

New Zealand

ANALYSIS

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1940, No. 12

AN ACT to amend the Thames Borough Commissioner Title Act, 1932.

[30th August, 1940

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

Short Title.

1. This Act may be cited as the Thames Borough Commissioner Amendment Act, 1940, and shall be read together with and deemed part of the Thames Borough Commissioner Act, 1932 (hereinafter referred to as the principal Act).

1932 (Local),
No. 1

Interpretation.

2. In this Act, unless the context otherwise requires,—

“ Board ” means the Local Government Loans Board:

“ Date of conversion ” means the date from which the conversion of existing debentures into new debentures takes effect, as specified in an Order in Council under section nine of this Act:

“ Existing debentures ” means debentures within the meaning of the principal Act, and includes the debentures of the loans referred to in section thirteen of the Thames Harbour Act, 1936:

1936, No. 52

“ New debentures ” means debentures issued pursuant to Part I of this Act in conversion of existing debentures.

PART I.

CONVERSION OF THAMES BOROUGH AND THAMES HARBOUR BOARD LOANS.

Purpose of
this Part.

3. The purpose of this Part of this Act is to make provision for enabling the Thames Borough Commissioner to convert the existing debentures of the Council (including those issued by the Thames Harbour Board) into new debentures with interest at the rate of three per centum per annum.

Power to
convert existing
debentures in
accordance
with Order
in Council.
Cf. 1932-33,
No. 41, s. 9

4. (1) With the precedent consent of the Governor-General given by Order in Council under section nine hereof, after compliance with the provisions of this Part of this Act, and subject to and in accordance with the provisions of the Order in Council, the Council may issue new debentures in conversion of existing debentures.

(2) The power conferred by the last preceding subsection may be exercised by the Thames Borough Commissioner by a special entry under subsection three of section six of the principal Act as amended by section eighteen of this Act.

5. (1) Where the Commissioner proposes to convert existing debentures into new debentures he shall submit to the Local Government Loans Board an application and statement giving such information and particulars as may be required by the Board.

Application to
Local
Government
Loans Board.
Cf. 1932-33,
No. 41, s. 10

(2) The Board shall have with respect to that application the same powers of investigation as it has in respect of applications made to it under the Local Government Loans Board Act, 1926.

See Reprint
of Statutes,
Vol. V, p. 415

6. (1) In respect of an application made to the Board as aforesaid the Board may, subject to the next succeeding section,—

Powers of
Board.

Cf. 1932-33,
No. 41, s. 11

(a) Approve the application wholly or in part and unconditionally or upon or subject to such terms, conditions, and stipulations as the Board thinks fit; or

(b) Refer the application back to the Commissioner for modification or amendment.

(2) The Board shall duly notify the Commissioner of its decision with respect to the application.

7. (1) The rate of interest payable in respect of any new debenture shall be three per centum per annum.

Rate of
interest and
term of new
debentures, &c.

(2) The period within which any new debenture shall be repayable shall not exceed forty years from the date of conversion.

(3) No premium or discount shall be paid or allowed in respect of the conversion of existing debentures into new debentures.

(4) The conversion of any existing debentures into new debentures shall take effect whether or not the holder of the existing debentures consents to the conversion. From the date of conversion the rights conferred by the existing debentures shall be deemed to be limited to a right to receive interest thereon up to the date of conversion and to a right to receive new debentures in accordance with this Part of this Act.

Board to
notify Minister
of Finance of
its decision.

Cf. 1932-33,
No. 41, s. 12

Order in
Council
consenting to
conversion.

Cf. *Ibid.*, s. 13
1933, No. 14,
s. 7 (1) (c)
(ii) and (2);
1934, No. 27,
s. 3

8. When the Board has considered an application by the Commissioner to convert existing debentures the Board shall notify the Minister of Finance of its decision, and that Minister may in due course submit a recommendation to the Governor-General for his consent to the conversion.

9. (1) Subject to the provisions of section seven of this Act, the Governor-General, by the Order in Council giving his consent to the conversion of existing debentures, may make such provisions as he thinks fit with respect to all or any of the following matters, namely,—

- (a) The class or classes of the existing debentures to be converted:
- (b) The form and denominations of the new debentures or of any class or classes thereof, and the terms and conditions thereof as to maturity date, redemption, payment of principal and interest, and otherwise:
- (c) The date from which the conversion is to take effect, and the payment of the interest on the existing debentures up to that date:
- (d) The surrender of existing debentures as a condition precedent to the payment of the interest thereon up to the date of conversion, and to the delivery of new debentures in conversion thereof:
- (e) The creation of sinking funds for the new debentures, the appointment of Commissioners for such sinking funds, and the application of existing sinking funds or any parts thereof for the purposes of any existing debentures or new debentures or in or towards paying the costs and charges of and incidental to the conversion:
- (f) The notices to be given by the Commissioner to the public or to any persons or classes of persons:
- (g) The making of a consolidated special rate or special rates (in substitution in whole or in part for two or more existing special rates) as security for the new debentures or any class or classes thereof:
- (h) Any other matters relating to the conversion or to the new debentures.

(2) The Governor-General may from time to time, by subsequent Orders in Council, amend the Order in Council giving his consent as aforesaid by adding to, varying, or revoking the provisions thereof, or any of such provisions.

(3) Any such amending Order in Council may be in like manner amended or revoked. Nothing in any such amending Order in Council shall in any way prejudicially affect the security of the holders of any new debentures issued before the amending Order in Council comes into force.

(4) Every such amending Order in Council shall come into force on a date to be specified therein in that behalf, and the date so specified may be before or after the date of the amending Order in Council:

Provided that if the date on which any such Order in Council is to come into force is not specified therein, it shall come into force on the date of the making thereof.

(5) Subject to the provisions of this Act, every Order in Council under this section shall have the force of law as if enacted in this Act, anything to the contrary in the principal Act or in any other Act or in any regulations made under this or any other Act notwithstanding.

(6) If any Order in Council under this section is amended as aforesaid at any time after the Commissioner has duly made and confirmed a special entry under subsection three of section six of the principal Act for the conversion of any existing debentures in accordance with the terms of that Order in Council, the Commissioner may issue new debentures in accordance with the original Order in Council, as amended, without making any further special entry under the said subsection three of section six of the principal Act.

(7) Where any lands the property of the Crown are liable to any special rate for which a consolidated special rate has been substituted for the purposes of the conversion of any existing debentures, those lands shall, notwithstanding anything to the contrary in any other Act or in any rule of law, be liable to the substituted special rate to the same extent as, but not

to any greater extent than, they were liable to the first-mentioned special rate. If any dispute arises as to the extent to which any lands the property of the Crown are liable to any substituted special rate as aforesaid, it shall be referred to the Controller and Auditor-General, whose decision shall be final.

Application of
Local Bodies'
Loans Act.

Cf. 1932-33,
No. 41, s. 14

See Reprint
of Statutes,
Vol. V, p. 360

10. Subject to the provisions of this Act and of any Order in Council issued under the last preceding section, the provisions of the Local Bodies' Loans Act, 1926 (except sections ninety-four, ninety-five, ninety-eight, one hundred and one, one hundred and two, one hundred and three, one hundred and four, one hundred and five, one hundred and seven, one hundred and fourteen, and one hundred and fifteen thereof), shall, so far as applicable and with all necessary modifications, apply with respect to such conversion and to all new debentures issued for the purposes of such conversion in the same manner as if the new debentures were issued under Part V of the said Act.

Application to
new debentures
of trusts,
powers, &c.,
affecting
existing
debentures.

Cf. 1932-33,
No. 41, s. 17

11. (1) Where any existing debentures are converted into new debentures, the new debentures and the interest thereon shall, subject to the provisions of this Act, be subject to the same trusts, powers, rights, testamentary and other dispositions, provisions, and encumbrances as affect the debentures so converted and the interest thereon respectively.

1936, No. 52

(2) In every Act (other than this Act, the principal Act, and the Thames Harbour Act, 1936), and in every instrument that has been or may be passed or executed before the conversion of any existing debentures into new debentures, references to any debentures that are existing debentures so converted shall, unless the circumstances otherwise require, be construed as references to new debentures; and in the case of a testamentary instrument that has been or may be executed before the conversion of any existing debentures into new debentures, any disposition which but for the conversion would have operated as a specific bequest of any existing debentures or of any interest therein shall be operative with respect to the new debentures issued on the conversion as if they were the existing debentures.

12. (1) During the term of office of the Commissioner no steps shall be taken by any person, whether by way of action, or proceedings for the appointment of a receiver, or otherwise, to enforce payment of the principal or interest of any existing debenture or any new debenture or any part thereof respectively except in accordance with the provisions of the principal Act.

Principal and interest on debentures recoverable only in accordance with principal Act.

(2) Section seventeen of the principal Act and section ten of the Thames Harbour Board Loans Adjustment Act, 1932-33, are hereby repealed. The Second Schedule to the Thames Harbour Act, 1936, is hereby consequentially amended by omitting the reference to the said section ten.

Repeals.
1932-33
(Local),
No. 12
1936, No. 52

PART II.

MISCELLANEOUS.

13. (1) The Commissioner shall continue in office until the Mayor and Councillors of the borough elected at the first general election to be held after the thirty-first day of March, nineteen hundred and forty-seven, come into office.

Extending term of office of Commissioner.

(2) Section four of the principal Act is hereby amended by repealing subsection two thereof.

Repeal.

14. (1) This section shall come into force on the date on which the Mayor and Councillors of the borough elected at the first general election to be held after the passing of this Act come into office.

Constitution of Advisory Committee.

(2) As from the commencement of this section, the Advisory Committee shall consist of the persons for the time being holding office as Mayor and Councillors of the borough.

(3) Notwithstanding anything to the contrary in section thirty-four of the Municipal Corporations Act, 1933, the Council shall during the term of office of the Commissioner consist of four Councillors exclusive of the Mayor.

1933, No. 30

(4) On the expiry of the term of office of the Commissioner the Advisory Committee shall be deemed to be dissolved.

Repeal.

(5) Section seven of the principal Act is hereby amended by repealing subsections two and three thereof.

Extending
period of
operation of
special
valuation roll.
1934 (Local),
No. 10
1937, No. 35

15. (1) Section twelve of the Thames Borough Commissioner Amendment Act, 1934, as amended by section three of the Thames Borough Commissioner Amendment Act, 1937, is hereby further amended by omitting the reference to the thirty-first day of March, nineteen hundred and forty-one, and substituting a reference to the thirty-first day of March, nineteen hundred and forty-seven.

Repeal.

(2) Section three of the Thames Borough Commissioner Amendment Act, 1937, is hereby repealed.

Extending
period during
which interest
on Thames
Borough loans
reduced.
1934 (Local),
No. 10
1937, No. 35
1939, No. 25

16. (1) The period fixed by subsections one and three of section seventeen of the Thames Borough Commissioner Amendment Act, 1934 (as amended by section four of the Thames Borough Commissioner Amendment Act, 1937, and by section eighteen of the Local Legislation Act, 1939), during which the instalments of interest and sinking fund on any existing loan are to be reduced by one-third is hereby further extended as from the date of expiry thereof to the date of conversion.

Repeals.

(2) Section four of the Thames Borough Commissioner Amendment Act, 1937, and section eighteen of the Local Legislation Act, 1939, are hereby repealed.

Extending
period during
which interest
on Thames
Harbour loans
reduced.
1936, No. 52
1937, No. 35
1939, No. 25

17. (1) The period fixed by section twelve of the Thames Harbour Act, 1936 (as amended by section five of the Thames Borough Commissioner Amendment Act, 1937, and by section thirty-three of the Local Legislation Act, 1939), during which interest payable to the debenture-holders of the loans of the Thames Harbour Board is to be computed at the rate of four pounds five shillings per centum per annum is hereby further extended as from the expiry thereof to the date of conversion.

Repeals.

(2) Section five of the Thames Borough Commissioner Amendment Act, 1937, and section thirty-three of the Local Legislation Act, 1939, are hereby repealed.

Modifying
procedure as to
special orders.

18. Section six of the principal Act is hereby amended by omitting from subsection three the words "Public notice of such special entry and of the place and date fixed for its confirmation shall be given

once in each full week intervening between the making of the two entries", and substituting the words "Public notice of the purport of every such special entry and of the place and date fixed for its confirmation shall be given twice during the period of twenty-eight days immediately preceding that date, with an interval of not less than fourteen days between the two notifications".

19. (1) The proceeds of the sale of the land referred to in subsection three of section nine of the Reserves and other Lands Disposal Act, 1937, as amended by section six of the Reserves and other Lands Disposal Act, 1938, shall be applied as follows:—

Alteration of method of disposition of proceeds of sale of certain land.
1937, No. 39
1938, No. 19

(a) In reimbursing to the District Fund Account of the borough the amount paid by the Commissioner in respect of the alteration and renovation of the building now used as municipal offices and in respect of the purchase of the land on which that building stands:

(b) In payment of the balance (if any) into a fund for the repair, renewal, replacement, and improvement of any buildings of the Corporation.

(2) The Council may from time to time apply the moneys so set aside only to the purposes aforesaid, or any of them, and may invest any moneys so set aside and pay the proceeds of such investment into the said fund.

(3) Section nine of the Reserves and other Lands Disposal Act, 1937, is hereby amended by repealing subsection two thereof.

Repeal.

20. (1) The Council may from time to time set aside any moneys to form a fund to be known as the Public Works Reserve Fund for and in connection with the construction, provision, or establishment of any public work within the meaning of the Local Bodies' Loans Act, 1926, or the purchase or other acquisition of any land, building, erection, or structure, or the engaging in any undertaking as to which the Council is duly authorized by law.

Provision for establishment of Public Works Reserve Fund.

See Reprint of Statutes, Vol. V, p. 360

(2) The Council may invest any moneys so set aside in the manner following:—

- (a) In New Zealand Government securities; or
- (b) On deposit in any bank lawfully carrying on the business of banking in New Zealand, or in the Post Office Savings-bank; or
- (c) In the Common Fund of the Public Trust Office; or
- (d) In any other securities that may from time to time be authorized in that behalf by the Governor-General in Council.

(3) Notwithstanding anything to the contrary in this Act or any other Act, it shall not be lawful for the Council to expend any money from any fund established under this section without the precedent consent of the Local Government Loans Board.

(4) For the purpose of obtaining the consent of the Board the Council shall submit an application and statement giving such information and particulars as may be required by the Board.

(5) The Board shall have with respect to every such application the same powers of investigation as it has in respect of applications made to it under the Local Government Loans Board Act, 1926.

(6) In respect of every application made to it under this section the Board may—

- (a) Approve the application wholly or in part and unconditionally or upon or subject to such terms, conditions, and stipulations as the Board thinks fit; or
- (b) Refer the application back to the Council for modification or amendment; or
- (c) Decline to approve the application.

(7) The Board shall duly notify the Council of its decision with respect to every application under this section.