiring member represents, comes into office:

20 “(b) Every member of the Board elected in the manner prescribed by and in accordance with the provisions of subsection *five* of section five of this Act shall come into office on the first day of the month following that in which he is elected; and, unless his office sooner becomes vacant, he shall continue in office until the member who is elected in substitution for him, in the manner prescribed by subsection *five* of section five of this Act, at the next election by the local authority of the local district or part of the local district which the retiring member represents, comes into office.

“(3) Those persons who are the members of the Board at the time of the coming into force of this section shall continue to be members thereof until the date referred to in subsection *one* of this section, or until they cease to be members of the Board in accordance with the provisions of section eight of this Act, as amended by section seven of the North Shore Drainage Amendment Act 1954. 5

“(4) Every member elected to fill any extraordinary vacancy occurring in 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. 10

“(5) Every member of the Board going out of office shall, unless otherwise ineligible, be eligible for re-election.”

5. Vacancies—Section eight of the principal Act, as amended by section seven of the North Shore Drainage Amendment Act 1954, is hereby amended by adding to subsection one the following paragraph: 15

“(g) Ceases to be an elector or ceases to possess a qualification as an elector of the local district, or part of the local district, as the case may be, by the electors of which he was elected: 20

“Provided that in any such case he shall continue in office until his successor is elected.”

6. How vacancies filled—Section nine of the principal Act is hereby repealed, and the following section substituted: 25

“9. Any extraordinary vacancy occurring in the Board for any local district or part of a local district at any time before the times fixed by section five of this Act for the next election of members of the Board shall be filled in the manner following, that is to say: 30

“(a) An extraordinary vacancy caused by the death, resignation, or other disqualification of a member elected in the manner prescribed by and in accordance with the provisions of subsections *two*, *three*, and *four* of section five of this Act shall be filled by the election (to be held in the manner prescribed by the Local Elections and Polls Act 1953, the provisions of which Act shall, subject to this Act, apply accordingly) in the local district or part of the local district represented by the member whose 35 40

5 seat has been vacated of a person, being an elector
of that local district, or part of that local district,
as the case may be, upon a day to be appointed
under and in the manner prescribed by section
forty-eight of the Local Elections and Polls Act
1953 relating to extraordinary vacancies:

10 "Provided that in the event of such an extra-
ordinary vacancy occurring within twelve months
of the date fixed for the next triennial election of
members of the local authority of the local district
or part of the local district, as the case may be,
represented by the member whose seat has been
vacated as aforesaid, that local authority may by
resolution determine—

15 "(i) That the vacancy shall be filled in the
manner prescribed by the provisions in
that behalf of the Local Elections and
Polls Act 1953; or

20 "(ii) That the vacancy shall be filled by the
appointment by that local authority of a
person qualified to be elected a member
of the Board, and any person so
appointed shall for all purposes be
deemed to have been elected to fill the
vacancy:

25 "Provided also that, where any such vacancy
occurs within six months of the date fixed for the
next triennial general election of members of the
local authority of the local district or part of the
30 local district, as the case may be, represented by
the member whose seat has been vacated as afore-
said, that local authority may by resolution deter-
mine that the vacancy shall not be filled:

35 "(b) An extraordinary vacancy caused by the death,
resignation, or other disqualification of a member
elected in the manner prescribed by and in accord-
ance with the provisions of subsection *five* of section
five of this Act shall be filled by the local authority
40 represented by the member whose seat has been
vacated, and such local authority shall, as soon as
practicable after such extraordinary vacancy shall
have occurred, hold a meeting and elect another of
its members to fill such extraordinary vacancy as
aforesaid."

7. Committees—Section fourteen of the principal Act is hereby amended by inserting in subsection five, after the word “elected”, the words “in accordance with the provisions of section five of this Act.”

8. Quorum of Board—(1) Section sixteen of the principal Act, as amended by section eight of the North Shore Drainage Amendment Act 1954, is hereby further amended by omitting from subsection one the word “six”, and substituting the word “seven”. 5

(2) Section eight of the North Shore Drainage Amendment Act 1954 is hereby repealed. 10

9. Voting powers of members—Section seventeen of the principal Act is hereby repealed, and the following section substituted:

“17. (1) All acts of the Board and all questions before the Board may be done and decided at a meeting of the Board by a majority of such members of the Board as are present and vote at such meeting either on the voices or on a show of hands: 15

“Provided that, notwithstanding anything to the contrary in the foregoing provisions of this section, any member of the Board who is personally present at a meeting of the Board may demand that a poll shall be taken on any question or proposal before the Board, and thereupon the procedure shall be as follows: 20 25

“(a) The poll shall be conducted by the Secretary of the Board, who shall act as scrutineer, and the votes of members shall be recorded in writing either for or against the question or proposal, as the case may be, in the manner hereinafter provided: 30

“(b) The two representatives on the Board of each local district or part of a local district, as the case may be, shall together be entitled to such number of votes as shall be the equivalent of the proportion which the amount of the assessment made in any one year upon that local district, or that part of a local district, as the case may be, under and pursuant to the provisions of sections fifty-five and fifty-six of this Act, at any time before the first day of August immediately preceding the date of the meeting at which any such poll is taken as aforesaid, bears to the aggregate amount of the assessments made on all the contributing authorities in that same year: 35 40

5 “(c) Notwithstanding anything to the contrary expressed or implied in section two of this Act, as amended by section three of the North Shore Drainage Amendment Act 1954, the expression “population” as used in section fifty-six of this Act shall, for the purposes of calculating the proportion referred to in the last preceding paragraph, mean the estimate of population last certified to the Board by the Government Statistician in accordance with the provisions of subsection three of section two of this Act at any time before the first day of August immediately preceding the date of the meeting at which any such poll is taken as aforesaid:

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15 “(d) Notwithstanding anything to the contrary expressed or implied in section two of this Act, as amended by section three of the North Shore Drainage Amendment Act 1954, the expression “rateable capital value” as used in section fifty-six of this Act shall, for the purposes of calculating the proportion referred to in paragraph (b) of this proviso mean the capital value last certified to the Board by the Valuer-General in accordance with the provisions of subsection four of section two of this Act at any time before the first day of August immediately preceding the date of the meeting at which any such poll is taken as aforesaid:

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30 “(e) On each occasion when the two representatives on the Board of any local district or part of any local district, as the case may be, are both personally present together at a meeting of the Board at which any such poll is taken as aforesaid, each such representative shall be entitled to half the number of votes allotted to such two representatives as mentioned in paragraph (b) of this proviso, and may exercise and record his said votes in such manner and direction as he thinks fit either for or against the question or proposal then before the Board and irrespective of the manner or direction in which the other representative chooses to exercise and record his said votes:

“(f) On each occasion when only one of the two representatives on the Board of any local district or part of any local district, as the case may be, is personally present at a meeting of the Board at which any such poll is taken as aforesaid, that representative shall himself be entitled to exercise and may record the total number of votes allotted to such two representatives as mentioned in paragraph (b) of this proviso in such manner and direction as he alone thinks fit either for or against the question or proposal then before the Board.

“(2) All acts of any committee of the Board and all questions before any committee of the Board may be done and decided respectively at a meeting of the committee by the majority of such members of the committee as are present and vote at such meeting either on the voices or on a show of hands.

“(3) The Chairman of any meeting of the Board or of any committee thereof shall have a deliberative vote, and in case of an equal division of votes the Chairman shall have a second or casting vote which may be exercised and recorded in addition to and notwithstanding the number of votes which he may have already recorded in his capacity as a representative on the Board of a local district or part of a local district, as the case may be, under either paragraph (e) or paragraph (f) of the proviso to subsection *one* of this section at any meeting of the Board at which a poll shall have been taken as aforesaid.”

10. Right of appeal as to standards of purification—Section forty-one of the principal Act is hereby amended by inserting, after subsection four, the following subsection:

“(4A) The Board and any local authority which has at any time received from the Auckland Harbour Board or the Minister of Marine notice of any further or different standards and conditions in respect of the discharge of sewage and sewage effluents to tidal waters within or beyond harbour limits, as the case may be, under the provisions of subsection four of this section may, at any time within fourteen days after receiving any such notice, appeal against the same to the Magistrate’s Court in the place nearest to the office of the Board on the ground that the further or different standards and conditions required as aforesaid are unreasonable. Any

such appeal shall be heard and determined before a Magistrate, and the Court for the purpose of hearing and determining the appeal shall have all the powers vested in it in its ordinary civil jurisdiction. The procedure for the hearing and
5 determination in the Magistrate's Court of an appeal under this subsection shall be in accordance with the ordinary procedure of that Court with respect to originating applications; and, subject, thereto, notice of the appeal and of the date
10 when the same is to be heard shall be given in writing by the Board, or by the local authority which is appealing, to the contributing authorities, or to the Board and each of the other contributing authorities, as the case may be, and also in either case to the Auckland Harbour Board, the Minister of Marine,
15 and the Minister of Health. The decision of the said Court on any such appeal shall be final and binding on the Board and on all the contributing authorities and on the Auckland Harbour Board, the Minister of Marine, and the Minister of Health."

11. Qualification of electors—(1) Where an election by the
20 electors of any local district or of part of any local district is to be held or taken, every person shall be qualified to be enrolled as an elector who, if such local district or such part of a local district, as the case may be, were a borough, would be qualified to be enrolled as an elector of the borough.

25 (2) Each elector shall have one vote and no more.

12. Power to investigate possible water catchment areas, etc.—(1) In addition to the powers conferred upon it by the principal Act and the North Shore Drainage Amendment Act 1954, the Board is hereby empowered to and may at any time
30 and from time to time exercise all or any of the following powers, namely:

(a) The Board may by resolution authorise that such
35 detailed investigations, whether technical or otherwise, and such researches and experiments and such preliminary plans and estimates as the Board thinks fit be made, entered upon, carried out, and prepared for the purpose of determining the existence of any suitable sources of water supply and water catchment areas, either within or outside the district, and
40 the extent (if any) to which it may be possible and practicable to utilise and develop the same, after taking into consideration the technical and economic

possibilities thereof, for the conservation, preservation, and distribution of water for all the requirements of the district, including domestic and industrial requirements, sewerage flushing, and the maintenance of a suitable pressure and supply for fire extinguishing and otherwise: 5

(b) The Board may engage or retain at such remuneration as it thinks fit the services of such consulting engineers, technicians, and other experts as, in the opinion of the Board, may be necessary in order to enable the investigations, researches and experiments, preliminary plans, and estimates referred to in the *last preceding* paragraph to be made, entered upon, carried out, and prepared as aforesaid: 10

(c) The Board may cause to be prepared a report, with recommendations, as to the result of any such investigations, researches, and experiments as shall have been made, entered upon, and carried out pursuant to any resolution passed in exercise of the power in that behalf conferred by paragraph (a) of this subsection; and such report shall indicate in particular and shall set forth and comprise, *inter alia*— 15

(i) The location of and detailed information relating to any suitable sources of water supply and water catchment areas which are available either within or outside the district and the extent (if any) to which it is considered possible and practicable to utilise and develop the same for all or any of the purposes aforesaid: 25 30

(ii) Preliminary maps and plans relating to the use and development of and preliminary estimates as to the cost of developing any such sources of water supply and catchment areas, including the provision and construction of such storage dams, weirs, tunnels, aqueducts, pipe lines, canals, reservoirs, filtration plants and water treatment works, pumping stations, gravitation, rising, and reticulation mains, distributory works, and other works as, in the opinion of the Board, may be required for water supply purposes: 35 40

(iii) A recommendation as to the particular scheme or schemes of water supply which should be adopted by the Board for the district in connection with the use and development of any such sources of water supply and water catchment areas for all or 45

any of the purposes aforesaid.

(2) The costs of any such investigations, researches, experiments, preliminary plans, and estimates, including all engineering, technical, and legal fees, shall be paid in the first instance by the Board and shall be charged and assessed by it to the
5 contributing authorities in the proportion of the mean percentage of the rateable capital value and population of their respective local districts or portions thereof, as the case may be.

(3) Any such report and recommendations prepared and made in accordance with the provisions of subsection *one* of
10 this section shall be submitted to and considered by the Board, but before any such report or any recommendation contained therein is adopted by the Board, copies thereof shall be submitted to and for the approval of all the contributing authorities, the Minister of Health, and the Minister of Works.

(4) Upon receipt of a request from any of the contributing
15 authorities or from the Minister of Health or the Minister of Works, the Board shall submit explanations regarding any of the matters contained and any of the proposals outlined in the said report which, in the opinion of any of the contributing
20 authorities or of either of the said Ministers, may require to be further elucidated.

(5) If within three months of the submission, in accordance with the provisions of subsection *three* of this section, of copies of the said report and recommendations to all the contributing
25 authorities and to the Minister of Health and the Minister of Works, no objection in writing is received by the Board from any of them, the scheme or schemes of water supply recommended in such report may be formally adopted by the Board as the basis of the scheme or schemes of water supply
30 for the district at any meeting thereof after the expiration of the period aforesaid.

(6) If within the period of three months referred to in the
35 *last preceding* subsection, an objection in writing is received from any of the contributing authorities, or from the Minister of Health or the Minister of Works, the Board may, at any time after the expiration of the said period of three months, make application to the Magistrate's Court in the place nearest to the office of the Board for the approval of the scheme or schemes of water supply recommended in the said report. Any
40 such application shall be heard and determined before a Magistrate, and the Court for the purpose of hearing and determining the application shall have all the powers vested in it in its ordinary civil jurisdiction. The procedure for the hearing and determination in the Magistrate's Court of an
45 application under this subsection shall be in accordance with

the ordinary procedure of that Court with respect to originating applications; and the decision of the said Court shall be final and binding on the Board and on all the contributing authorities, the Minister of Health, and the Minister of Works. If the scheme or schemes of water supply recommended in the said report is or are approved by the decision of the said Court on any such application as aforesaid, the Board may, at any time thereafter, by resolution, formally adopt the recommended scheme or schemes as the basis for a scheme or schemes of water supply for the district as aforesaid.

13. Power to construct waterworks and to take land for same—(1) At any time after the adoption by the Board, in the manner provided by section *twelve* of this Act, of any recommended scheme or schemes as the basis for a scheme or schemes of water supply for the district as aforesaid, the Board may from time to time construct, maintain, and operate within or outside the district all such storage dams, weirs, tunnels, aqueducts, pipe lines, canals, reservoirs, filtration plants and water treatment works, pumping stations, gravitation, rising, and reticulation mains, distributory works, and other works and things as may, in the opinion of the Board, be necessary or advisable for the proper and efficient utilisation and development of any suitable sources of water supply and water catchment areas for the conservation, preservation, and distribution of water for all the requirements of the district as aforesaid.

(2) Without in any way limiting the effect and operation of subsection three of section thirty-three of the principal Act, the Board may purchase and hold any land within or without the district which, in the Board's opinion, may be required for the purposes of this section; and the Board also may take, in the manner prescribed by and subject to the provisions of the Public Works Act 1928, and hold any lands within or without the district which in its opinion are required for all or any of the purposes aforesaid.

14. Board may contract with Auckland City Council and contributing authorities for supply of water—(1) The Board is hereby empowered to and may at any time and from time to time enter into a contract or contracts with the Auckland City Council (which in this and the next succeeding section of this Act is hereinafter referred to as the Council) for the supply by the Council to the Board of a supply of water sufficient for all the requirements of the district, including

domestic and industrial requirements, sewerage flushing, and fire fighting requirements and otherwise throughout a period to be specified in any such contract.

5 (2) The Board is also hereby empowered to and may at any time and from time to time enter into a contract or contracts with any contributing authority for the supply by the Board to that contributing authority of a supply of water sufficient for all the requirements of the local district of that contributing authority or that part of the local district of that
10 contributing authority which for the time being is comprised within the North Shore Drainage District, as the case may be, including domestic and industrial requirements, sewerage flushing, and fire fighting requirements and otherwise throughout a period to be specified in any such contract.

15 (3) Any such contract may be for such period and may contain such terms and provisions, not inconsistent with the provisions of the principal Act or of this Act, as may be mutually agreed upon by the parties to the contract.

(4) The Council and the Board may from time to time by
20 special order, and without taking the steps prescribed by sections nine to thirteen of the Local Bodies' Loans Act 1926, raise a special loan for the purpose of carrying out any works required to enable the Council or the Board, as the case may be, to perform its obligations under any contract entered into
25 pursuant to the provisions of this section.

(5) Nothing expressed or implied in the foregoing provisions of this section shall be deemed to prevent or to restrict in any way any contributing authority from itself entering at any time and from time to time into such contract or contracts
30 with the Council for the supply by the Council to that contributing authority for such period or periods and upon such terms and conditions as may be mutually agreed upon by the parties to any such contract or contracts of a supply of water sufficient for all or part, as the case may be, of the require-
35 ments of the local district or part of the local district of that contributing authority, including domestic and industrial requirements, sewerage flushing, fire fighting requirements and otherwise.

15. Special provisions as to contracts under this Act—

40 (1) The obligation of the Council, or of the Board, or of any contributing authority to perform any contract entered into pursuant to the provisions of the *last preceding* section shall not be limited by the fact that neither the Council, nor the Board, nor any such contributing authority is empowered by

any Act other than this Act to enter into or perform the contract, and the Council, the Board, and any such contributing authority as aforesaid shall have power to enter into and perform every such contract in accordance with the provisions of this Act.

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(2) If the provisions of any contract entered into under this Act are mutually agreed upon by the parties and are in accordance with the provisions of this Act, and any party refuses or fails to execute the contract within such time as the Minister of Health allows in that behalf, the Governor-General may by Order in Council declare that the contract containing those provisions, as set out in the Order, shall be binding on the parties in the same manner as if it had been duly executed by the party so refusing or failing to execute such contract. Every such Order in Council shall have effect according to its tenor.

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(3) The provisions of the Health Act 1920 shall, so far as they are applicable and with the necessary modifications, apply with respect to the powers and obligations of any party to a contract entered into under the provisions of this Act as if they were powers and obligations conferred or imposed by the Health Act 1920.

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