

Amended by Act, 1922, No. 2.
(Local Act).

New Zealand.



ANALYSIS.

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1919, No. 19.—*Local and Personal.*

Title. AN ACT to enable the Gisborne Harbour Board to borrow One Million Pounds. [4th November, 1919.]

Preamble. WHEREAS the Gisborne Harbour Board is desirous of constructing an outer harbour to afford shelter and accommodation to shipping of large tonnage: And whereas it is estimated that the cost of constructing such a harbour will be one million pounds: And whereas such a harbour will be of use and benefit to the Port of Poverty Bay and to the north-east coast of New Zealand and to shipping generally: And whereas the said Board is desirous of borrowing the sufficient money estimated as aforesaid to construct such a harbour:

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

Short Title. 1. This Act may be cited as the Gisborne Harbour Board Enabling Act, 1919.

Special Act. 2. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1908, and the amendments thereof, which Acts are hereby incorporated with this Act.

Interpretation. 3. In this Act, if not inconsistent with the context,—
“Board” means the Gisborne Harbour Board as constituted under the Harbours Amendment Act, 1910;

"Chairman" means the Chairman of the Board:

"Harbour district" or "district" means the harbour district established under this Act:

"Returning Officer" means the officer appointed by the Board to conduct elections and polls within the harbour district.

4. The Local Elections and Polls Act, 1908, and any amendment thereof, shall apply to every poll taken under this Act, and the Board shall appoint some person to be Returning Officer for the conduct of the poll hereinafter authorized throughout the harbour district. Returning Officer.

5. (1.) It shall be lawful for the Board to borrow from time to time such sum or sums of money as the Board shall deem fit, but so that the total of the amounts so borrowed does not exceed in the aggregate one million pounds sterling; and the Board may borrow such sum or sums of money as aforesaid for such period or periods as it may think fit, and may renew or again borrow any or all of such sum or sums of money as they fall due for such further or other period or periods as the Board may think fit. Borrowing-power.

(2.) For the purpose of providing a sinking fund for the liquidation of the loan authorized by this Act there shall, on the first day of January in each year after the issue of any debentures, be set apart by the Board, out of the rates and other moneys hereinafter mentioned upon which the principal and interest of such debentures are to be charged, a sum of ten shillings per centum per annum on the aggregate amount for which debentures shall at that time be issued; and no money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than five pounds ten shillings per centum per annum, anything in any other Act notwithstanding.

6. (1.) The money so borrowed by the Board shall be applied by the Board in the construction of an outer harbour within the limits of the Gisborne Harbour as defined in the First Schedule to the Gisborne Harbour Act, 1905. How money borrowed to be expended.

(2.) The Board may out of any loan-moneys pay the preliminary expenses incurred in connection with the scheme for which the loan was raised and the first year's interest on the loan:

Provided that the intention to pay such expenses or interest shall be stated to the ratepayers in the notice referred to in section ten hereof.

7. The debentures for all moneys so borrowed, together with interest, shall be secured upon the rents, profits, and dues chargeable and receivable by the said Board as harbour or other dues or in respect of the harbour-works of the Port of Poverty Bay, and upon the rate hereinafter mentioned to be made and levied under the authority of this Act and the Gisborne Harbour Act, 1905. Security for loan.

8. The harbour district hereby constituted for the purposes of this Act is the areas included within the boundaries of the Borough of Gisborne, and the counties of ~~Waipatu, Uawa~~, Waikohu, and Cook, and the Township of Mangapapa. Harbour district.

9. Before the Board proceeds to borrow moneys under the authority of this Act it shall cause meetings of the ratepayers to be held and a poll to be taken as by this Act is provided. Consent of ratepayers required before any loan raised.

ENACTED by section two (a) of Act, 1922, No. 2 (Local Act)

Notices of poll.

10. The Board shall cause a notice to be published in some newspaper circulating in the district, specifying a time and place for the Borough of Gisborne and a time and place for each of the said counties (~~other than Waiapu and Uawa~~) and the said township, at which meetings of ratepayers are to be held to consider a proposal to raise such special loan. The time appointed shall not be less than fourteen days after the first publication of such notice.

Meetings of ratepayers to consider loan proposals.

11. Every such meeting shall be presided over by some person appointed by the Chairman of the Board for such meeting. If the person so appointed shall be absent or shall refuse to preside, then the meeting shall elect some person present to preside. At every such meeting, after due consideration and discussion of the proposal, the person presiding shall notify that a poll in accordance with the provisions of the Act will be taken. If at the place and within one hour after the time appointed for any such meeting not more than two ratepayers are present, such meeting shall for the purposes of this Act be deemed to have been duly held, and the proposal to have been duly discussed and considered, and the notification of a poll to have been duly made.

Roll of the ratepayers.

12. It shall be the duty of the Town Clerk of the Borough of Gisborne and the Clerks of the Waikohu and Cook County Councils and the Mangapapa Town Board, at the request of the Chairman, to prepare a roll for the harbour district setting forth the names of all ratepayers within such district; and every ratepayer shall be entitled to exercise one vote and no more.

Roll to be signed and handed to Returning Officer.

13. Such roll shall be signed by the Mayor and Town Clerk of the Borough of Gisborne and by the Chairmen of the Waikohu and Cook County Councils and the Mangapapa Town Board, and when so signed shall be delivered to the Returning Officer, and shall be the roll upon which the poll shall be taken.

Poll to be taken.

14. The poll shall be taken as follows:—

(a.) At the written request of the Chairman, authorized by ordinary resolution of the Board, the Returning Officer shall publish a notice setting forth the day (not less than one week nor more than six weeks from the latest date appointed for any of the aforesaid meetings) on which the poll will be taken.

(b.) The statement of the proposal in the voting-paper shall be as follows: "Proposal to borrow moneys, not exceeding in the aggregate one million pounds, for the purposes defined in the Gisborne Harbour Board Enabling Act, 1919."

Result of poll.

15. If the total number of votes recorded for the proposal represents a majority of the valid votes recorded within the whole harbour district (~~excluding Waiapu and Uawa Counties~~) the resolution shall be deemed to be carried, and the Board shall be fully empowered to exercise the powers of borrowing, and all other powers conferred by this Act; but if there is not such a majority in favour of the proposal the resolution shall be deemed to be rejected, and the Board shall not be so empowered.

Result to be advertised.

16. As soon as conveniently may be after the result of the poll has been ascertained the Returning Officer shall give public notice of

PRINTED by sec. 2 (b) of Act,
1902, No. 2. (Local Act).

PRINTED by sec. 2 (c) of Act,
1902, No. 2. (Local Act).

the number of votes recorded for and against the proposal as above provided, and shall declare the proposal to be carried or rejected, as the case may be.

17. (1.) As soon as conveniently may be after the poll the Chairman shall send to the Minister of Internal Affairs, for publication in the *Gazette*, a notice of the number of votes recorded for or against the proposal, and in such notice shall declare the proposal to be carried or rejected, as the case may be. Result to be gazetted.

(2.) If in the notice so published in the *Gazette* it is declared that the proposal was carried, such notice so published shall be conclusive evidence that the raising of the loan has been duly authorized, and that all proceedings and things required by this Act as conditions precedent to the exercise by the Board of the borrowing-powers hereby conferred have been duly and lawfully taken and done, and that the Board is fully empowered and authorized to borrow any sum or sums of money not exceeding in the aggregate the sum of one million pounds.

(3.) If in the said notice it is declared that the proposal was rejected, it shall be lawful for the Board, at any time after the expiration of twelve calendar months from the date of the publication in the *Gazette* of such notice, to direct that another poll be held, in the same manner and subject to the same conditions, upon the same proposal.

18. If the proposal be declared to be carried, a special rate upon all rateable property in the harbour district ~~(subject to the special provisions hereinafter contained in regard to Waiapu and Uawa Counties)~~ Special rate. OMITTED by sec. 2 (d) of Act, 1922, No. 2. (Local Act) for the purpose of providing interest and sinking fund upon moneys to be borrowed under the authority of this Act, shall be deemed to have been duly made and struck by the Board in manner provided by law and in accordance with the provisions of the Rating Act, 1908, and to have been duly appropriated and pledged by the Board as a security for all moneys to be borrowed under the authority of this Act, and shall be a continuing annually recurring rate without further proceedings by the Board until repayment in full of all moneys so borrowed.

19. (1.) The Board shall in each year cause an estimate to be prepared, in such manner and according to such principle and method as the Board approves, of the anticipated revenue of the year (exclusive of any rate to be levied under this Act or under the Gisborne Harbour Board Enabling Act, 1913), and of the anticipated expenditure of the year (including interest and sinking fund upon the moneys borrowed under the authority of this Act and the Gisborne Harbour Board Enabling Act, 1913, but exclusive of capital expenditure on loan account), and shall upon such estimate determine the deficiency of such revenue to meet such expenditure. Estimate of revenue and expenditure.

(2.) Any credit or debit balance of the Board's General Account at the close of each year shall be carried forward to the account of the succeeding year for the purpose of the estimate of such succeeding year and the determination of the deficiency of the revenue of such succeeding year to meet the expenditure thereof.

(3.) The Board shall direct the levy in each year of such part of the said special rate as shall be sufficient to provide such deficiency.

(4.) The Board may for the purposes of such direction and levy adopt some convenient fraction of a penny, notwithstanding that the sum thereby produced may exceed such deficiency.

(5.) The direction for every such levy shall be by resolution of the Board, and shall appoint a date or dates for payment thereof, and every such direction shall have the force and effect according to its tenor of a rate duly made and struck on all rateable property in accordance with the provisions of the Rating Act, 1908.

(6.) Nothing in this Act shall be construed as in any manner limiting or affecting the rights of the holders of debentures to be issued by the Board to require the levy of the whole of the rate as defined by section eighteen hereof if any default be made by the Board in payment of any interest or capital moneys secured by such debentures.

Provision for setting up Courts of inquiry to ascertain whether Waiapu, Uawa, and other districts should be rated, and to what extent.

20. (1.) Notwithstanding anything contained in the preceding sections of this Act, no special rate shall be deemed to have been made and struck nor shall any such rate be levied by the Board in respect of property in the Waiapu or Uawa Counties unless and until it shall have been decided in manner hereafter provided that it is just and equitable that such property should be rated.

(2.) On receipt of an application in writing from the Chairman of the Board the Minister of Internal Affairs shall require the Board and the Waiapu County Council respectively each to appoint a Commissioner to inquire and determine whether or not it is just and equitable that the Waiapu County or any portion or portions thereof, or the property in the said county or any portion thereof, should be rated under the provisions of this Act, and if the decision is in the affirmative, then from what date the rate should be or should be deemed to have been payable, and how and by whom and in respect of what portion or portions of the county and the proportion of the rate so to be paid as compared with the rate payable in the other portions of the harbour district, and the mode and proportion of representation to which the Waiapu County is to be entitled on the Board, and any other matters that it may be necessary to inquire into or determine in order to give due effect to such decision.

(3.) The Governor-General in Council shall appoint a Judge of the Supreme Court to sit with the Commissioners aforesaid upon such inquiry and to act as Chairman and exercise equal jurisdiction with them in respect of the determination of the matters aforesaid. If either the Board or the Waiapu County Council fails to appoint a Commissioner within one month on being required so to do the Minister of Internal Affairs shall make the necessary appointment.

(4.) The Commissioners and the said Judge shall sit as a Court of inquiry, and shall have the powers of Commissioners under the Commissions of Inquiry Act, 1908, and any Acts amending the same, and may accept, admit, and call for such evidence as in equity and good conscience such Court thinks fit, whether strictly legal evidence or not; and no proceeding in or decision of the said Court shall be removable into any other Court by certiorari or otherwise, or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any Court of judicature on any account whatsoever. The decision of the Commissioners and the said Judge, or the

REPEALED by Section Two
c) of Act, 1922, No. 2 (Local
Act)

majority of them who act, shall be final and conclusive, and shall be stated in writing signed by the Judge as Chairman, and forwarded to the Minister of Internal Affairs.

(5.) On receipt of the written statement of such decision by the Minister of Internal Affairs he shall cause the same to be published in the *New Zealand Gazette*, and thereupon the said decision shall become effective for all the purposes of this Act; and if the decision is in the affirmative the rate authorized or directed by such decision shall be deemed to have been duly made and struck by the Board for the purposes of section eighteen of this Act. If the Board and the Waiapu County Council enter into an agreement in writing agreeing to the property in the County of Waiapu, or any portion or portions thereof, being rated and to the extent of such rate or the proportion of such rate as compared with the other portions of the harbour district, and as to the mode and proportion of representation on the Board to which the county is to be entitled, it shall not be necessary to appoint such Court of inquiry as aforesaid, but such agreement shall be published in like manner and shall have the force and effect of a decision of such Court.

(6.) If any vacancy in the membership of such Court of inquiry shall arise by death, or if, in the opinion of the Minister of Internal Affairs, any member thereof shall become unfit to act or be incapacitated from acting, such vacancy shall be supplied or another member shall be appointed in lieu of the member becoming unfit or incapacitated as aforesaid, and it shall be supplied in the same manner as the original appointment, and in such case it shall not be necessary to commence the proceedings afresh, but they may be continued from the stage at which the vacancy occurred.

(7.) The costs of and incidental to such inquiry shall be fixed and determined by the Court of inquiry, or a majority of the members thereof, and borne and paid as directed by the decision. In default of payment the amount thereof may be recovered by the Minister of Internal Affairs from the party in default as a debt due to the Crown, and when received shall be paid as may have been directed by the said Court of inquiry.

(8.) On receipt of an application in writing from the Chairman of the Board the Minister of Internal Affairs shall require the Board and the Uawa County Council respectively each to appoint a Commissioner to inquire and determine whether or not it is just and equitable that the Uawa County or any portion or portions thereof, or the property in the said county or any portion thereof, shall be rated under the provisions of this Act, and in such case the provisions of subsections two to seven (both inclusive) of this section shall, *mutatis mutandis*, apply.

21. Notwithstanding any provision contained in the Harbours Act, 1908, it shall be lawful for the Board to make and levy harbour dues to be charged and collected in respect of goods produced or manufactured upon lands outside the harbour district, and, in respect of goods shipped on behalf of persons residing outside the harbour district, in excess of the dues to be made and levied in respect of the same goods if produced or manufactured within the harbour district, or shipped on behalf of persons resident within the harbour district;

Differential dues
may be levied.

~~and it is hereby declared that if and so long as the said special rate~~
 is not levied in the Waiapu and Uawa Counties or either of them,
 such counties or such one of them in which a rate is not being levied
 shall for the purposes of this section be deemed to be outside the
 harbour district:

Provided that such excess dues shall be chargeable equally in
 respect of the same description of goods wheresoever outside the
 harbour district the same are produced or manufactured, and where-
 soever outside the harbour district the persons on whose behalf the
 same are shipped may reside.

Powers of Board.

22. For the purpose of making, levying, and recovering the said
 rates the Board shall have and may exercise all the powers of
 making, levying, or recovering rates in the said borough, counties,
 and township comprising the harbour district which any local body
 having rating-powers within such borough, counties, or township has
 or may have under the law for the time being in force regulating the
 making and recovery of rates therein respectively.

Native lands to be
 rated.

23. Native lands within the harbour district other than
 customary lands shall be deemed to be rateable property for all the
 purposes of this Act if and so long as the same are occupied or used
 and profit is derived therefrom by the Native owners, whether from
 farming operations or from rent or royalties. The Valuer-General
 shall cause to be prepared, and shall furnish to the Board in each
 year, a list of all Native lands within the harbour district which are
 so occupied or used, and shall in such list set forth the rateable values
 of all such lands.

Rate levied not to
 be invalidated.

24. No rate or levy made under this Act shall be set aside or
 quashed by any proceeding in any Court or otherwise, and no defect
 in the same, or the making thereof, or in any direction for levy, shall
 be set up as a defence to any action which may be brought to recover
 the same.

Hypothecation.

25. Pending the raising of the said loan of one million pounds
 the Board may borrow from its bankers or any other source any sum
 or sums of money, not exceeding the whole amount authorized to be
 borrowed, by the hypothecation or mortgage of any debentures
 authorized to be issued; but all moneys so borrowed shall be a first
 charge upon and shall be repaid out of the loan when raised, and the
 yearly rate of interest on moneys so borrowed shall in no case exceed
 five and a half pounds per centum per annum.

Repeal.

26. The Gisborne Harbour Board Enabling Act, 1907, is hereby
 repealed.

OMITTED by sec. 2 (f) of Act,
 1922, No. 2. (Local Act)

"Refer to 1926 Act"