

Reprint
as at 1 November 2010

**North Shore Drainage Amendment
Act 1983**

Local Act 1983 No 3
Date of assent 13 August 1983

North Shore Drainage Amendment Act 1983: repealed, on 1 November 2010, pursuant to section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Contents

	Page
Title	2
1 Short Title	2
2 Interpretation	2
3 The district	3
4 Members of Board and election	3
5 Inclusion in drainage district of new local districts, etc	5
6 Review of representation	7
7 Repealing provisions relating to commencement of office	8
9 Filling of vacancies	8
10 Quorum of Board	9
11 Meetings of Board and committees	9
12 Repealing certain provisions relating to meetings	10

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

13	Board may appoint officers and employees	10
14	Bylaws	10
15	Authorising Board to permit construction of temporary treatment plants	10
16	Powers of contributing authorities to connect sewers	10
17	Unauthorised expenditure	11
18	Reserve for replacements and renewals	11
19	Provisions as to payment and recovery of contributions from contributing authorities	15
20	Penalty for damaging works	16
21	Offences	16
22	Custody and use of common seal	16
23	Validation	17
24	Amendment to Schedule 1	17

An Act to amend the North Shore Drainage Act 1963

1 Short Title

- (1) This Act may be cited as the North Shore Drainage Amendment Act 1983, and shall be read together with and deemed part of the North Shore Drainage Act 1963 (hereinafter referred to as the principal Act).
- (2) Except as provided in section 4(3) of this Act, this Act shall come into force on the day on which it receives the Governor-General's assent.

Subsection (2) was inserted, as from 13 August 1983, by section 8(2) Local Legislation Act 1983 (1983 No 8). See section 6(2) of this Act.

2 Interpretation

Section 2(1) of the principal Act is hereby amended by repealing the definition of the term **Secretary**, and substituting the following definition:

“**Secretary** means the Secretary of the Board; and includes any person appointed by the Board to perform for the time being the duties of the Secretary”

3 The district

Section 3 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

- “(1) There is hereby constituted for the purposes of this Act a district called the North Shore Drainage District which is more particularly described in the First Schedule to this Act, and which comprises the Cities of Birkenhead and East Coast Bays and the Boroughs of Devonport and Northcote and part of the City of Takapuna and part of the County of Rodney.”

4 Members of Board and election

- (1) The principal Act is hereby further amended by repealing section 5, and substituting the following section:

“5

- (1) Subject to sections 5A and 5B of this Act, the Board shall consist of 12 members who shall represent the districts or parts of the districts of contributing authorities as follows:

“(a) Two members shall be elected to represent the City of Birkenhead:

“(b) Two members shall be elected to represent the City of East Coast Bays:

“(c) One member shall be elected to represent the Borough of Devonport:

“(d) One member shall be elected to represent the Borough of Northcote:

“(e) Five members shall be elected to represent so much of the City of Takapuna as lies within the drainage district:

“(f) One member shall be elected to represent so much of the County of Rodney as lies within the drainage district.

- “(2) In the district of each contributing authority the electors shall, for their local district or part of their local district, as the case may be, on the date fixed by section 4 of the Local Elections and Polls Act 1976 for each triennial general election, elect persons to so represent the districts or parts of the districts of the contributing authorities, being in each case a person who is not disqualified

for election by section 112 of the Local Elections and Polls Act 1976.

“(3) A person shall not be qualified for election to the Board unless—

“(a) He is on the roll of electors for the local district he is to represent:

“(b) Where only part of a local district is within the drainage district, he is on the roll of electors for the local district and is entitled to vote at the election of members of the Board.

“(4) Subject to the provisions of this Act, every such election shall be held in accordance with the Local Elections and Polls Act 1976 and the provisions of that Act shall apply accordingly.

“(5) In respect of every such election the following provisions shall apply:

“(a) The election shall be conducted within the local district of the contributing authority by the Returning Officer of the contributing authority:

“(b) The roll of electors prepared under the Local Government Act 1974 for each local district shall be the roll of electors for the election:

“Provided that where only part of a local district is within the drainage district the only persons entitled to vote at the election shall be those persons who are on the roll by virtue of having—

“(i) A residential qualification in respect of residence in that part of the local district; or

“(ii) A rating qualification in respect of a rateable property in that part of the local district—

and the principal administrative officer of the contributing authority shall indicate on the roll the names of the persons so entitled to vote:

“(c) In the application to the Board of the Local Elections and Polls Act 1976, every reference in Part II of and section 111 of that Act to the local au-

thority shall be read as a reference to the contributing authority:

“(d) If on the day appointed for the election no persons are duly elected, or the number of persons duly elected is less than the number of persons required to be elected, the contributing authority shall appoint such number of qualified persons to be a member or members representing the local district or part thereof, as the case may require, sufficient in number to meet the requirements of subsection (1) of this section, or of any Order in Council made under section 5A of this Act, or of any special order made under section 5B of this Act, as the case may require; and the person or persons so appointed shall hold office in all respects as if such person or persons had been duly elected in accordance with this Act:

“(e) Within 7 days after declaring the result of the election in accordance with section 42(5)(b) of the Local Elections and Polls Act 1976, the Returning Officer shall give written notification to the Secretary of the Board of that result.

“(6) The cost of every election for a member or members of the Board shall be borne and paid by the contributing authority, except the expenses of scrutineers and other expenses incurred by or on behalf of candidates.”

(2) So much of the Schedule to the Local Elections and Polls Amendment Act 1982 as relates to the principal Act is hereby consequentially repealed.

(3) Subsections (1) and (2) of this section shall come into force on the 8th day of October 1983.

Subsection (3) was inserted, as from 13 August 1983, by section 8(1) Local Legislation Act 1983 (1983 No 8).

5 Inclusion in drainage district of new local districts, etc

The principal Act is hereby further amended by inserting, after section 5 the following section:

“5A

- (1) Subject to section 26(5) of the Local Government Act 1974, on the petition of the Board, or of the local authority of any new local district which may be constituted at any time (whether by the union into 1 local district of all or part of 2 or more adjoining local districts, or by the merger of all or part of any local district in any other local district, or in some other manner) and all or part of the area of which is situated within the drainage district, the Governor-General may by Order in Council include the new local district or part of it, as the case may be, within the drainage district.
- “(2) The Governor-General may, by the same or any subsequent Order in Council,—
 - “(a) Alter the representation of the districts of contributing authorities to provide for the new local district or part; and
 - “(b) For that purpose, reduce the membership of the Board or increase it to not more than 15; and
 - “(c) Subject to subsection (4) of this section, make such provisions as are necessary in respect of the first or any election of members of the Board, or the vacation of office by members of the Board, made necessary by any such alteration of representation or increase or reduction in membership.
- “(3) Every Order in Council made under this section shall have effect according to its tenor notwithstanding the provisions of section 5(1) of this Act.
- “(4) On—
 - “(a) The union into 1 local district of all or part of 2 or more local districts; or
 - “(b) The merger of all or part of any local district in any other local district; or
 - “(c) The abolition of any local district—
the members of the Board who represent any such local district or any such part shall continue in office until the next triennial general election of members of the Board.

6 Review of representation

(1) The principal Act is hereby further amended by inserting, after section 5A, the following section:

“5B

(1) The Board shall, in the year preceding the year in which a triennial general election of members of local authorities is to be held, but not later than 12 months before the date of that election, by special order determine the number of members to be elected to represent the local district or part of the local district, as the case may require, of each contributing authority.

“(2) In any determination made under subsection (1) of this section the local district or part of the local district of each contributing authority shall be represented by at least 1 member.

“(3) Any such special order may also reduce the membership of the Board or increase it to not more than 15.

“(4) For the purpose of giving due representation to the districts or parts of the districts of the contributing authorities, the Board shall have regard to the population, rateable value, and area of each such district or part, as the case may be, and to such other additional factors or combinations of factors as the Board considers relevant.

“(5) The following provisions shall apply to every special order under this section:

“(a) It shall have effect according to its tenor notwithstanding the provisions of section 5(1) of this Act:

“(b) It shall come into force at the next triennial general election of members of the Board, except so far as may be necessary to provide for that election:

“(c) A copy shall be kept at the office of the Board, and shall be available for inspection without fee by any elector during normal office hours.

“(6) The provisions of section 113 of the Local Government Act 1974 shall apply in respect of every special order

made or proposed to be made under this section as if references in the said section 113 to a council and a territorial authority were references to the Board.”

- (2) This section shall come into force on the 1st day of January 1988.

7 Repealing provisions relating to commencement of office

Section 6 of the principal Act is hereby repealed.

8

This section was repealed, as from 17 June 1986, by section 13 Local Government Amendment Act 1986 (1986 No 21).

9 Filling of vacancies

The principal Act is hereby further amended by repealing section 8, and substituting the following section:

“8

- (1) Subject to subsections (3) and (4) of this section, any extraordinary vacancy occurring in the Board at any time before the next triennial general election of members of the Board shall be filled by the election, in the district or part of the district of the contributing authority represented by the person whose office has become vacant, of a person qualified to be elected as a member of the Board.
- “(2) Every such election shall be held in accordance with the provisions of the Local Elections and Polls Act 1976 on the day fixed under that Act.
- “(3) If an extraordinary vacancy occurs within 12 months before the date of the next triennial general election of members of the Board, the contributing authority whose district or part of whose district was represented by the member whose office has become vacant may by resolution determine that—
- “(a) The vacancy be filled in accordance with subsections (1) and (2) of this section; or
- “(b) The vacancy shall be filled by the appointment by that contributing authority of a person quali-

8

fied to be elected as a member of the Board; and any person so appointed shall for all purposes be deemed to have been elected to fill the vacancy.

- “(4) If an extraordinary vacancy occurs within 6 months before the date of the next triennial general election of members of the Board, the contributing authority whose district or part of whose district was represented by the member whose office has become vacant may by resolution determine that the vacancy shall not be filled.
- “(5) Every person elected or appointed to fill an extraordinary vacancy shall hold office only for the balance of the term of his predecessor.”

10 Quorum of Board

Section 14 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

- “(1) A quorum of the Board shall consist of half the members if the total membership of the Board is even and a majority of the members if the total membership is odd.”

11 Meetings of Board and committees

The principal Act is hereby further amended by repealing section 15, and substituting the following section:

“15

- (1) Meetings of the Board and of every committee of the Board shall be held at such times and places as the Board or committee from time to time appoints.
- “(2) The Secretary shall give written notice to members of the Board of the time and place appointed for holding meetings.
- “(3) Every question before any meeting of the Board or of any committee of the Board shall be determined, by open voting, by a majority of the votes of the members present and voting on the question.
- “(4) At any meeting of the Board or of any committee of the Board the person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

“(5) Subject to the provisions of this Act, the Board and every committee of the Board may regulate its own procedure.”

12 Repealing certain provisions relating to meetings

Section 17 of the principal Act is hereby repealed.

13 Board may appoint officers and employees

Section 21(1) of the principal Act is hereby amended—

- (a) By inserting, after the words “fit persons to be”, the word “Manager,”;
- (b) By omitting the words “Secretary-Manager,”;
- (c) By omitting the word “servants”, and substituting the word “employees”.

14 Bylaws

Section 23(3) of the principal Act (as amended by section 7(1) of the Decimal Currency Act 1964) is hereby amended—

- (a) By omitting the words “one hundred dollars”, and substituting the expression “\$500”;
- (b) By omitting the words “ten dollars”, and substituting the expression “\$50”.

15 Authorising Board to permit construction of temporary treatment plants

Section 28(1) of the principal Act is hereby amended by inserting, after the words “permit any local authority”, the words “or person or body of persons”.

16 Powers of contributing authorities to connect sewers

- (1) Section 36(1) of the principal Act is hereby amended by omitting the words “with the trunk sewers of the Board”, and substituting the words “at such point and in such manner as the Engineer to the Board may specify so as to discharge, either directly or indirectly, into such trunk sewers or treatment plants as the Board may have constructed or taken over for the service of the district concerned”.

(2) Section 36 of the principal Act is hereby further amended by adding the following subsection:

“(5) Subject to any bylaw in force under subsection (4) of this section, every decision of the Engineer to the Board or other authorised officer under this section shall be subject to review by the Board.”

17 Unauthorised expenditure

(1) Section 52 of the principal Act is hereby amended by omitting the expression “\$750”, and substituting the words “such sum as may be fixed from time to time by the Minister of Local Government after consultation with the Minister of Finance”.

(2) Section 9 of the North Shore Drainage Amendment Act 1971 is hereby consequentially repealed.

18 Reserve for replacements and renewals

The principal Act is hereby amended by inserting, after section 55, the following section:

“55A

(1) The Board may from time to time by resolution set aside a reserve for any one or more of the purposes set out in subsection (2) of this section—

“(a) Out of its general fund:

“(b) By including a special sum in preparing an estimate in accordance with the provisions of section 55 of this Act.

“(2) The reserve may be set aside or so estimated for any one or more of the following purposes:

“(a) Any undertaking, service, or activity pursuant to section 57 of this Act for which it is required to make calculations for the purposes of assessment as therein directed:

“(b) Any special purpose for which a separate account is required to be kept by it pursuant to section 46 of this Act:

“(c) Any repair, renewal, replacement, depreciation, or obsolescence of any of its property, fixtures, structures, plant, vehicles, or appliances:

- “(d) For improvements or additions to any of its property, fixtures, structures, plant, vehicles, or appliances:
- “(e) For the purpose of purchasing additional property, fixtures, structures, plant, vehicles, or appliances to form part of or be used in connection with any such undertaking, service, or activity:
- “(f) For the re-erection, repair, or reinstatement of any buildings or other property (either real or personal) of the Board that may be destroyed or damaged by fire, earthquake, tempest, or other inevitable accident:
- “Provided that where the Board considers it inexpedient that any building or other property that is destroyed or damaged by fire, earthquake, tempest, or other inevitable accident as aforesaid should be re-erected, repaired, or reinstated, the Board may apply any money forming part of any such fund, not exceeding the insurable value of the building or other property destroyed or damaged, in the acquisition or erection of another building or the purchase of other property (either real or personal) in place of the building or other property destroyed or damaged:
- “(g) To meet claims or demands arising from or out of or in connection with or in relation to damage to any property arising out of the exercise and performance by the Board of its powers, duties, and functions under this or any other Act; but no greater sum shall be set aside in any 1 year than the amount that at current rates would have been payable for the year in respect of insurance of any property belonging to the Board and in respect of insurance against such damage:
- “(h) For the strengthening or support of any sinking fund of any loan by whomsoever raised for which the Board is responsible or liable or the depreciation of any of the investments thereof:

- “(i) To meet any other anticipated losses or expenditure of, or in connection with, any such undertaking, service or activity.
- “(3) Where the Board, pursuant to subsection (1) of this section, has made provision in any financial year for the setting aside of, or has set aside, any money for any of the purposes referred to in that subsection, the Board shall transfer such money out of the appropriate separate account kept in accordance with section 46(1)(a) of this Act and credit the same to a special account or accounts, but so always that—
- “(a) Any money provided or set aside to form a fund or funds for any of the purposes provided in paragraphs (c), (d), (e), (h), and (i) of subsection (2) of this section shall each be credited to and held separately in a special account, and shall be applied only for the purpose for which it was provided or set aside:
 - “(b) Any money provided or set aside to form a fund or funds for any of the purposes provided in paragraphs (f) or (g) of subsection (2) of this section shall each be credited to and held separately in a special account and shall be applied only for the purpose for which it was provided or set aside.
- “(4) Where the Board, in any financial year, credits any money to, or holds any money in, a special account established pursuant to subsection (2) of this section, it shall, not later than 6 months after the close of that financial year, pay that money into a separate bank account or accounts, and, subject to subsection (5) of this section, may invest the whole or any part of it either in the capital works of the undertaking, service, or activity in respect of which the special account was established or in the following manner:
- “(a) In public securities;
 - “(b) On deposit in any bank lawfully carrying on the business of banking in New Zealand or in the Auckland Savings Bank or the Post Office Savings Bank:

- “(c) In the common fund of the Public Trust Office:
- “(d) In the National Provident Fund:
- “(e) In the debentures or stock of any local authority within the meaning of the Local Authorities Loans Act 1956 which are authorised investments for the investment of trust funds under the provisions of section 4 of the Trustee Act 1956:
“Provided that the Board shall not be entitled under this paragraph to so invest any money provided or set aside to form a fund for any of the purposes provided in paragraphs (f), (g), or (h) of subsection (2) of this section, if at the time of the investment the total amount of the securities of such local authorities held pursuant to this paragraph or to paragraph (f) of this subsection as investments of that fund, together with the money then proposed to be invested, exceeds half the total investments for the time being of the money in that fund:
- “(f) In any other securities that may from time to time be authorised by the Governor-General in Council.
- “(5) Nothing in subsection (4) of this section shall authorise the Board to invest any money provided or set aside to form a fund or funds for any of the purposes provided in paragraphs (f), (g), or (h) of subsection (2) of this section in the capital works of any undertaking, service, or activity of the Board.
- “(6) Any income arising out of any investments made pursuant to subsection (4) of this section shall be credited to the special account out of which such money was invested.
- “(7) Notwithstanding anything in subsection (2) of this section, the Board may from time to time, if it considers the amount of any money held in any special account or accounts relating to any such fund to be in excess of the amount required to be held therein, by resolution either transfer the whole or any part of such money back into the account from which it was originally transferred or

transfer it to the special account or accounts relating to some other fund or funds created under this section:

“Provided that no money shall be transferred under this subsection to the special account relating to any other fund unless the money already constituting such other fund was capable of being transferred originally from the same separate account, kept pursuant to section 46(1) of this Act, as the money being transferred under this section was originally taken.”

19 Provisions as to payment and recovery of contributions from contributing authorities

Section 60 of the principal Act is hereby amended by repealing subsections (1) to (3), and substituting the following subsections:

- “(1) Each contributing authority shall pay to the Board the amount of the assessment as set out in the notice received by it pursuant to the provisions of section 56 of this Act in 4 equal instalments, one of which shall be payable on each of the 14th days of June, September, December, and March following receipt of the notice of assessment. In case any instalment is not paid the local authority shall be liable to and shall pay interest on any and every amount so remaining unpaid on the due date until payment thereof at the rate for the time being charged by the bankers of the Board for money owing to them by the said Authority or that would be chargeable if the money was owing, as the case may be.
- “(2) If any assessment made on a contributing authority is set aside under section 58 of this Act in consequence of an appeal under that section, the amount to be paid by such contributing authority, as settled by the Judge under that section, shall be substituted for the assessment so set aside; but pending the decision of the Judge nothing in this subsection or in section 58 of this Act shall absolve such contributing authority from liability for any contributions or instalments thereof to which they would have been liable if the assessment had not been set aside and interest shall accrue on any unpaid contributions notwithstanding that an appeal has been lodged.

“(3) If on any such appeal an adjustment is made of the amount of any such assessment and accordingly of any instalment in respect thereof, the Board shall, forthwith upon receipt of the decision of the Judge, adjust the assessment, and shall give credit for any amount overpaid by any contributing authority on any instalment or, as the case may be, require any contributing authority to pay to the Board the amount of any increase of any such assessment payable in accordance with the decision of the Judge, together with interest calculated at the rate fixed by subsection (1) of this section on the amount of any such instalment unpaid within 30 days from the date of the demand thereof by the authority.”

20 Penalty for damaging works

Section 68 of the principal Act (as amended by section 7(1) of the Decimal Currency Act 1964) is hereby amended by omitting the words “one hundred dollars”, and substituting the expression “\$500”.

21 Offences

Section 69 of the principal Act (as amended by section 7(1) of the Decimal Currency Act 1964) is hereby amended by omitting the words “one hundred dollars”, and substituting the expression “\$500”.

22 Custody and use of common seal

The principal Act is hereby further amended by inserting, after section 74, the following section:

“74A

(1) The common seal of the Board shall be held in the custody of the Secretary.

“(2) If the Board desires or is required to execute any document under the seal of the Board, the document shall be executed by affixing the seal and by the following persons signing the document below the affixed seal:

“(a) The Chairman of the Board or, in his absence, some other member of the Board; and

“(b) The Manager of the Board or the Secretary.”

23 Validation

Every act or omission of the Board on or after the 1st day of August 1974 (being the date of abolition of the Waitemata County) and before the date of commencement of this Act, so far as it may be invalid by virtue of any deficiency or irregularity in the constitution or membership of the Board, is hereby validated.

24 Amendment to Schedule 1

Schedule 1 to the principal Act is hereby amended by omitting the words “the City of Takapuna, the Boroughs of East Coast Bays, Northcote, and Birkenhead, and part of the County of Waitemata,”, and substituting the words “part of the City of Takapuna, the Cities of Birkenhead and East Coast Bays, the Borough of Northcote, and part of the County of Rodney,”.

Contents

- 1 General
 - 2 About this eprint
 - 3 List of amendments incorporated in this eprint (most recent first)
-

Notes

1 General

This is an eprint of the North Shore Drainage Amendment Act 1983. The eprint incorporates all the amendments to the Act as at 1 November 2010. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about eprints and officialisation, please *see* <http://www.pco.parliament.govt.nz/eprints/>.

3 List of amendments incorporated in this eprint (most recent first)

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37): section 113(1)
