



ANALYSIS

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1977, No. 80

An Act to amend the Harbours Act 1950

[16 December 1977]

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 and commencement—(1) This Act may be cited as the Harbours Amendment Act 1977, and shall be read together with and deemed part of the Harbours Act 1950 (hereinafter referred to as the principal Act).

(2) Section 14 of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

(3) Except as provided in subsection (2) of this section, this Act shall come into force upon its passing.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Hovercraft’ means a machine designed to be supported in the atmosphere, wholly or partly by air expelled from the machine to form a cushion extending beneath the machine to the surface of any ground, water, or other portion of the earth’s surface:

“ ‘Mooring’ means any weight or article placed in or on the foreshore, or the bed of a harbour, navigable lake, navigable river, or of the sea for the purpose of securing a vessel, raft, aircraft, or floating structure; and includes any wire, rope, buoy, or other device attached or connected to such weight or article, but does not include an anchor which is normally removed with a vessel, raft, aircraft, or floating structure when it leaves a site or anchorage:

“ ‘Raft’ means any man-made floating structure which is not a vessel:

“ ‘River’ includes a stream or other waterway:”.

(2) The said section 2 (1) is hereby further amended by inserting in the definition of the term “harbour”, after the words “defined under this Act”, the words “or declared under section 241c of this Act to be an inland harbour”.

(3) The said section 2 (1) is hereby further amended by repealing the definition of the term “local authority”, and substituting the following definition:

“‘Local authority’ means a Regional Council, United Council, District Council, County Council, City or Borough Council, Town Council, District Community Council, or Community Council; and includes the corporate body which any such Council represents:”.

(4) The said section 2 (1) is hereby further amended by omitting from the definition of the term “vessel” the words “or boat”, and substituting the words “, boat, hovercraft,”.

(5) The said section 2 (1) is hereby further amended by inserting in the definition of the term “wharf”, after the word “jetties,”, the word “land,”.

PART I

HARBOURS AND HARBOUR BOARDS

3. Governor-General may define harbours—(1) Section 3 (1) (b) of the principal Act (as substituted by section 3 (1) of the Harbours Amendment Act 1961) is hereby amended by inserting in subsection (1) (b), after the word “Amend”, the words “or revoke”.

(2) Section 4 of the principal Act is hereby amended—

(a) By inserting in subsection (1), after the word “alteration” in both places where it occurs, the words “or revocation of the definition”:

(b) By omitting from subsection (2) (as substituted by section 3 (2) of the Harbours Amendment Act 1961) the words “or altering”, and substituting the words “, altering, or revoking the definition of”.

4. Powers of Governor-General where there is no Harbour Board—(1) Section 6 of the principal Act is hereby amended by repealing subsection (1) (as amended by section 2 of the Harbours Amendment Act 1964), and substituting the following subsection:

“(1) In respect of any harbours, navigable lakes, and navigable rivers, where there is no Harbour Board, the Governor-General in Council shall have all of the powers, functions, duties, and authorities that are conferred by this Act on Harbour Boards in respect of harbours.”

(2) The said section 6 is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) Any such regulations may be made generally in respect of harbours, navigable lakes, and navigable rivers, where there is no Harbour Board, or in respect of any one or more of those harbours, lakes, or rivers.”

(3) Section 2 of the Harbours Amendment Act 1964 is hereby consequentially repealed.

5. Control of waters by local authority or public body—

(1) Section 8A of the principal Act (as inserted by section 6 of the Harbours Amendment Act 1961) is hereby amended by inserting, after subsection (11), the following subsections:

“(11A) The power to grant control of a harbour or area of the sea or lake or river, or a part thereof, conferred upon the Governor-General by subsections (1) and (10A) of this section includes the power to renew the grant of such control, either once or more than once, upon the expiry of a grant; and the provisions of this section apply to a renewal of a grant of control in the same way as they apply to a grant.

“(11B) Where a grant of control—

“(a) Expires, and is renewed by Order in Council made under subsection (11A) of this section; or

“(b) Expires, and is by Order in Council replaced by a new grant to the same public body in respect of the same or substantially the same area of harbour, sea, lake, or river—

all subsisting bylaws duly made pursuant to the grant or any former grant shall, subject to any term, condition, limitation, or other provision contained in the said Order in Council or any amendment thereof, continue in force as if the grant had not expired and all such subsisting bylaws shall apply to, and have force in, the area in respect of which control is granted by the renewal or the new grant.”

(2) The said section 8A is hereby further amended by repealing subsection (12), and substituting the following subsection:

“(12) In this section—

“(a) ‘Public body’ means—

“(i) A local authority:

“(ii) A Domain Board:

“(iii) A Regional Water Board:

“(iv) The National Parks Authority or a National Park Board:

“(v) A Scenic Board:

“(vi) Any other administering body within the meaning of the Reserves and Domains Act 1953:

“(vii) In the case of any public reserve within the meaning of the Reserves and Domains Act 1953 which is vested in Her Majesty the Queen,

but is not controlled or managed by an administering body, the Commissioner of Crown Lands for the land district in which the public reserve is situated:

“(viii) Any persons acting as trustees for the inhabitants of any locality; and

“(b) ‘District’ in relation to a public body means the district described in that one of the following subparagraphs which has the same number as the subparagraph containing the reference to that public body in paragraph (a) of this subsection:

“(i) The district of the local authority including, in relation to a Regional or United Council or the Auckland Regional Authority, a public reserve or park which is not within its district but which has been acquired, or is administered or controlled by the Council or Authority:

“(ii) A domain:

“(iii) A water region:

“(iv) A national park:

“(v) A scenic reserve:

“(vi) A public reserve within the meaning of the Reserves and Domains Act 1953 controlled or managed by the administering body:

“(vii) A public reserve within the meaning of the Reserves and Domains Act 1953 which is vested in Her Majesty but is not controlled or managed by an administering body:

“(viii) A locality which adjoins the harbour or area of the sea or of a lake or of a river in respect of which it is proposed to make a grant of control.”

6. Existing Boards—Section 15 (3) of the principal Act is hereby amended—

- (a) By inserting, after the words “town district” where they first occur, the words “or district of a district council”:
- (b) By inserting in paragraph (a), after the word “borough”, the words “or district of a district council”:
- (c) By inserting in paragraph (c), after the words “town district”, the words “or district of a district council”.

7. Election of members by electors of local authority—Section 18 (1) of the principal Act is hereby amended by omitting the words “road district”, and substituting the words “district of a district council”.

8. New rolls not to be compiled for purposes of Harbour Board elections—Section 20 of the principal Act is hereby amended by omitting the words “road district” from each place where they occur, and substituting the words “district of a district council”.

9. Extraordinary vacancies—Section 32 (2) of the principal Act (as amended by section 23 of the Criminal Justice Amendment Act 1975) is hereby amended by omitting the words “this section”, and substituting the words “section 31 of this Act”.

10. Annual allowance to Chairman—Section 36 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) Where the maximum rate of the Chairman’s annual allowance is increased under subsection (1A) of this section, the Board may, by resolution passed within 6 months after the date on which the Order in Council comes into force, determine that an increased allowance be paid retrospectively to a date after the coming into force of the Order in Council but before the date of the resolution.

“(2A) The rate of the Chairman’s annual allowance may be increased by the Board, in conformity with this section, once during his term of office, but shall not otherwise be altered during that term.”

11. Honorary wardens—(1) Section 42A of the principal Act (as inserted by section 4 of the Harbours Amendment Act 1968) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) A Board may from time to time appoint suitable persons to be—

“(a) Honorary property wardens for the purpose of protecting and safeguarding any real or personal property owned by or in the possession or under the control of the Board:

“(b) Honorary launch wardens for the purpose of enforcing bylaws made by the Board under section 232 (42) of this Act.”

(2) The said section 42A is hereby further amended—

- (a) By omitting from subsection (2) the words “so appointed shall, while performing or exercising the functions and powers of an honorary warden”, and substituting the words “appointed as an honorary property warden shall, while performing or exercising his functions and powers,”;
- (b) By inserting in subsection (2) (a), after the word “honorary”, the word “property”;
- (c) By inserting in subsection (3) (a), after the word “honorary”, the word “property”;
- (d) By inserting in subsection (3) (b), after the words “of this section”, the words “or pursuant to any bylaw made under section 232 (42) of this Act”;
- (e) By omitting from subsection (3) (c) the words “honorary warden”, and substituting the words “person appointed under this section”;
- (f) By omitting from subsection (4) the words “as an honorary warden”.

(3) The repeal and re-enactment of subsection (1) of the said section 42A shall not affect any appointment subsisting at the time of such repeal, but a person holding any such appointment shall thereafter be known and described as an honorary property warden, and all warrants and documents relating to such appointment shall be deemed to be amended accordingly.

(4) A provision made before the passing of this Act, in any bylaw, which refers to an honorary warden shall, unless the context otherwise requires, be read and construed as a provision relating to an honorary property warden.

12. Appeals and Appeal Board—(1) Section 45 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) An employee of a Harbour Board may appeal to an Appeal Board set up under subsection (2) of this section—

“(a) Against a decision of the Harbour Board whereby he is dismissed, suspended, disrated, or fined, or suffers a reduction of pay or other emoluments:

“(b) On the ground that his promotion has been unreasonably withheld.

“(1A) An appeal under subsection (1) of this section shall be brought by delivering a notice of appeal to the Secretary of the Harbour Board—

“(a) Where subsection (1) (a) of this section applies, within 14 days after the employee has received written notice of the Board’s decision; and

“(b) Where subsection (1) (b) of this section applies, within a reasonable time after he might justifiably have expected to receive promotion.”

(2) Section 45 (7) of the principal Act is hereby amended by inserting, after the words “of the dismissal”, the word “suspension,”.

PART II

FINANCE

13. Money constituting Harbour Fund—Section 46 (1) of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“(dd) Such of the proceeds of sale of land vested in the Board as the Minister directs, under section 143A (2) (a) of this Act, shall form part of the Harbour Fund.”.

14. Money, how to be dealt with—(1) Section 50 of the principal Act is hereby amended—

(a) By inserting in subsection (2), after the words “or by cheque”, the words “or other instrument of payment”:

(b) By inserting in subsection (2) (as amended by section 3 of the Harbours Amendment Act 1959), after the words “to countersign cheques” in both places where they occur, the words “or other instruments of payment”:

(c) By inserting in subsection (2A) (as inserted by section 3 of the Harbours Amendment Act 1964), after the words “by cheque”, the words “or other instrument of payment”:

(d) By inserting in the said subsection (2A), after the words “to countersign cheques”, the words “or other instruments of payment”:

(e) By inserting in the said subsection (2A), after the words “every cheque”, the words “or other instrument of payment”:

(2) The said section 50 is hereby further amended by adding the following subsection:

“(4) A Board may pay money by authorising the bank to debit its account and to arrange a corresponding credit in the bank account of another party and an ‘instrument of payment’ for the purposes of subsections (2) and (2A) of this section is one which authorises the bank so to do.”

15. Remuneration of members of Boards—(1) The principal Act is hereby further amended by repealing section 51A (as inserted by section 5 (1) of the Harbours Amendment Act 1965), and substituting the following section:

“51A. (1) Subject to subsection (2) of this section, a Board may pay the following remuneration to each member, other than the Chairman of the Board:

“(a) For every meeting of the Board, or of a committee of the Board, attended by him as a member, a sum not exceeding \$5:

“(b) In the case of any member of the Board who is appointed to act as a chairman of any committee of the Board, either generally or for any particular meeting, an additional sum not exceeding \$3 for every meeting of that committee which he attends as chairman.

“(2) No person may be paid in any financial year—

“(a) Under subsection (1) (a) of this section, sums totalling more than \$260:

“(b) Under subsection (1) (b) of this section, sums totalling more than \$156.

“(3) The Governor-General may from time to time, by Order in Council, alter the maximum rates of remuneration specified in subsections (1) and (2) of this section, and, in so doing, may fix different maximum rates for members of different Boards or for chairmen of specified committees of specified Boards.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 5 (1) of the Harbours Amendment Act 1965:

(b) Section 6 of the Harbours Amendment Act (No. 2) 1971.

16. Accounts to be audited—Section 63 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The statement and account required to be prepared by section 61 of this Act shall be audited by the Audit Office

and for that purpose shall (except in the case of the Grey-mouth Harbour Board) be delivered to that office not later than the 31st day of March following the end of the financial year to which they relate.”

17. Accounts to be produced at annual meeting—(1) The principal Act is hereby further amended by repealing section 64, and substituting the following section:

“64. (1) The statement and account, whether allowed or disallowed by the Audit Office, shall be produced at a meeting of the Board to be held not later than 2 months after the Board has been notified of the completion of the audit.

“(2) The statement and account as adopted by the Board shall be signed by the Chairman and 3 copies shall be sent to the Secretary for Transport.

“(3) The statement and account as adopted by the Board and the report of the Audit Office shall be made public as soon as possible after such adoption as follows:

“(a) A copy of each shall be furnished free of charge, upon request, to any elector of the Board and to any holder of debentures or creditor of the Board; and

“(b) Sufficient copies of each shall be available for public inspection, free of charge, during normal office hours at the principal office of the Board; and

“(c) The fact that copies are so available shall be notified at least twice, by advertisement in a newspaper or newspapers having the appropriate circulation in every district of a local authority whose electors are electors of the Board.”

(2) So much of the First Schedule to the Ministry of Transport Amendment Act 1972 as relates to section 64 (2) of the principal Act (as repealed by subsection (1) of this section) is hereby consequentially repealed.

PART III

HARBOUR DUES AND HARBOUR RATES

18. List of dues to be kept exhibited—Section 99 of the principal Act is hereby amended by omitting from subsection (2) (as amended by section 7 (1) of the Decimal Currency Act 1964) the words “ten dollars”, and substituting the expression “\$20”.

19. Credit may be given for harbour dues—Section 107 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) A Board may give to any person credit for unpaid dues for a period not exceeding 3 months from the time when they first became due, and may at any time require that payment of such dues be secured to the Board.”

20. Evasion of dues—Section 108 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “twenty dollars” in both places where they occur, and substituting in each case the expression “\$100”.

21. Persons authorised to collect dues may distrain—Section 111 of the principal Act is hereby amended by omitting from subsection (3) (as amended by section 7 (1) of the Decimal Currency Act 1964) the words “forty dollars”, and substituting the expression “\$200”.

22. Commonwealth and foreign ships of war, Government ships, etc., exempt from dues—Section 117 (4) of the principal Act is hereby amended by repealing the definition of the term “dues”, and substituting the following definition:

“‘Dues’ does not include charges for the use of a Board’s tugs, or for labour or material supplied by a Board or, in the case of a ship referred to in paragraphs (c), (f), and (i) of subsection (1) of this section, pilotage rates where the services of a pilot are actually made use of; and notwithstanding anything to the contrary in this or any other Act or in any rule of law, no exemption shall be allowed in respect of any such charge or rate to any person or authority referred to in this section.”

23. Missionary ships and pleasure yachts exempt, and provisions as to fishing vessels, etc.—Section 118 of the principal Act is hereby amended—

- (a) By inserting in subsection (3), after the words “stress of weather”, the words “or to assist another vessel in distress”:
- (b) By inserting in the said subsection (3), after the words “of docking only”, the words “or for the purpose of protecting human life or health”:

- (c) By inserting in subsection (4) (as added by section 6 (2) of the Harbours Amendment Act 1965), after the word "Vessels", the words "not exceeding 100 net register tons".

24. Board may levy harbour improvement rates—Section 120 of the principal Act is hereby amended by omitting from subsection (1) (as amended by section 7 (1) of the Decimal Currency Act 1964) the words "not exceeding in any case twenty-five cents a ton by weight or measurement, as expressed in the bylaw,".

PART IV

POWERS AND DUTIES OF HARBOUR BOARDS

25. Board may enter into contracts—Section 128 of the principal Act is hereby amended by omitting the words "carrying out the objects for which the Board has been constituted", and substituting the words "exercising the powers and performing the functions and duties conferred or imposed on it by or under this or any other enactment".

26. New sections as to subdivision and sale of land inserted—(1) The principal Act is hereby further amended by inserting, after section 143, the following sections:

"143A. Restrictions on exercise of powers in sections 143B and 143c—(1) The powers set out in sections 143B and 143c of this Act—

"(a) May be exercised by a Board only with the approval of the Minister and in accordance with the terms of that approval:

"(b) Do not authorise a Board to deal with land taken or acquired under the Public Works Act 1928 otherwise than in accordance with the provisions of that Act:

"(c) Are in addition to and not in substitution for or derogation of any powers in the same behalf conferred on a Board by this Act or any other enactment or by any instrument or Court:

"(d) May be exercised, subject to this section and to the said sections 143B and 143c, for any purpose approved by the Minister under subsection (1) (a)

of this section, whether or not that purpose is within the definition of the term 'harbour works' in this Act.

“(2) The approval of the Minister under subsection (1) (a) of this section—

“(a) May be given subject to such exceptions, restrictions, and conditions as he thinks fit, including (but without limiting the generality of the foregoing) any condition or restriction requiring the Board to deal with money received by the Board from the sale or exchange of land in a manner specified by the Minister, or requiring the Board to obtain the consent of the Minister to the terms of any agreement or of any specified kind of agreement proposed to be entered into by the Board in exercise of the powers to which the approval relates; and

“(b) Shall be notified in the *Gazette*; and

“(c) Shall take effect on the date of publication of such notice or such other date as the Minister may specify in the notice.

“(3) The Minister shall not give his approval under subsection (1) (a) of this section without the concurrence of the Minister of Finance.

“143B. **Subdivision of land by Boards**—(1) Subject to section 143A of this Act, a Board may subdivide or re-subdivide any land vested in it into allotments, and in connection therewith may—

“(a) Grant and reserve rights of way and other easements:

“(b) Construct, dedicate, and maintain thereon—

“(i) Roads, streets, service lanes, access ways, and other means of access or communication; and

“(ii) Such other public works as are reasonably necessary having regard to the purpose for which the land is, or is likely, to be developed:

“(c) Make provision for services to, and amenities for, the allotments, including sewerage, drainage, and electric lighting and the supply of electricity, gas, and water:

“(d) Do all such things, and make all such payments, as are lawfully required by any local or other public authority.

“(2) The carrying out of any scheme of subdivision authorised by subsection (1) of this section shall be deemed to be a harbour work for the purpose of section 65 of this Act.

“(3) Nothing in this section shall be construed as—

“(a) Limiting the operation of—

“(i) The Town and Country Planning Act 1953:

“(ii) The Municipal Corporations Act 1954:

“(iii) The Counties Act 1956:

“(iv) The Water and Soil Conservation Act 1967:

“(v) Any other enactment which relates to the subdivision of land or the carrying out of works on land or in connection with the subdivision of land:

“(b) Authorising a Board to construct, on land which is subdivided under this section, any building or erection except one that is required—

“(i) For the purpose of carrying out any work authorised by this section; or

“(ii) For the purpose of harbour works:

“(c) Authorising a Board to create a nuisance or depriving a person of any right or remedy which he would otherwise have against a Board in respect of any such nuisance.

“143c. **Sale of land by Boards**—(1) Subject to section 143A of this Act and to subsection (3) of this section, a Board may—

“(a) Sell any land vested in it by public auction or public tender; or

“(b) Where the Minister specifically so approves,—

“(i) Sell such land by private treaty; or

“(ii) Exchange it for other land and give or take money for equality of exchange.

“(2) Where a Board sells land under subsection (1) of this section, it may allow such part of the purchase money as it thinks fit to remain on mortgage of the land sold or allow the purchaser to go into possession, and pay the purchase money by instalments, before the title to the land passes to him.

“(3) The powers set out in this section shall not in any case be exercised in respect of—

“(a) Any foreshore or land described in section 150 of this Act; or

“(b) Any land which is a public reserve within the meaning of the Reserves and Domains Act 1953; or

“(c) Any land which is held by a Board on trust for a particular purpose, unless the land is vested in the Board as an endowment for the general purposes of the

harbour district and is not subject to any express prohibition or restriction as to sale or exchange.”

(2) Section 140 (3) of the principal Act is hereby amended by omitting the words “, and may at any time sell or lease any surplus land not required for that purpose”.

27. Licences to take stone, etc.—Section 146A of the principal Act (as substituted by section 7 (1) of the Harbours Amendment Act 1965) is hereby further amended—

- (a) By inserting in subsection (1), after the words “of a harbour”, the words “or of a navigable lake”;
- (b) By omitting from subsection (1) the word “District”;
- (c) By inserting in subsection (1), after the word “mud”, the word “, shell”;
- (d) By inserting in subsection (1), after the words “from that foreshore, harbour”, the word “, lake”;
- (e) By omitting from subsection (2) the word “District”;
- (f) By inserting in the proviso to subsection (4), after the words “of a harbour”, the words “or of a navigable lake”;
- (g) By omitting from the said proviso the words “in order to protect any land from erosion or other damage”, and substituting the words “for the protection of any land from erosion or other damage, or for the preservation of aquatic life”.

28. Utilisation of mud flats vested in Crown or in Boards—

(1) Section 152 of the principal Act (as substituted by section 8 (1) of the Harbours Amendment Act 1961) and section 153 of the principal Act are hereby repealed.

(2) The repeal of the said sections 152 and 153 shall not affect the validity of any approval or lease granted under, or any right, title, or benefit acquired by operation of, those sections before the passing of this Act; and no such approval, lease, right, title, or benefit shall be extinguished or taken away by reason of such repeal.

(3) Notwithstanding the repeal of the said section 152, subsections (7) and (10) of that section shall be deemed to continue in force for the purpose of enabling any right, power, or remedy mentioned in those subsections to be exercised and enforced in respect of an approval or lease existing at the time of such repeal.

(4) Section 8 of the Harbours Amendment Act 1961 is hereby consequentially repealed.

29. Foreshore may be used and occupied for certain purposes—(1) Section 156 (b) of the principal Act is hereby amended by inserting, after the word “boatshed”, the words “, slipway, ramp, pipeline, pile, boat-grid, groyne, seawall, fence, mooring”.

(2) The said section 156 is hereby further amended by adding, after paragraph (d), the following paragraph:

“(dd) The protection and preservation of any building, object, feature, or other thing of national, historical, or scientific interest:”.

30. Restrictions on exercise of powers in section 156—

(1) The principal Act is hereby further amended by repealing section 159, and substituting the following section:

“159. The exercise of the powers in section 156 of this Act is subject to the following restrictions:

“(a) Unless it appears to the Board or local authority that special circumstances otherwise require, no licence shall be granted under paragraph (b) of that section for the erection and use of any wharf, landing place, or ramp which does not secure the right of the public to use the same at all reasonable times and either free of charge or upon payment of such fee or charge as the Board or local authority may from time to time prescribe:

“(b) No approval shall be given under paragraph (e) of the said section, and no licence shall be granted under any provision of the said section, to do anything which will unduly interfere with or unduly restrict any public right of navigation or the public convenience.”

(2) Section 7 (2) of the Harbours Amendment Act 1959 is hereby consequentially repealed.

31. Revocation of licence for use of foreshore—Section 161 (1) of the principal Act is hereby amended by inserting, after the words “for harbour purposes”, the words “or for any other public purpose,”.

32. New sections (as to licences to use foreshore, etc.) substituted—(1) The principal Act is hereby further amended by repealing section 162 (as substituted by section 11 (1) of the Harbours Amendment Act 1968) and section 163 (as

substituted by section 7 (5) of the Harbours Amendment Act 1959), and substituting the following sections:

“162. Minister may license use of foreshore etc.—(1) The Minister may license any land to which this section applies to be used or occupied for a term not exceeding 14 years for any of the purposes mentioned in section 156 of this Act or for the erection and use of any kind of structure, or for the use of any structure erected, undertaken or constructed on, in, over, through, or across the land.

“(2) Where the Minister is satisfied that special circumstances make it desirable in the public interest to do so, he may in the manner specified in subsection (1) of this section license any land to which this section applies for a term exceeding 14 years but not exceeding 50 years.

“(3) Sections 157, 159, and 161 of this Act shall apply to a licence applied for or granted under subsection (1) or subsection (2) of this section with all necessary modifications and with the further modification that section 161 shall apply to all land to which this section applies.

“(4) The Governor-General may from time to time, by Order in Council, make regulations—

“(a) Regulating and controlling the use of any land to which this section applies, including any structure or thing thereon:

“(b) Prescribing terms and conditions subject to which licences may be issued:

“(c) Providing that the contravention of any regulation made under this subsection shall be an offence and prescribing penalties not exceeding \$200 for any such offence.

“(5) Subject to subsections (1), (2), and (3), and to any regulations made under subsection (4) of this section, the Minister may grant and issue a licence under this section on such terms and conditions, whether as to—

“(a) The payment, and manner of payment, of rent or other money by a licensee; or

“(b) The revocation of the licence for the breach of any term or condition on the part of a licensee,—
or otherwise, as he thinks fit.

“(6) This section applies to land—

“(a) Which is foreshore, or the bed of any harbour, navigable lake, or navigable river or of the sea; and

“(b) Which is not under the control of a public body pursuant to section 165 of this Act; and

“(c) Which is either vested in the Crown or over which the Crown has a sufficient power of disposal to grant a licence under subsection (1) or subsection (2) of this section.

“163. **Minister may annul illegal licences**—If, on such evidence as he deems sufficient, the Minister is satisfied that any licence has been granted under section 156 or section 162 of this Act contrary to the provisions of this Act, he may, by notice in the *Gazette*, forthwith annul the licence.”

(2) Section 164 of the principal Act is hereby repealed.

(3) The following enactments are hereby consequentially repealed:

(a) Section 7 (5) of the Harbours Amendment Act 1959 and so much of the First Schedule to that Act as relates to section 164 of the principal Act:

(b) Section 11 of the Harbours Amendment Act 1968.

33. Grant of control of foreshore or bed of lake to public body—(1) Section 165 of the principal Act (as substituted by section 9 (1) of the Harbours Amendment Act 1961) is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) Subject to subsection (1A) of this section, the Governor-General may from time to time, by Order in Council, grant to any public body, either solely or jointly with another public body, the control of an area to which this section applies for a period not exceeding 21 years and upon such conditions as may be specified in the order; and may at any time amend or revoke an Order in Council so made.

“(1A) The exercise of the power conferred on the Governor-General in Council by subsection (1) of this section is subject to the following restrictions:

“(a) If an area to which this section applies is inside the limits of a harbour for which there is a Harbour Board, the control of the area shall not be granted to any public body except that Harbour Board, without the consent of that Harbour Board:

“(b) If an area to which this section applies is vested in any public body, the control of the area shall not be granted to any other public body, without the consent of the public body in which it is vested:

“(c) If, in any case not described in paragraph (b) of this subsection, an area of land to which this section applies is not within the limits of a harbour for

which there is a Harbour Board, and the area adjoins land which—

“(i) Is vested in a public body or is under the control of a public body that is a Domain Board, National Park Board, or Scenic Board; or

“(ii) Is a public reserve within the meaning of the Reserves and Domains Act 1953 which is vested in Her Majesty the Queen but is not controlled or managed by an administering body—
the control of the area shall not be granted to any public body, without the consent of every public body in which is vested, or which controls, the land adjoining the area.

“(1B) The power to grant control of an area to which this section applies conferred upon the Governor-General by subsection (1) of this section includes the power to renew the grant of such control, either once or more than once, upon the expiry of a grant; and the provisions of this section apply to a renewal of a grant of control in the same way as they apply to a grant.

“(1c) Where a grant of control—

“(a) Expires, and is renewed by Order in Council made under subsection (1B) of this section; or

“(b) Expires, and is by Order in Council replaced by a new grant to the same public body in respect of the same or substantially the same area—

all subsisting bylaws duly made pursuant to the grant or any former grant shall, subject to any term, condition, limitation, or other provision contained in the said Order in Council or any amendment thereof, continue in force as if the grant had not expired, and all such subsisting bylaws shall apply to, and have force in, the area in respect of which control is granted by the renewal or the new grant.”

(2) Section 165 (2) of the principal Act (as substituted by section 9 of the Harbours Amendment Act 1964) is hereby amended—

(a) By omitting the words “part of the foreshore or of the bed of any lake”, and substituting the words “area to which this section applies”:

(b) By omitting the words “part of the foreshore or lake bed”, and substituting the word “area”.

(3) The said section 165 is hereby further amended—

(a) By omitting from subsection (3) (a) the words “foreshore or bed of the lake the control of which has been granted to it, or on the bed of the harbour or

of the sea or of the lake immediately contiguous to that foreshore or bed of the lake,” and substituting the words “area control of which has been granted to it, or any area to which this section applies immediately contiguous thereto,”:

- (b) By omitting from subsection (3) (b) the words “foreshore or bed of the lake the control of which has been granted to it, or the bed of the harbour or of the sea or of the lake immediately contiguous to that foreshore or bed of the lake”, and substituting the words “area control of which has been granted to it, or any area to which this section applies immediately contiguous thereto,”.

(4) The said section 165 is hereby further amended by repealing paragraphs (b) and (c) of subsection (4), and substituting the following paragraphs:

“(b) The public body to which control of an area is granted were a Board or local authority referred to in those sections; and

“(c) References in those sections to foreshore or the bed of the harbour or the sea were references to an area to which this section applies.”

(5) The said section 165 is hereby further amended by omitting from subsection (5) the words “the foreshore or of the bed of any lake”, and substituting the words “an area”.

(6) The said section 165 is hereby further amended by repealing paragraph (d) of subsection (6), and substituting the following paragraph:

“(d) References in those regulations to the foreshore were references to an area to which this section applies.”

(7) The said section 165 is hereby further amended by omitting from subsection (7) the words “of the foreshore or of the bed of any lake”, and substituting the words “of an area”.

(8) The said section 165 is hereby further amended by omitting from subsection (9A) (as inserted by section 12 (1) of the Harbours Amendment Act 1968) the words “the foreshore or of the bed of any lake or of any part or parts thereof”, and substituting the words “an area”.

(9) The said section 165 is hereby further amended by repealing subsection (10), and substituting the following subsection:

“(10) In this section, ‘public body’ means—

“(a) A Harbour Board, a local authority, a Domain Board, the National Parks Authority, a National Park

Board, a Scenic Board, a Regional Water Board, or any other administering body within the meaning of the Reserves and Domains Act 1953, or any persons acting as trustees for the inhabitants of any locality; or

“(b) In relation to any public reserve specified in subsection (1A) (c) (ii) of this section, the Commissioner of Crown Lands for the land district in which the public reserve is situated; or

“(c) Any incorporated body declared by the Governor-General, by Order in Council, to be a public body for the purposes of this section.”

(10) The said section 165 is hereby further amended by adding the following subsection:

“(11) This section applies to the following areas:

“(a) Foreshore:

“(b) The bed of the sea (whether or not it is a harbour):

“(c) The bed of any navigable lake or navigable river.”

(11) The following enactments are hereby consequentially repealed:

(a) Section 2 (2) (a) of the Harbours Amendment Act 1962:

(b) Section 8 of the Harbours Amendment Act 1965:

(c) Section 3 of the Harbours Amendment Act 1966.

34. Power to make bylaws respecting removal of ballast, shingle, etc., from shore—Section 166 of the principal Act is hereby amended by inserting, after the word “sand,” the word “shell.”

35. Saving of rights of Crown and Harbour Boards in cases of accretion—The principal Act is hereby further amended by repealing section 168, and substituting the following section:

“168. (1) If—

“(a) Any works are executed on any tidal land or on the seabed, under the authority of this Act or of any other Act; and

“(b) In consequence of the works, any tidal land or seabed that—

“(i) Is immediately adjacent to the works; and

“(ii) Is vested in the Crown or in any Harbour Board—

becomes raised in height, whether gradually or

imperceptibly or otherwise, so as to be above instead of below the line of high water mark at ordinary tides; and

“(c) The raising of the tidal land or seabed referred to in paragraph (b) of this subsection does not take place pursuant to the authority to execute the works—

then except as provided in subsection (2) of this section but notwithstanding any other rule of law to the contrary, the tidal land or seabed so raised shall continue to be vested in the Crown or in that Harbour Board, as the case may be.

“(2) Where—

“(a) The tidal land or seabed that becomes raised was vested in the Crown before it was so raised; and

“(b) The authorised works are owned by a Harbour Board—

then on the raising of the tidal land or seabed it shall vest in the Harbour Board.

“(3) In any case where by virtue of this section, any raised tidal land or raised seabed remains vested in the Crown, it may be dealt with as unalienated Crown land under the Land Act 1948, subject to the consent of the Minister.

“(4) In this section, a reference to works that are authorised shall include a reference to any land reclaimed from the sea under the authority of this Act or of any other Act.”

36. Power of Board to construct works—Section 173 of the principal Act is hereby amended by omitting the words “within the limits of its jurisdiction, and”.

37. Reclamations, etc., to be authorised by special Act or Order in Council—(1) Section 175 of the principal Act (as substituted by section 13 (1) of the Harbours Amendment Act 1968) is hereby amended—

(a) By repealing the proviso to subsection (1):

(b) By omitting from subsection (2) and subsection (3) the words “ten acres”, and substituting the expression “4 hectares”.

(2) The said section 175 (as so substituted) is hereby further amended by adding the following subsections:

“(4) The Governor-General may from time to time, by further Order in Council, amend or revoke (whether in whole

or in part) an Order in Council made under subsection (2) or subsection (3) of this section—

“(a) If the local authority, Board, public body, or person so requests the Minister in writing and that request has not been withdrawn under subsection (5) of this section:

“(b) Where the order was made under subsection (3) of this section, subject to such terms and conditions (if any) as are recommended to him by the Minister, or in the case of Crown land by the Minister and the Minister of Lands jointly—

but in neither case shall an Order in Council be amended to authorise the reclamation of land beyond the boundaries originally authorised.

“(5) Before an Order in Council is made under subsection (4) of this section amending or revoking a previous Order in Council subject to terms and conditions recommended by the Minister, or by the Minister and the Minister of Lands jointly, the Minister shall give notice of those terms and conditions to the local authority, Board, public body, or person that requested the amendment or revocation, and such local authority, Board, public body, or person may, if those terms and conditions are not acceptable to it or him, within 1 month of receiving the notice (or within such further period as the Minister may allow) withdraw the request.”

38. Survey plans—(1) The principal Act is hereby further amended by repealing section 175B (as enacted by section 13 (1) of the Harbours Amendment Act 1968), and substituting the following section:

“175B. (1) The applicant for an Order in Council under section 175 of this Act shall lodge a scheme plan of the area proposed to be reclaimed with the Chief Surveyor of the Land District in which the area is situated—

“(a) Where subsection (2) of that section applies, before the application is made; and

“(b) Where subsection (3) of that section applies, before he first gives notice of his application pursuant to section 175A (a) of this Act.

“(2) The scheme plan referred to in subsection (1) of this section shall be prepared by a surveyor registered under the Surveyors Act 1966 and shall show accurately plotted at a suitable scale—

“(a) The area proposed to be reclaimed, including all tidal waters; and

“(b) Sufficient information relating to cadastral boundaries, survey monuments, or topographical boundaries for the area to be located and its position fixed in relation to existing surveys.

“(3) When he is satisfied that the scheme plan conforms with subsection (2) of this section, the Chief Surveyor shall approve the plan and deposit a duplicate at the Regional Office of the Ministry of Transport nearest to the area proposed to be reclaimed; such duplicate shall be open for inspection free of charge by any person during normal office hours.

“(4) Every authority to reclaim land given under section 175 of this Act shall be subject to the condition that upon completion of the reclamation, the applicant shall take all steps necessary to have a survey plan approved by the said Chief Surveyor in accordance with regulations relating to such plans made under the Surveyors Act 1966.”

(2) Section 175A of the principal Act (as enacted by section 13 (1) of the Harbours Amendment Act 1968) is hereby amended—

(a) By inserting in paragraph (a), after the words “authorising a reclamation shall”, the words “, after a scheme plan has been approved by the Chief Surveyor under section 175B (3) of this Act,”;

(b) By omitting from paragraph (b) (ii) the expression “175B”, and substituting the expression “175B (3)”.

39. Vesting of land—The principal Act is hereby further amended by inserting, after section 175c, the following section:

“175d. Where the Governor-General has authorised the reclamation of land by Order in Council under subsection (2) or subsection (3) of section 175 of this Act, or under the corresponding provisions of any former enactment, he may—

“(a) In conformity with any condition mentioned in section 175A (i) of this Act; and

“(b) After approval of the survey plan referred to in section 175B (4) of this Act (where such approval is a condition of the authority to reclaim); but

“(c) Otherwise upon such terms and conditions as he thinks fit,—

by Order in Council, vest the land in the local authority, Harbour Board, public body, or person to which or to whom

the authority to reclaim was granted, as from the date of the order or an earlier or later date specified in the order.”

40. New sections (as to unauthorised works) substituted—
(1) The principal Act is hereby further amended by repealing section 176 (as substituted by section 11 (1) of the Harbours Amendment Act 1964) and section 177, and substituting the following sections:

“176. **Offence to carry out unauthorised works—**(1) No person shall reclaim any land, or commence to do so, contrary to subsection (1) of section 175 of this Act or otherwise than in conformity with an authority conferred by special Act, by Order in Council under subsection (2) or subsection (3) of the said section, or by or under any other enactment.

“(2) No person shall reclaim any land or construct, erect, or place, any work, pile, pipeline, cable, or structure in, on, over, through, or across tidal lands or tidal waters, or the bed or the waters of the sea, or of any harbour, navigable lake, or navigable river, or commence to do any of those things without obtaining, or otherwise than in conformity with, the approval of the Minister under section 178 or, where applicable, the authorisation of the Minister under section 180 of this Act.

“(3) Any person who contravenes subsection (1) or subsection (2) of this section commits an offence, and is liable, where subsection (1) is contravened, to a fine not exceeding \$20,000 and, where subsection (2) is contravened, to a fine not exceeding \$5,000.

“(4) Section 14 of the Summary Proceedings Act 1957 shall not apply to the laying of an information for an offence against this section.

“(5) Where in a prosecution for an offence against subsection (1) of this section it is proved that a person is using or exercising control over reclaimed land, or that he has at any time done so, otherwise than as a member of the public using the land as such, that person shall be presumed, until the contrary is proved, to have reclaimed the land or to have been a party to the reclamation thereof.

“(6) In this section and in sections 177 to 177c of this Act ‘person’ includes a Board and any other body or authority whether incorporated or not.

“177. Removal, etc., of unauthorised works—(1) The Minister may, by notice in writing, require any person who has contravened subsection (1) or subsection (2) of section 176

of this Act, whether or not the person has been charged with an offence under subsection (3) thereof,—

“(a) To abate and remove the reclamation, work, pile, pipeline, cable, structure, or other material or thing or any part thereof in respect of which the contravention was committed:

“(b) As far as is practicable to restore the land, waters, or bed of the sea, lake, or river to their original condition:

“(c) To commence such removal or restoration and to complete the same within the respective times specified in the notice.

“(2) If the person to whom a notice is duly given under subsection (1) of this section fails to comply with the notice, or any requirement thereof, within the time specified or within such further period as the Minister may allow—

“(a) That person commits an offence and is liable to a fine not exceeding \$200 for each day during which such failure continues:

“(b) The Minister may carry out the work specified in the notice or such part thereof as he thinks fit and do all things incidental thereto, and may recover the costs and expenses incurred in so doing from the person to whom the notice was duly given as a debt due to the Crown by that person:

“(c) The Minister may also destroy, sell, or otherwise dispose of any materials which come into his possession in the course of carrying out such work and apply any proceeds of sale in or towards payment of the cost of the work and shall, on demand pay the balance (if any) to the person or persons appearing to him to be entitled thereto.

“(3) Nothing in this section shall affect any other remedy which may be invoked by the Crown to compel compliance with the provisions of this Act or any authority or approval given thereunder.

“177A. Completion of unauthorised works as alternative to removal—(1) Instead of exercising the powers conferred on him by section 177 of this Act, the Minister may, by notice in writing, require any person who has contravened subsection (1) or subsection (2) of section 176 of this Act, whether or not the person has been charged with an offence under subsection 3 thereof,—

“(a) To complete, reconstruct, alter, or repair the reclamation, work, pipeline, cable, structure, or thing, or any part thereof, in respect of which the contravention was committed and to do so in the manner, to the extent, and to the standard specified by the Minister:

“(b) To commence and complete such work within the respective times specified in the notice.

“(2) If the person to whom notice is duly given under subsection (1) of this section fails to comply with the notice, or any requirement thereof, within the time specified by the Minister or within such further period as the Minister may allow, a Magistrate’s Court may, on the application of the Minister,—

“(a) Order that person at his own expense, and within a time to be specified in the order, to comply with the notice or any requirement thereof; or

“(b) Vary any provision of the notice and make an order under subparagraph (a) of this subsection in respect of the notice as varied.

“(3) Every application to a Magistrate’s Court under subsection (2) of this section shall be made and dealt with by way of originating application under the rules of procedure for the time being in force under the Magistrates’ Courts Act 1947. The application shall be served on the person to whom notice was given under subsection (1) of this section.

“(4) If the person against whom an order is made under subsection (3) of this section fails to comply with the order, or any requirement thereof, within the time specified therein or within such further period as the Magistrate’s Court may allow—

“(a) That person commits an offence and is liable to a fine not exceeding \$200 for each day during which such failure continues:

“(b) The Minister may carry out the work, or part of the work, ordered to be carried out, and do all things incidental thereto, and may recover the costs and expenses incurred in so doing from the person against whom the order was made as a debt due to the Crown by that person.

“(5) Where as the result of the completion pursuant to this section of any unauthorised work, any land that is vested in the Crown is reclaimed from the sea, the land may be dealt with as unalienated Crown land under the Land Act 1948, subject to the consent of the Minister.

“177B. Service of notices under sections 177 and 177A.—

(1) Any notice authorised to be given to any person for the purposes of sections 177 and 177A of this Act may be given—

“(a) By delivering it to the person to whom it is to be given;
or

“(b) By leaving it at the usual or last known place of residence or business of that person; or

“(c) By sending it in a registered letter addressed to that person at his usual or last known place of residence or business; or

“(d) In the case of an incorporated company or body, by delivering it to the person appearing to be in charge of the registered or principal office of the company or body or sending it in a registered letter addressed to the secretary or principal executive officer of the company or body at that office.

“(2) Any notice which is sent to a person by registered letter shall, until the contrary is proved, be deemed to have been received by him, and to have been received at the time when it would have been delivered in the ordinary course of post. In proving such receipt for the purposes of this section, it shall be sufficient to prove that the registered letter was properly addressed and posted and the postage was paid thereon.

“177C. Standard of proof where notice is challenged—If in proceedings in any Court the validity of a notice given by the Minister under section 177 or section 177A of this Act is challenged on the ground that the person to whom it was given has not contravened subsection (1) or (2) of section 176 of this Act, the standard of proof to be met by the Minister in proving that any of those provisions has been contravened shall be the standard applicable in civil proceedings.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 11 of the Harbours Amendment Act 1964:

(b) So much of the Schedule to the Harbours Amendment Act 1956 as relates to the said section 177.

41. Restriction on works affecting harbours or navigation under statutory powers—(1) Section 178 of the principal Act is hereby amended by inserting, after the words “with respect to harbour works”, the words “, pipelines, cables,”.

(2) The said section 178 (as amended by section 2 of the Harbours Amendment Act (No. 2) 1974) is hereby further amended by repealing paragraph (b), and substituting the following paragraph:

“(b) If it appears to the Minister that the proposed work will not unduly interfere with or adversely affect the interest of the public (whether by being or tending to be to the injury of navigation or otherwise), he may approve the deposited plan, with or without such modification, addition, or condition as he may reasonably require, and subject or not to any restriction or condition necessary for the preservation of any public right.”.

(3) The said section 178 is hereby further amended by repealing paragraph (d), and substituting the following paragraph:

“(d) The Minister may, either in whole or in part, revoke any approval given by him under paragraph (b) of this section—

“(i) If the constructing authority so requests in writing; or

“(ii) On his own initiative, after consultation with the constructing authority, if in the opinion of the Minister significant progress has not been made in completing the work within 10 years after approval for the work is given and such progress is unlikely to be made within a reasonable time in the near future.”

42. Minister may require information—Section 178A of the principal Act (as inserted by section 3 of the Harbours Amendment Act (No. 2) 1974) is hereby amended by omitting the expression “sections 152, 153, 175,” and substituting the expression “section 175A”.

43. Works to be lighted—Section 179 (2) of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “forty dollars”, and substituting the expression “\$200”.

44. Powers of Minister in respect of works—(1) Section 181 of the principal Act is hereby amended—

- (a) By omitting from paragraph (a) the word “harbour” where it first occurs:
 - (b) By omitting from paragraph (a) the words “liable to repair and maintain it”:
 - (c) By repealing paragraph (b).
- (2) So much of the Schedule to the Harbours Amendment Act 1956 as relates to the said section 181 is hereby consequentially repealed.

45. Minister may employ engineers, etc., to abate works—Section 182 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “remove any work,” the words “or to restore any land, waters, or bed of the sea, lake, or river to their original condition,”:
- (b) By inserting in subsection (2), after the words “removing any such work”, the words “, or in restoring any land, waters, or bed of the sea, lake, or river to their original condition,”.

46. Governor-General in Council may authorise harbour works to be executed—Section 185 of the principal Act is hereby amended—

- (a) By adding to paragraph (f) the words “and the notice shall state the time within which objections must be lodged under paragraph (g) of this section;”:
- (b) By adding to paragraph (g) the words “within 2 months from the date on which the notice under paragraph (f) of this section is first published”.

47. Definition of wharf limits—(1) Section 190 of the principal Act is hereby amended—

- (a) By omitting the words “For the prevention”, and substituting the words “(1) Subject to subsection (3) of this section, for the prevention”:
- (b) By omitting the words “and with the previous consent of the Minister”.

(2) The said section is hereby further amended by adding the following subsections:

“(2) Subject to subsection (3) of this section, a Board may from time to time, by public notice, amend or revoke a definition under subsection (1) of this section.

“(3) Every definition under subsection (1) of this section and every amendment or revocation thereof shall, before it is publicly notified, be approved by the Governor-General in

Council, and the Board's public notice of the definition or the amendment or revocation shall state that such approval has been obtained."

(3) Nothing in section 190 of the principal Act (as amended by subsections (1) and (2) of this section) shall affect the validity of any existing definition of the limits and boundaries of a wharf, being a definition made before the passing of this Act and subsisting at the date thereof; but the said section shall apply to the amendment or revocation of any such existing definition.

48. Prevention of lights liable to be confused with harbour lights, etc.—Section 207 (3) of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words "two hundred dollars" and substituting the expression "\$500".

49. Removal of wreck—Section 208 (1) of the principal Act is hereby amended—

(a) By inserting, after the word "vessel" in each place where it occurs, the word "raft,";

(b) By omitting the words "the goods (if any) therein", and substituting the words "any goods in or on it".

50. Responsibility for injury to works of harbour—Section 209 of the principal Act is hereby amended—

(a) By inserting, after the word "vessel" in each place (except in subsection (1) (b)) where it occurs, the word "raft,";

(b) By omitting from subsection (1) (b) the word "timber", and substituting the words "raft, timber,".

51. Trees felled to be removed from rivers, etc.—(1) Section 210 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

"(1) If any tree is felled by the owner or occupier of any land, or by any person employed or authorised by the owner or occupier, on the bank of any navigable river or navigable lake so that any part thereof is at any time in or over the water and the same is not removed within 2 days after having been so felled, the owner or occupier by whom, or by whose employee, or on whose authority the tree was felled commits an offence against this Act, and is liable to a fine not exceeding \$20, and a further fine not exceeding \$20 for each day beyond the said 2 days on which any such tree is at any time in or over the water."

(2) Section 210 (2) of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “ten dollars”, and substituting the expression “\$50”.

PART V

PILOTAGE

52. Employment of pilots—(1) Section 212 of the principal Act is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) The Board may secure the services of pilots to act within the pilotage district attached to the harbour under its control by either or both of the following methods:

“(a) By appointing pilots under section 42 of this Act; or

“(b) By licensing pilots appointed under that section by another Board—

and, subject in the case of an appointed pilot to section 45 of this Act, may at any time cancel an appointment or licence so made or granted.

“(2) If the appointment of an appointed pilot ceases, any licence which he holds from another Board also ceases to have effect as from the same date as the cessation of the appointment or as from any earlier date from which his licence is cancelled under subsection (1) of this section.”

(2) Section 212 (6) of the principal Act is hereby amended by inserting, after the word “appointed” in both places where it occurs, the words “or licensed”.

53. Unauthorised person not to act as pilot—Section 213 (2) of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby amended by omitting the words “two hundred dollars”, and substituting the expression “\$1,000”.

54. Pilots to give bond—Section 214A of the principal Act (as inserted by section 10 (1) of the Harbours Amendment Act 1959 and amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting from subsection (1) the words “four hundred dollars”, and substituting the expression “\$2,000”.

55. New sections as to pilotage exemption certificates—(1) The principal Act is hereby further amended by repealing sections 215, 216, and 217, and substituting the following sections:

“215. Masters and skippers may be granted pilotage exemption certificates—(1) A person who holds a certificate of competency as master or skipper (being a certificate of competency granted under the Shipping and Seamen Act 1952 or declared pursuant to section 18 of that Act to have the same force as a certificate so granted) may, in accordance with bylaws made under section 232 of this Act, apply to a Board to be examined as to his competency to pilot ships which, pursuant to those bylaws, he is eligible to pilot within the pilotage district attached to the harbour under the control of the Board or any part of that district.

“(2) An applicant who so applies and pays the fee prescribed by the said bylaws shall be examined by the Harbour-master or some other person or persons appointed by the Board for the purpose, and, if he is found to be competent, shall be granted by the Board a pilotage exemption certificate for the pilotage district attached to the harbour under the control of the Board or a part thereof, as the case may require.

“(3) The certificate shall show the name of the person to whom it was granted, the maximum size of the vessel to which it applies in terms of tonnage, draught, or length, and the pilotage district or part thereof to which it relates.

“(4) The effect of the certificate is to allow that person, subject to this Act and the bylaws made thereunder, to pilot the ships to which it applies of which he is the master within the pilotage district, or part thereof, to which it relates, as if he were a duly appointed or licensed pilot.

“(5) Notwithstanding anything in this Act or in bylaws made thereunder, a pilotage exemption certificate shall not extend to a vessel designed for the bulk carriage of oil, gas, or chemical cargoes, but the Minister may, on the application of a Board, exempt any particular vessel from the foregoing prohibition.

“(6) If it appears to a Board that navigation within the pilotage district attached to the harbour under its control, or within any part thereof, has been significantly affected by the execution of harbour works or the occurrence of other changes, it may, after obtaining the written approval of the Minister, resolve to cancel all pilotage exemption certificates relating to the district, or the affected part, granted by it before a date to be specified in the resolution, being a date before, in the opinion of the Board, navigation within the district or the part in question became significantly affected by the harbour works or other changes.

“(7) A pilotage exemption certificate ceases to have any force at the expiration of any continuous period of 1 year (reckoned from a date not earlier than the date on which it was granted) if, during that period, the holder has not on at least 2 occasions exercised his authority to pilot a ship pursuant to the certificate.

“(8) A pilotage exemption certificate which is in force at the commencement of this section shall enure as if it had been issued under this section.

“(9) A master who pilots a vessel otherwise than in accordance with a subsisting pilotage exemption certificate commits an offence against this Act.

“216. Harbourmaster may direct that pilot be taken on board—(1) The Harbourmaster may, where he considers that there is sufficient reason for doing so, direct the master to accept the services of an appointed or licensed pilot for any particular occasion, and thereupon any pilotage exemption certificate held by the master shall be suspended for that occasion.

“(2) A master who refuses or neglects to comply with a direction duly given under subsection (1) of this section commits an offence against this Act.

“(3) If the master to whom a direction is given under subsection (1) of this section considers that it was not given for sufficient reason, he may apply to the Minister for a declaration that no pilotage fees shall be payable for the occasion to which the direction related.

“(4) The application shall be in writing and shall set out the grounds upon which it is made.

“(5) If the Minister makes the declaration applied for by the master, no pilotage fees shall be payable in respect of that occasion and any fees already paid therefor shall be refunded.”

(2) Paragraphs (a) to (d) of section 6 and section 8 (2) of the Harbours Amendment Act 1952 are hereby consequentially repealed.

56. If Board refuses to examine master, Minister may appoint persons to examine, and may authorise exemption certificate to be issued—Section 218 (1) of the principal Act is hereby amended by omitting the words “setting forth that he has passed the examination, or that he is competent to pilot the ship of which he is master”, and substituting the words “under section 215 of this Act”.

57. Repeal of sections 220 and 221—(1) Sections 220 and 221 of the principal Act are hereby repealed.

(2) The following enactments are hereby consequentially repealed:

- (a) Paragraphs (g) and (h) of section 6 of the Harbours Amendment Act 1952:
- (b) Section 6 of the Harbours Amendment Act 1956.

58. Pilotage rates exemption certificates—Section 222 (1) of the principal Act is hereby amended by omitting the words “or the ship is not actually trading within the limits set out in section 216 hereof”.

59. Repeal of section 226—Section 226 of the principal Act is hereby repealed.

60. Penalty on pilot obtaining charge of a ship by misrepresentation—Section 227 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “two hundred dollars”, and substituting the expression “\$1,000”.

61. Offences by pilots—Section 228 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “two hundred dollars”, and substituting the expression “\$1,000”.

62. Penalty on pilot endangering ship, life, or limb—Section 229 of the principal Act is hereby amended—

- (a) By omitting the words “commits an offence against this Act”:
- (b) By omitting the words “and shall be liable for each such offence to imprisonment for a period not exceeding twelve months”, and substituting the words “commits an offence against this Act and is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$1,000 or to both”.

63. Pilot boat and pilot signals—The principal Act is hereby further amended by repealing section 230, and substituting the following section:

“230. A pilot boat shall display in a conspicuous position the following distinguishing marks:

- “(a) When engaged in pilotage duty in the daytime, a large flag having a white upper horizontal half and a red lower horizontal half:
- “(b) When so engaged at night, the lights required for that pilot boat by regulations for the prevention of collisions at sea for the time being in force under section 286 of the Shipping and Seamen Act 1952.”

PART VI

HARBOUR BYLAWS

64. Subject-matter of bylaws—(1) Section 232 of the principal Act is hereby amended by repealing paragraph (10) (as substituted by section 13 (1) of the Harbours Amendment Act 1959), and substituting the following paragraphs:

“(10) Fix and authorise the levying of fees for the services of harbourmasters:

“(10A) Fix and authorise the levying of charges (to be known as port charges) in respect of—

“(a) Vessels navigating or plying within the port; and

“(b) Persons working or navigating any such vessel used in landing or embarking cargo, passengers, or luggage:

“(10B) Fix and authorise the levying of pilotage rates, including the amount to be paid for the detention of pilots on board ships under quarantine or otherwise, and determine the services for which pilotage rates should be levied and the time when such rates become due for payment:

“(10c) Fix a composite charge for any class or classes of ships and prescribe the conditions under which a person may, at his option, pay such composite charge in lieu of harbour dues or any specified or defined harbour dues or category thereof.”

(2) Section 232 (27) of the principal Act is hereby amended by adding the following words: “(including the provision of adequate safety equipment)”.

(3) Section 232 (30) of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “ten cents”, and substituting the expression “50 cents”.

(4) Section 232 (42) of the principal Act (as substituted by section 15 of the Harbours Amendment Act 1959 and amended by section 9 (3) of the Harbours Amendment Act 1965) is hereby amended—

- (a) By omitting the words “and management of motor launches, outboard-motor boats, and speed boats”, and substituting the words “anchoring, mooring, and management of motor launches, outboard-motor boats, speed boats, yachts, boats propelled by oars or paddles, rafts, hovercraft, and seaplanes”:
 - (b) By inserting in subparagraph (a), after the word “vessels” in the second place where it occurs, the words “or by rafts or by seaplanes”:
 - (c) By inserting in subparagraph (aa), after the word “vessels”, the words “or by rafts or by seaplanes”
- (5) The said section 232 (42) is hereby further amended by repealing subparagraphs (b) and (c), and substituting the following subparagraphs:

“(b) Require the person appearing to be in charge of any such vessel or seaplane or of any surfboard to stop on the demand of a person appointed to any office (including an honorary office) specified in the bylaws, and to give his name and address, and require any other person alleged to have committed an offence against the bylaws to give his name and address:

“(c) Require the owner of any such vessel or of any surfboard, on being informed of an offence against the bylaws alleged to have been committed by any person, and on being requested so to do by a person appointed as mentioned in subparagraph (b) of this paragraph, to give all information in his possession or obtainable by him which may lead to the identification of that person:”.

- (6) The said section 232 is hereby further amended—
- (a) By repealing paragraph (45):
 - (b) By omitting from paragraph (50) the words “Governor-General”, and substituting the word “Minister”.
- (7) The said section 232 is hereby further amended by inserting, after paragraph 50, the following paragraphs:
- “(50A) Fix and determine, subject to the approval of the Minister,—
- “(a) The fees payable for pilotage exemption certificates:
 - “(b) The maximum size of vessels, in terms of tonnage, draught, or length, to which pilotage exemption certificates shall apply; and the types of vessels, in terms of design or the cargo carried therein, to which such certificates shall not apply:

“(50B) Prescribe the procedure to be followed in applications for pilotage exemption certificates, and the terms and conditions upon which they may be granted, held, refused, or cancelled, including a condition restricting eligibility for a certificate to persons who have, on a specified minimum number of occasions, entered and left the port as master or first mate of a ship with a pilot or exempt master on board.”

(8) The said section 232 is hereby further amended by omitting the words “In respect of vehicles using any wharf” and paragraph (59), and substituting the following words and paragraph:

“In respect of security of wharves—

“(59) Regulate—

“(a) The examination and checking of any goods or of the contents of any vehicle, whether or not in the possession or control of any person, on any wharf; and

“(b) The seizure and detention of any such goods or contents where the Board or any officer conducting the examination suspects on reasonable grounds that the goods or contents are dutiable goods on which duty has not been paid, or are restricted, uncustomed, forfeited, or pillaged goods, or are goods that have otherwise been obtained unlawfully.”

(9) The following enactments are hereby consequentially repealed:

(a) Subsections (1) and (2) (b) of section 13 of the Harbours Amendment Act 1959:

(b) Section 9 (4) of the Harbours Amendment Act 1965.

65. Procedure for making bylaws—Section 232A (1) of the principal Act (as inserted by section 16 of the Harbours Amendment Act 1968) is hereby amended by inserting after paragraph (c) the following paragraphs:

“(ca) If, in any case not specified in paragraph (cb) or paragraph (d) of this subsection, the public body is not a corporate body, the bylaws shall be made, and signed or executed, by the members of the public body, and otherwise shall be made in such a manner as if the bylaws of the public body were bylaws of a Harbour Board made pursuant to this Act:

“(cb) If the public body is a Commissioner of Crown Lands, the bylaws shall be made, and signed and executed, by him, and otherwise shall be made in such a manner as if the bylaws of the public body were bylaws of a Harbour Board made pursuant to this Act:”.

66. Application to new installations of bylaws as to harbour dues—(1) The principal Act is hereby further amended by inserting, after section 234, the following section:

“234A. (1) The provisions of bylaws made by a Board under this Act whereby harbour dues are levied or made payable shall not apply to—

“(a) Cargo discharged or transhipped at or shipped from the port, at or by means of an installation or facility that is not owned by the Board and is constructed for the principal purpose of discharging, transshipping, or shipping cargo; or

“(b) Vessels using any such installation or facility—
unless those bylaws—

“(c) Are made after the installation or facility came into use; or

“(d) Although made before that time,—

“(i) Are expressly made applicable to such installation or facility by a further bylaw made after that time; or

“(ii) Do not come into force until after that time.

“(2) For the purposes of subsection (1) of this section, the meaning of the word ‘owned’ extends to co-ownership and the ownership of a reversionary interest.

“(3) An existing installation or facility shall not under subsection (1) of this section cease to be subject to a bylaw by reason only of the fact that the installation or facility is renewed, extended, repaired, or altered.”

(2) Section 234A (as inserted in the principal Act by subsection (1) of this section) does not apply to any harbour due which became payable before the passing of this Act.

67. Disallowance of bylaws—Section 238 of the principal Act is hereby amended by adding the following subsection:

“(2) Notwithstanding subsection (1) of this section, where harbour dues have been paid to a Board under a bylaw which is disallowed under the said subsection (1), the Governor-General may, by order published in the *Gazette* at the time

of disallowance, or within 6 months thereafter, make provision, whether general or particular, for the full or partial refund of the dues by the Board to the person who paid them.”

68. Penalty for breach of bylaws—Section 239 (1) of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964 and section 2 of the Harbours Amendment Act 1966) is hereby further 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”

PART VII

GENERAL

69. Power to make General Harbour Regulations—(1) Section 241 (1) (k) of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “two hundred dollars”, and substituting the expression “\$1,000”.

(2) The said section 241 is further amended by adding, after subsection (2), the following subsections:

“(3) General Harbour Regulations made under this section may empower any Harbourmaster to exempt any person or thing from compliance with any specified General Harbour Regulations where the Harbourmaster is satisfied on reasonable grounds that the purposes for which the specified regulations are made will not be prejudiced by such exemption.

“(4) No regulations made under this section before the commencement of the Harbours Amendment Act 1977 shall be invalid by reason only of the fact that they purport to authorise any Harbourmaster to exempt any person or thing from compliance with any General Harbour Regulations, and no such exemption made by any Harbourmaster before the commencement of that Act shall be invalid by reason only of the fact that, before the commencement of that Act, this section did not authorise the making of such regulations.”

70. Regulations as to motor launches, etc.—(1) Section 241A of the principal Act (as inserted by section 17 of the Harbours Amendment Act 1959) is hereby amended—

- (a) By repealing subparagraph (i) of paragraph (1) (a) (as substituted by section 9 (5) of the Harbours Amendment Act 1965), and substituting the following subparagraph:
“(i) The speed, use, anchoring, mooring, and management of motor launches, outboard-motor boats, speed boats, yachts, boats propelled by oars or paddles, rafts, hovercraft, and seaplanes and the placing and maintenance of moorings therefor:”
- (b) By repealing paragraphs (b) and (bb) of subsection (1) (as amended by section 9 (6) of the Harbours Amendment Act 1965), and substituting the following paragraphs:
“(b) Empowering the Minister to reserve any specified areas of such harbours and tidal waters and the sea for use by vessels of any specified kinds or by seaplanes, and regulating or prohibiting the use of such areas by other vessels or by rafts or by seaplanes (as the case may be), or by any persons:
“(bb) Empowering the Minister to reserve any specified areas of such harbours and tidal waters and the sea for use by persons using surfboards, regulating or prohibiting the use of such areas by other persons, or by vessels, rafts, or seaplanes, and regulating or prohibiting the use of other areas by persons using surfboards:”
- (2) The said section 241A is hereby further amended by inserting, after paragraph (d) of subsection (1), the following paragraph:
“(dd) Authorising any officer of the Ministry of Transport or any other person specified in the regulations to direct where vessels or rafts which are in any area described or defined in, or pursuant to, the regulations shall be moored or positioned while in that area:”
- (3) The said section 241A is hereby further amended by omitting from subsection (1) (e) (as amended by section 7 (1) of the Decimal Currency Act 1964) the words “two hundred dollars”, and substituting the expression “\$1,000”.
- (4) The said section 241A is hereby further amended by adding, after subsection (2), the following subsection:
“(3) No regulations made under this section before the commencement of the Harbours Amendment Act 1977 shall

be invalid by reason only of the fact that they purport to authorise the Minister to make any reservation described in paragraph (b) or paragraph (bb) of subsection (1) of this section, and no such reservation made by the Minister before the commencement of that Act shall be invalid by reason only of the fact that, before the commencement of that Act, this section did not authorise him to make such a reservation.”

71. New sections (as to regulations) inserted—The principal Act is hereby further amended by inserting, after section 241A (as inserted by section 17 of the Harbours Amendment Act 1959), the following sections:

“**241B. Regulation of traffic, etc., on foreshore**—(1) The Governor-General may from time to time, by Order in Council, for the safety and convenience of the public, make regulations applicable to foreshore which is vested in the Crown and not subject to a grant of control to a public body under section 165 of this Act—

“(a) To regulate and control the use of wheeled traffic and the launching and landing of vessels and rafts, with power to—

“(i) Prohibit or restrict the use of any area of foreshore by such traffic or any specified class or classes thereof or for the launching and landing of vessels and rafts:

“(ii) Reserve any area of foreshore for the use of wheeled traffic or for the launching and landing of vessels or rafts, and restrict or prohibit the use of such area for other purposes:

“(iii) Provide for the definition of any area for the purposes mentioned in subparagraphs (i) and (ii) of this paragraph by the Minister or the Secretary for Transport by notice published in the *Gazette* and for the amendment and revocation of any such definition:

“(b) Fixing fines not exceeding \$500 for a breach of any such regulation.

“(2) Bylaws may be made by a public body—

“(a) In which foreshore is vested; or

“(b) To which control of foreshore has been granted under section 165 of this Act—

making any provision in respect of that foreshore which is authorised to be made by regulations under subparagraphs (i) and (ii) of subsection (1) (a) and under subsection (1) (b) of this section, and defining any area which is required to be

defined for the purposes of those provisions. A public body to which paragraph (b) of this subsection applies shall make the bylaws in conformity with the said section 165.

“241c. **Regulation of inland harbours**—(1) Where the Governor-General in Council has power under section 6 (2) or under any other provision of this Act to make regulations in respect of harbours, navigable lakes, or navigable rivers, or particular harbours, navigable lakes, or navigable rivers he may, in exercise of that power but subject to section 241 (2) of this Act, make regulations applicable only to inland harbours or a specified inland harbour.

“(2) Any such regulations may empower the Minister, by notice in the *Gazette*, to prohibit bathing, fishing, or water-skiing in any inland harbour and the use or mooring of any vessel or any class of vessel or any raft in any inland harbour, or reserve any part of an inland harbour for any of the foregoing activities and prohibit any other of the foregoing activities therein; any such prohibition may be either absolute or conditional upon observance of conditions prescribed by the Minister by notice in the *Gazette*.

“(3) Any such regulations may empower the Harbourmaster or his deputy—

“(a) To exercise, for the purposes of the regulations, the powers described in paragraphs (c) and (d) of section 241A (1) of this Act:

“(b) To give directions to the owner or to the person for the time being in charge of any vessel or raft as to the launching, landing, positioning, anchoring, mooring, unmooring, or securing of that vessel or raft, or as to the time and manner in which that vessel or raft may enter into, depart from, or be in the inland harbour or any part thereof:

“(c) In any inland harbour specified in the regulations where special hazards exist, to give directions to vessels or rafts carrying passengers for hire or reward, for the purposes of the safety of such passengers, as to the manner in which those vessels or rafts may be operated in that harbour.

“(4) In this section, ‘inland harbour’ means—

“(a) The whole or any part of a navigable lake or navigable river to which section 6 of this Act applies; or

“(b) A combination of any two or more of such areas— which is declared by the Governor-General by Order in Council to be an inland harbour for the purpose of regulations made under this section.

“(5) In declaring an inland harbour the Governor-General may define the limits thereof. He may also at any time, by Order in Council, revoke the declaration and amend or revoke the definition of the harbour limits either with or without substitution of another definition for it.”

72. Restriction on deposit of ballast or rubbish—(1) Section 242 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “against this Act who”, the words “, without lawful authority,”:
- (b) By inserting in the said subsection (1) (as amended by section 11 (1) (a) of the Harbours Amendment Act 1965), after the words “create a nuisance on tidal lands,”, the words “or in tidal waters,”:
- (c) By inserting in subsection (1) (a), after the words “or from land,”, the words “or places”:
- (d) By inserting in subsection (1) (b), after the word “casts”, the word “, places,”.

(2) Section 242 (1A) of the principal Act (as inserted by section 19 (2) of the Harbours Amendment Act 1968) is hereby amended—

- (a) By inserting, after the words “suffered to be done” where they first occur, the words “, without lawful authority,”:
- (b) By inserting, after the words “on tidal lands” in both places where they occur, the words “or in tidal waters”:
- (c) By inserting, after the words “was unaware of”, the words “or thought that there was lawful excuse for”.

(3) The said section 242 is hereby further amended by repealing subsection (4) (as added by section 11 (2) of the Harbours Amendment Act 1965), and substituting the following subsection:

“(4) For the purposes of this section, a nuisance shall be deemed to be created if the substance or thing is offensive, or is a hazard to health, or is likely to cause bodily injury, or fouls tidal lands or tidal waters, or introduces insect or other pests or any fungus, bacterium, or virus that may be injurious to or cause any unhealthy condition in trees, plants, animals, or fish.”

(4) The following enactments are hereby consequentially repealed:

- (a) Section 11 (2) of the Harbours Amendment Act 1965:
- (b) Section 19 (1) (b) of the Harbours Amendment Act 1968.

73. Removal of stone, etc., from foreshore—Section 244 (1) of the principal Act (as substituted by section 7 (2) of the Harbours Amendment Act 1965) is hereby amended—

- (a) By inserting, after the word “mud,”, the word “shell,”;
- (b) By inserting, after the word “navigable”, the words “lake or navigable”.

74. Damaging lights, buoys, or beacons—Section 245 (2) of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “four hundred dollars”, and substituting the expression “\$1,000”.

75. Wilful damage to works—Section 247 (1) of the principal Act (as amended by section 40 (1) of the Criminal Justice Act 1954 and section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “two hundred dollars”, and substituting the expression “\$500”.

76. Neglect by Harbourmaster, etc.—Section 249 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “two hundred dollars”, and substituting the expression “\$500”.

77. General penalty for offences—Section 252 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “two hundred dollars”, and substituting the expression “\$1,000”.

78. Power of Harbourmaster, etc., to enter ship—Section 255 of the principal Act is hereby amended by inserting, after the words “officer of the Board”, the words “(including an honorary warden appointed under section 42A of this Act)”.

79. Repeal of Fourth and Fifth Schedules—The principal Act is hereby further amended by repealing the Fourth and Fifth Schedules.

80. Consequential amendment to Auckland Regional Authority Act 1963—Section 4 (2) of the Auckland Regional Authority Act 1963 is hereby amended by inserting, after the words “the National Roads Act 1953,”, the words “the Harbours Act 1950,”.

This Act is administered in the Ministry of Transport.
