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HARBOURS ACT 1878 AMENDMENT.

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A BILL INTITULED

AN Act to amend "The Harbours Act, 1878."

Title.

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

- 5 1. The Short Title of this Act is "The Harbours Act Amendment Act, 1883." Short Title.
- 10 2. Notwithstanding anything contained in "The Harbours Act, 1878" (hereinafter termed "the said Act"), any Order in Council which might now be made under the sixteenth, seventeenth, and eighteenth sections of the said Act may be made in any case thereby authorized, although such work is not primarily intended for the use and benefit of the public : Extension of power to grant concessions in respect of harbour works.
- 15 3. Provided, however, that any works constructed or erected under the authority of the said sections and this Act shall, if the nature of the work permits, be available for public use on such terms and conditions as may be prescribed by the Order in Council authorizing the same. Proviso as to use by public in certain cases.
- 20 4. The powers conferred by the seventeenth section of the said Act may be exercised from time to time, and the Governor in Council may from time to time revoke, alter, or vary any Order in Council made or hereafter to be made thereunder. Powers under section 17 of Harbours Act may be exercised from time to time.
- 35 4. Whenever any Harbour Board is desirous of executing or constructing any harbour works upon lands vested in such Board or upon lands of the Crown of such a nature that the same could, under the said Act, only be carried out and executed under the authority of a special Act, the Board may apply to the Governor in Governor in Council may by special order authorize harbour works to be executed.

Council for a special order, and if the Governor in Council thinks fit such order may be made and granted, subject to the terms and conditions hereinafter prescribed :—

Plans and estimates to be submitted to Minister.

- (1.) The Board shall prepare and submit to the Minister a plan of the proposed works, showing all the details thereof, and the mode in which it is proposed the same shall be carried out, together with an estimate by some competent authority of the cost of such works and the date when the same can be completed. 5

Duplicates to be lodged at custom-house.

- (2.) A duplicate of the plan, details, and estimate as aforesaid submitted to the Minister shall be lodged at the custom-house or other public office at the port or place where the works are intended to be executed or constructed, where the same may be inspected in office hours by any person desiring to do so. 10
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The Minister may from time to time, either generally or in any particular case, appoint a public office at any such port or place as aforesaid as a public office for the purposes of this enactment.

Notices to be given of application.

- (3.) The Board shall give notice in writing of the application to all persons or bodies whose lands adjoin or may be injuriously affected by the execution or construction of the proposed works. 20

Such notice shall state shortly the nature of the works in respect of which the application is made, where the plans of the proposed works are deposited; and the Board shall also cause a like notice to be published, once in each week for a period of *four* consecutive weeks, in one or more newspapers circulating at the port or place where such works are intended to be executed or constructed. 25
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Objections may be lodged.

- (4.) Objections in writing may be lodged with the Minister against the execution or construction of the proposed works. Copies of such objections shall be served by the objector on the Board, who shall be at liberty in like manner to answer such objections. 35

Consideration of application, and order may be made.

- (5.) After considering any objections made by any person or body interested or affected as aforesaid and any answer thereto, the Governor in Council may, if he thinks fit, grant a special order authorizing the execution or construction of the works so applied for, in the manner prescribed by this Act. 40

The works to be executed or constructed shall be specially mentioned and described in such order, and a period fixed within which the same shall be completed.

Effect of order.

- (6.) Every such Order in Council shall have the effect of a special Act of the General Assembly so far as relates to the authority for executing or constructing such works, and, except where express provision is made by or under this Act, all such works shall be executed or constructed in accordance with the provisions of the said Act, and with, under, and subject to like powers, authorities, conditions, liabilities, and restrictions on the part of the Board as it would have and be subject to under the said Act if a special Act 45
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had been passed incorporating or referring to the provisions of the said Act in respect of any such works.

(7.) The provisions of Parts II. and III. of "The Public Works Act, 1882," shall be deemed to be incorporated in any Order in Council, and any compensation payable to any body or person for any land taken or injuriously affected shall be ascertained and paid by the Board in the manner prescribed in such Act, and such Order in Council may prescribe such additional and further conditions, restrictions, or terms in relation thereto as may be deemed fit and reasonable.

Parts of "Public Works Act, 1882, incorporated.

(8.) The expenses of preparing and making all plans, details, and estimates, and of giving any notices, or of any inquiry or other act or thing necessary to comply with this Act as aforesaid, shall be paid and borne by the Board.

Expenses to be borne by Board.

(9.) The term "Board" includes any other local governing body, as defined by the said Act, and, so far as may be necessary to give effect to this Act, includes also the corporation which such local governing body represents.

Meaning of "Harbour Board."

5. (1.) If in any case the Governor in Council is satisfied that the proposed works unduly interfere with any public right of navigation, or any other public right or interest, or are of such magnitude or importance that the same ought only to be carried out under the authority of an Act of the General Assembly, he may refuse to make any order in respect of the application.

Governor in Council may refuse to make an order, or

6. No Board shall have any claim upon the Queen or her Government in the colony for any compensation or allowance by reason of the refusal of any such order.

No claim upon the Crown by reason of refusal.

7. If any alteration in extension of or addition to any works authorized to be constructed under a special order is proposed or becomes necessary, the Board may take the like proceedings to sanction the same as would be necessary in obtaining an original special order.

Alteration &c. in works to be authorized by order.

8. Where the foreshore has been legally vested in any Harbour Board or other local governing body it may exercise the powers hereinafter conferred; but, except where special power has been given by Act of the General Assembly, no such Board or body shall have power to lease or otherwise part with the possession of any such foreshore or any part thereof, except in accordance with this Act.

Where foreshore vested in Board, certain powers may be exercised.

9. Any such Board or local governing body may from time to time, subject to the provisions of the one hundred and fifty-sixth section of the said Act, license and permit any part of such foreshore to be used or occupied for all or any of the following purposes:—

Foreshore may be used and occupied for certain purposes

- (1.) The building or repairing of ships or vessels of any kind;
- (2.) The erection and use of any boat-shed, landing-place, or wharf;
- (3.) The erection of baths and bath-houses, and any enclosure or fence necessary for the protection or privacy of the same;
- (4.) Any other purpose relating to the convenience of shipping or of the public, or for any local enterprise or object which the Governor in Council may approve.

Licensees may make reclamation and other necessary works.

10. Every licensee shall, subject to this Act, have power to make and construct any necessary reclamation for the purpose of erecting on the foreshore comprised in his license, or upon any land below low-water mark immediately contiguous to such foreshore which shall be specified in such license, any building, structure, erection, or other works to enable him to obtain the full benefit of such license; and this enactment shall be sufficient authority for the purposes mentioned herein. 5

Form and terms of license to use foreshore.

11. Every such license shall be in writing under the seal of the Board or body granting the same, and may be for any period not exceeding *fourteen* years from the date thereof, and may prescribe a sum of money to be payable, either at stated periods or on or before the granting thereof, for the use of the foreshore so granted, and may prescribe any other terms or conditions, general or particular, to be observed or performed by the person to whom the same is granted. 10 15

When orders, &c., may not be granted

12. No Order in Council and no license by virtue thereof shall be made or granted which will unduly interfere with or restrict any public right of navigation or the public convenience; and, in so far as relates to wharves or landing-places, shall be made or granted subject to the right of the public to use the same at all reasonable times, either with or without payment of any fee or charge to be prescribed by the Board or body granting the license. 20

Disposal of revenues received for licenses.

13. All moneys paid by any person to any Board or body for the grant of any such license as aforesaid shall be received, dealt with, applied, and accounted for as revenue of such Board or body, as the case may be. 25

Governor in Council may in certain cases issue licenses.

14. In any case where there is no Harbour Board, or no Harbour Board empowered to grant any such license as aforesaid, the Governor in Council may, in his discretion, grant and issue a license for all or any of the purposes hereinbefore mentioned, and all the provisions of this Act in respect of such licenses shall, *mutatis mutandis*, extend and apply accordingly. 30

Governor in Council may annul illegal licenses.

15. If any license shall be granted contrary to the provisions of this Act the Governor in Council may forthwith annul the same on such evidence as he deems sufficient. 35

Regulations made under twelfth section of Act may be either general or particular.

16. Regulations made under the twelfth section of the said Act may be made generally in respect of all ports or harbours where there is no Harbour Board, or in respect of any one or more of such ports or harbours; and any regulations or by-laws purporting to be made in the manner and under the authority hereinbefore mentioned, and applying generally to all such ports and harbours, shall be deemed to have been validly and properly made to all intents and purposes. 40

Harbour Board may adopt regulations made by Governor in Council.

17. Any Harbour Board may by resolution adopt any regulations made, or hereafter to be made, by the Governor in Council under the twelfth section of the said Act, and any regulations so adopted shall, subject to this Act, without further Act or formality, be deemed to be by-laws of the Board in respect of the harbour under its jurisdiction, and shall come into force upon a day to be named in such resolution. 45

When to come into force.

A copy of the resolution adopting such regulations, attested by the signature of the Chairman, shall be forwarded to the Minister, and such resolution shall also be publicly notified at least seven clear days before the day fixed for such by-laws to come into force. 50

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18. It shall not be necessary hereafter that any by-laws shall be publicly notified or published as prescribed by the said Act, but the following provisions shall be observed:—

Not necessary to publish by-laws at length.

6 (1.) The proposed by-laws shall be printed, and at least seven clear days before adoption a notification shall be published to the effect that the proposed by-laws have been printed, and are open to public inspection during office hours at the office of the Board:

10 (2.) After the adoption of such by-laws, or any amendment thereof, a like notification shall be published, stating that they have been so adopted and the day on which they are to come into force.

In all other respects such by-laws shall be made, executed, and completed in the manner prescribed by the said Act, and all the provisions of the said Act in respect of by-laws shall, *mutatis mutandis*, apply and extend accordingly.

15 19. The exemption contained in the one hundred and thirty-second section of the said Act extends to all dock dues or rates leviable under or by virtue of the said Act or any other Act already
20 or hereafter to be passed.

Exemption in section 132 to extend to dock due

20 20. Notwithstanding anything contained in the two hundred and seventeenth section of the said Act, the Minister may cause proceedings to be taken against any person who is alleged to have committed an offence against that section, although there is a Harbour
25 Board at the place where the offence is committed or the injury to navigation is or would be produced.

Amendment of section 217 of "Harbours Act, 1878."

21. Notwithstanding anything in the two hundred and thirty-fourth section of the said Act, at any time after a resolution has been passed authorizing the payment of money, cheques may be signed by
30 the Chairman of the Board, or by any two members of the Board appointed for that purpose either generally or as occasion requires.

Amendment of section 234 of Harbours Act.

22. If any tidal lands or lands to the seaward of any lands embanked or reclaimed under this Act, or the said Act, or any other Act, shall, at any time after the execution or construction of any harbour
35 works authorized by or under such Acts or any of them, become raised in height or reclaimed, whether gradually or imperceptibly, or otherwise, so as to be above instead of below the line of ordinary high-water mark, no person or body shall, by virtue of the ownership of any lands which he or they are empowered to reclaim as aforesaid, have any estate,
40 right, or interest in or to the lands so raised in height or reclaimed, by reason that such raising or reclamation has been gradual and imperceptible, or has been wholly or partially caused by the works so authorized as aforesaid.

Saving of rights of the Crown to foreshore where land raised by execution of harbour works.

23. The right and title to such land so raised and reclaimed shall
45 continue vested in the Queen and her successors, and as if the same had continued subject to the flow and reflow of the ordinary tides.

Land so raised to continue vested in Crown.

24. If in the course of the execution of any harbour works authorized under the said Act, or this Act, or any other Act, any part of the shores or bed of any harbour or tidal water, or of the sea, beyond the
50 mouth or entrance thereof, belonging to the Queen, shall be gained or reclaimed from the water, no person or body shall have or exercise any right upon the same or in respect thereof, and shall not enter upon, take, use, or interfere with the land so gained or reclaimed for any purpose without the consent of the Governor in Council on behalf of Her
55 Majesty, but such gain or reclamation shall enure absolutely for the benefit of the Queen and her successors.

Land reclaimed by execution of other works shall not be taken possession of without consent of Governor in Council.