



New Zealand Legislation

# Local Government Act 1974

## 461 Further provisions with respect to private drains

- (1) Where any private drain constructed with the consent of the owners of all the lands affected or constructed by the council pursuant to section 460 passes through or serves separately-owned premises, there shall be attached to each and all of the lands served by that private drain the following rights, namely:
- (a) a right to the free and uninterrupted use of that private drain; and
  - (b) a right for the occupiers or any of them to enter upon all lands served by that drain, or through which it passes, for the purpose of relaying or effecting necessary repairs to the drain; and
  - (c) a right to contribution from the owners or occupiers of other lands so served by that drain towards the cost of executing, providing, and doing all or any of the things required in respect of the drain by this Part or any bylaw; and
  - (d) a right to contribution from the owners or occupiers of those other lands towards the cost of all necessary relaying of or repairs to the drain; and
  - (e) a right to the recovery from the owners or occupiers of other lands through which that drain passes but which are not served by the drain of the cost of any repairs to the drain necessitated by any wilful or negligent act of those owners or occupiers,—

and those rights, upon a certificate being furnished by the principal administrative officer that any of the lands is actually served by that drain, together with such plans (if any) as the Registrar-General of Land, shall be registered by the Registrar-General of Land against the titles to all the other lands so served by the drain, and also, in the case of the right to free and uninterrupted use of the drain and the right to enter upon land to effect necessary relaying or repairs, or to recover under paragraph (e) the cost of any repairs to the drain, against the titles to the lands through which the drain passes.

- (2) The Registrar-General of Land, on the receipt by him of a certificate signed by the principal administrative officer that any of the said lands is actually served by that private drain, shall enter on the record of title,—
- (a) particulars of the certificate given by the principal administrative officer; and
  - (b) a memorandum that there are attached to the land the rights specified in subsection (1).
- (3) If any question arises as to the liability of any owner or occupier under any provision of subsection (1), the District Court shall have jurisdiction to hear and determine the question, and the decision of the court shall be final.

Compare: 1954 No 76 s 227; 1956 No 64 s 254

Section 461: inserted, on 1 April 1980, by section 2 of the Local Government Amendment Act 1979 (1979 No 59).

Section 461(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 461(1): amended, on 19 January 1981, pursuant to section 2(2) of the Local Government Amendment Act 1980 (1980 No 82).

Section 461(1): amended, on 19 January 1981, by section 39 of the Local Government Amendment Act 1980 (1980 No 82).

Section 461(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 461(2): amended, on 19 January 1981, pursuant to section 2(2) of the Local Government Amendment Act 1980 (1980 No 82).

Section 461(2)(a): amended, on 19 January 1981, pursuant to section 2(2) of the Local Government Amendment Act 1980 (1980 No 82).

Section 461(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).