

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Special Act. 3. Interpretation. 4. Power to borrow. 5. Certain sections of Local Bodies' Loans Act, 1926, to apply. | | <ol style="list-style-type: none"> 6. Poll of ratepayers. 7. Requisite majority on poll. 8. Security for loan. Receiver may make and levy special rate. 9. Board may recoup revenue out of loan-moneys. Schedules. |
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1933, No. 18.—*Local and Personal.*

AN ACT to enable the Napier Harbour Board to borrow Moneys for the Completion of Harbour Works already authorized to be Constructed, and partly Constructed. Title.
 [22nd December, 1933.]

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

1. This Act may be cited as the Napier Harbour Board Loan Act, 1933, and shall be read together with the Napier Harbour Board Empowering and Loan Act, 1884, and the Napier Harbour Board Loan Act, 1892 (hereinafter referred to as the principal Acts), so far as those Acts are not inconsistent herewith. Short Title.

2. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1923, which Act is hereinafter referred to as the Harbours Act, and is hereby incorporated in this Act. Special Act.

Interpretation.

3. In this Act—

“ Board ” means the Napier Harbour Board :

“ Chairman ” means the Chairman for the time being of the Board, and shall include the Acting-Chairman for the time being thereof :

“ District ” means the Napier Harbour Rating District as constituted in and by the Napier Harbour Board Empowering and Loan Act, 1884, as altered and defined in and by Order in Council of the nineteenth day of December, nineteen hundred and twenty-two, and gazetted in the *New Zealand Gazette* of the eleventh day of January, nineteen hundred and twenty-three, Volume 1, page 19, and shall include all boroughs, town districts, counties, or ridings of counties, which, since the passing of the said Act, have been or which shall hereafter be constituted as such within the limits of the Napier Harbour Rating District as defined in the Fourth Schedule to the said Act as altered and defined as aforesaid :

“ Rateable property ” shall, in relation to the “ district ”, as hereinbefore defined, and the constituent boroughs, town districts, counties, or ridings of counties, thereof, have the meaning assigned to the same expression by section two of the Rating Act, 1925 :

“ Rateable value ” shall mean the unimproved value as appearing by the valuation roll made under the Valuation of Land Act, 1925 :

“ Ratepayers ” means the persons entitled to vote on the proposal to raise a loan, in terms of this Act, and shall have the same meaning for the purposes of the Local Bodies' Loans Act, 1926, so far as applied to this Act :

“ Secretary ” means the Secretary for the time being of the Board, and shall include the Acting-Secretary for the time being thereof.

Power to borrow.

4. The Board shall have power to borrow, in addition to the sums authorized by any previous Acts, subject to the provisions of the Harbours Act and of this Act, and of the Local Government Loans Board Act, 1926, or any similar enactment, any sum or respective sums of money not exceeding in the aggregate three hundred and

thirty-five thousand seven hundred pounds ; and to apply the moneys so borrowed in and about the construction and carrying-out of such of the works referred to in the principal Acts as are more particularly specified in the First Schedule hereto :

Provided, however, that where the amount of moneys specified in the said Schedule against any particular work is more than sufficient for such particular work and leaves a surplus after completion of such work, such surplus may be applied in the completion of any other of the said works specified in the said Schedule if the amount appropriated to any such work is not sufficient for its completion :

Provided further that, if on the completion of the whole of the works specified in the said Schedule it is found that any moneys raised are not required for the completion of the specified works, such surplus shall be paid into the sinking fund established under this Act, or otherwise applied towards the repayment of the loan.

5. (1) Sections five, six, seven, eight, nine, and ten, subsection one of section eleven, sections thirteen, fourteen, fifteen, and sixteen, subsection one of section nineteen, subsections one and two of section thirty-two, sections thirty-three, thirty-four, thirty-five, thirty-seven to forty-four, forty-five, except paragraph (a) thereof, forty-seven, fifty-nine, sixty, sixty-one, one hundred and sixteen, one hundred and twenty-one, one hundred and twenty-two, one hundred and twenty-three, and one hundred and twenty-four of the Local Bodies' Loans Act, 1926, where not inconsistent with this Act, shall apply to the special loan hereby authorized to be raised, and the raising of the same, as if the Board were a "local authority", and the works hereby authorized to be constructed and carried out were a "public work", within the meaning of that Act, subject, however, to the provisions of section six of this Act.

Certain sections of Local Bodies' Loans Act 1926, to apply.

(2) Any reference in any of the above-mentioned sections of the Local Bodies' Loans Act, 1926, to the Local Fund shall for the purposes of this Act be deemed to be references to the Harbour Fund of the Board.

6. For the purposes of and incidental to the taking of the poll of ratepayers required to be taken by section eleven of the Local Bodies' Loans Act, 1926, the provisions set out in the Second Schedule hereto shall apply.

Poll of ratepayers.

Requisite
majority on
poll.

7. On the taking of any poll of ratepayers on a proposal to borrow the said sum of three hundred and thirty-five thousand seven hundred pounds, or any portion thereof, such proposal shall not be deemed to be carried unless the total number of votes recorded in favour thereof is at least three-fifths of the total number of valid votes recorded at the poll.

Security for
loan. Receiver
may make and
levy special rate.

8. (1) If the poll of ratepayers hereinbefore provided for shall be carried, and any moneys sanctioned by such poll shall be raised, the security for the moneys so raised shall be that (subject to this Act) prescribed in such cases by the Harbours Act, and in addition any Receiver appointed as provided by section one hundred and twenty-two of the Harbours Act shall have power, by virtue of his office, and without any further authority than this Act, and without prejudice to any other remedies or securities available to him, to make and levy from time to time, and as often as occasion shall require, a special rate on all rateable property in the district, in such proportions as that the rate to be levied on the rateable property in the Borough of Napier shall be double the rate to be levied on the rateable property in the remainder of the district, and, subject to the express provisions of this Act, and, *mutatis mutandis*, the provisions of sections eighty-two and eighty-three of the Harbours Act shall apply as if the Receiver were the Board.

(2) The amount to be levied in each year by means of such rate shall not exceed such amount as is required to provide for payment of interest on the aggregate amount for which debentures shall at that time be issued in pursuance of this Act, with the addition of the sinking fund hereinbefore provided for, and the expenses of making, levying, and recovering such rate, and the remuneration of the Receiver, after taking into account whatever sum of money may be available from the revenue of the Board for the previous year for payment of such charges.

(3) For the purpose of making, levying, and recovering the special rate hereby authorized to be made and levied, the Receiver shall have and may exercise all the powers of making, levying, and recovering rates in each borough and town district, and each county and part of

a county, within the district which any local body or authority having rating-powers within such borough, town district, county, or part of a county shall or may have under the law for the time being in force regulating the making, levying, and recovering of rates therein respectively; and the provisions of the Acts for the time being in force in the boroughs, town districts, and counties or parts of counties included in the district providing for levying special rates for the payment of the annual charges on loans raised by such boroughs, town districts, or counties shall, so far as applicable, and not inconsistent with the express provisions of this Act, and *mutatis mutandis*, be deemed to apply to the rate hereby authorized to be made and levied by the Receiver.

(4) No rate to be made in pursuance of the foregoing provisions shall be capable of being set aside or quashed by any proceeding of any Court or otherwise, and no defect in the same, or excessive amount of the same, shall be set up as a defence to any action to recover the same.

(5) Notwithstanding the withdrawal of the Receiver, and that the functions and duties for which he was appointed shall be at an end, any rate made by him in pursuance of the foregoing provisions shall nevertheless be a good, valid, and subsisting rate, and may be recovered by the Board as if the Board had been authorized by this Act to make, levy, and recover the same, and had made and levied the same accordingly.

(6) The provisions set out in the Third Schedule hereto shall apply in the case of every rate made and levied by the Receiver.

9. If the Board shall, after the carrying of the poll hereinbefore provided for and before the raising of the loan authorized by this Act, have expended any moneys out of general revenue or any other source in or about the execution of any works for the purposes of which the raising of the said loan is hereby authorized, the Board may at any time, or from time to time, out of the loan-moneys raised under the authority of this Act, recoup its general revenue or such other source for all or (at its option) any part or respective parts of such expenditure.

Board may
recoup revenue
out of
loan-moneys.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

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Extension of breakwater	30,400
Reclamation	8,000
Construction of concrete wharf, complete with sheds, cranes, &c.	143,000
Construction of 1,800 ft. of Western Mole, with breastwork	70,000
Railway tracks	2,500
Dredging and removal of rock	45,000
Roading	500
Electric light and power	2,650
Water-supply	1,650
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	303,700
Contingencies	32,000
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Total	£335,700

SECOND SCHEDULE.

1. It shall be the duty of the Secretary, at the request of the Chairman, to prepare a roll for the district (hereinafter referred to as the roll), setting forth the names of all ratepayers within the district. Such roll shall consist of a compilation of the names, occupations, and residences of the respective ratepayers from the respective valuation rolls for the time being in force for the respective boroughs, town districts, and counties, or ridings or parts of counties, comprising the district, obtained from the Valuer-General, or the boroughs, town boards, and counties aforesaid, or from both of such sources, and shall be brought up, so far as the data supplied to, or in possession of, the Board will allow, to a date not earlier than twelve weeks before the date fixed for the poll. The Chairman shall place a copy of such roll, signed by him, or by the Secretary of the Board, in the office of the Board at Napier, and in the respective offices of each of the boroughs, town districts, and counties, within the district; and on, or as soon as possible after, the date of the first publication of the notice referred to in section 10 of the Local Bodies' Loans Act, 1926, shall publish in some newspaper circulating in the district a notice that such roll is open for inspection by the ratepayers at the office of the Board, and at the respective offices of each of the boroughs, town districts, and counties aforesaid. After the publication of such notice, and up to the time hereinafter fixed for the closing of the roll, any person may lodge with the Board an objection in writing under his hand to the roll on any of the following grounds:—

- (a) That any person whose name is on the roll in respect of any qualification does not possess such qualification at the time when the objection is lodged.

- (b) That any person whose name is not on the roll possesses the necessary qualification at the time when the objection is lodged, and is entitled to have his name inserted.

No such objection shall be received unless the same shall be accompanied by a certificate under the hand of the Valuer-General or of the Town Clerk or Clerk of the Council or Board of the borough, county, or town district in which the qualification of the person in respect of whom such objection is made is alleged not to be possessed, or to be possessed (as the case may be), by him, to the effect that such person does not possess, or does possess (as the case may be), such qualification.

The Secretary, and any two members of the Board, of whom the Chairman may be one, appointed in writing by the Chairman, shall, as soon as possible after the receipt of any such objection, inquire into the same at the office of the Board aforesaid, and their decision or that of any two of them shall be final. Any alteration of the roll consequent upon any such objection or otherwise may be made in writing, initialled by the Chairman or by the Secretary of the Board.

The roll shall be deemed to be closed at 4 o'clock in the afternoon of the day of the first publication by the Chairman, as hereinafter provided, of a notice setting forth the day on which the poll shall be taken, and no objection received thereafter shall be considered.

Roll to be delivered to Returning Officer.

2. A sufficient number of rolls completed as aforesaid shall be delivered to the Returning Officer, and shall be the rolls upon which the poll shall be taken.

Taking of poll.

3. The poll shall be taken as follows:—

(a) The Chairman shall publish not less than four times in some newspaper circulating in the district a notice setting forth the day on which the poll shall be taken. The first such publication shall be made not less than fourteen days before the date of the poll, and the poll shall be taken not less than one week nor more than one calendar month after the day of the last publication of the notice referred to in section 10 of the Local Bodies' Loans Act, 1926.

(b) The Chairman or Secretary shall give notice to the Returning Officer requiring him to take the poll upon the day appointed.

(c) The Returning Officer shall on the day so appointed proceed to take the poll in the manner (subject to this Act) provided for the regulation of polls other than elections by the Local Elections and Polls Act, 1925, and shall provide polling-booths, voting-papers, and all things necessary for taking the poll.

(d) The voting-papers shall be printed in the form set out at the foot of this Schedule, with the words "I vote for the above proposal" and "I vote against the above proposal" legibly printed at the foot of each voting-paper.

(e) The voter shall erase one or other of the said lines, and his vote shall be deemed to be given according to the one of the said lines which he leaves unerased.

(f) All the provisions of the Local Elections and Polls Act, 1925, as regards taking a poll, shall, so far as they are applicable, and except as hereby otherwise provided, apply to the taking of the poll.

(g) Each ratepayer shall be entitled to one vote and no more.

(h) Any ratepayer may vote at any polling-place in the district.

FORM OF VOTING-PAPER.

THE NAPIER HARBOUR BOARD.

PROPOSAL TO RAISE A SPECIAL LOAN under the Napier Harbour Board Loan Act, 1933, and the Local Bodies' Loans Act, 1926, upon which a Poll will be taken on the _____ day of _____, One thousand nine hundred and _____.

[Insert notice required by section 10 of the Local Bodies' Loans Act, 1926, or a statement containing the purport and effect of that notice.]

(1) I vote FOR the above proposal.

(2) I vote AGAINST the above proposal.

N.B.—The voter must erase the line marked (2) if he wishes to vote FOR the proposal, or the line marked (1) if he wishes to vote AGAINST it. The voter shall erase one or other of the said lines, and his vote shall be deemed to be given according to the one of the said lines which he leaves unerased.

THIRD SCHEDULE.

ANY special rate to be made and levied by the Receiver shall have a currency of one year only, dating from the 1st day of April.

It shall be applied by the Receiver for the purposes set out in section 9 of this Act.

It shall be payable by equal half-yearly payments on the 1st day of April and the 1st day of October, or by one yearly payment on the 1st day of April, as the Receiver shall appoint in the notice next mentioned.

It shall be made by notice gazetted in the *New Zealand Gazette*, which notice shall be in the form or to the effect following, that is to say:—

NOTICE is hereby given that, in pursuance and exercise of the powers vested in me in this behalf by the Napier Harbour Board Loan Act, 1933 (hereinafter called the said Act), I, the undersigned [*Name in full of Receiver*], being the Receiver appointed under the Harbours Act, 1923, and the said Act, on behalf of the debenture-holders under the said Act, hereby make and levy a special rate for the year commencing on the 1st day of April, [*State year*], of [*State amount in the pound*] upon the rateable value of all rateable property in that portion of the Napier Harbour Rating District, which consists of the Borough of Napier, and [*State amount in the pound*] upon the rateable value of all other rateable property in the said district; and that the said special rate shall be payable by equal half-yearly payments on the 1st day of April and the 1st day of October in the year [*State year*] [or by one yearly payment on the first day of April in the year (*State year*)].

Dated at _____, this _____ day of _____, 19 _____.

[*Signature of Receiver.*]

There shall be vested in the Receiver all such rights, powers, discretions, and remedies (not being inconsistent with this Act) for and incidental to the making, levying, and recovering of any such rate as would, *mutatis mutandis*, be vested in the Board for the making, levying, and recovering of the same if the Board had by this Act been authorized to make, levy, and recover the same, and had made and levied the same accordingly; and the Receiver may exercise any such rights, powers, discretions, and remedies as aforesaid either in his own name or in the name of the Board.

Without prejudice to the generality of anything hereinbefore contained, the Receiver shall have, and may exercise, in his own person all such powers, authorities, and discretions for and incidental to the making, publishing, and signing of a rate-book and otherwise, as are by the Rating Act, 1925, vested in a local authority in the same manner and to as full an extent as if he were himself a local authority under that Act.

The Receiver may compile and sign a rate-book and, in so doing, may have recourse to any rate-book of the Board which may then be in force relating to any other special rate for the time being made and levied by the Board, or by any Receiver having similar powers to this Receiver, and to the valuation rolls of the Valuer-General, and to the rate-books of any borough, town district, county, riding, or part of a county, in the district, or to all or any of such sources of information; or he may, where he deems such course to be feasible, use and rely upon any such rate-book as aforesaid of the Board or any Receiver having similar powers to this Receiver, or the rate-books, or respective rate-books, of any such borough, town district, county, riding, or part of a county, in the district. And, in addition, the provisions contained in sections 84 to 88 inclusive, of the Harbours Act shall apply, *mutatis mutandis*, in respect of the rate authorized to be made and levied by the Receiver as if the Receiver were the Board, and a letter under the hand of the Receiver, forwarded to each local authority within the limits of whose jurisdiction the Board's rating-area or any part thereof affected by the rate is situate, directing such local authority to make, levy, and collect the rate in the part of the Board's rating-area within its jurisdiction, and containing the information required by sections 84 and 85 of the Harbours Act, shall be a sufficient compliance with the requirements of those sections respectively, so far as the Receiver is concerned.
