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H. J.

HARBOURS AMENDMENT BILL

EXPLANATORY NOTE

This Bill makes miscellaneous amendments to the Harbours Act 1950.

Clause 2 confers on the Minister of Marine certain powers which under the principal Act are to be exercised by the Governor-General or by the Governor-General in Council. These powers are—

- (a) Authorising surveys of any harbour or of the coastline of New Zealand.
- (b) Appointment of Harbourmasters, pilots, and other officers for harbours not under the control of a Harbour Board.
- (c) Construction of harbour works in harbours where there is no Harbour Board.
- (d) Approving additional purposes for which foreshore may be used and occupied.
- (e) Granting of foreshore licences where the foreshore is not vested in a Harbour Board or a local authority.
- (f) Annulment of illegal foreshore licences.
- (g) Authorising construction of harbour works on tidal lands or in tidal water.
- (h) Authorising construction of harbour works deviating from continuous lines of public navigable tidal water.
- (i) Authorising construction of harbour works on public reserves below high water mark.
- (j) Exercise of powers of a Harbour Board in respect of a Government wharf.
- (k) Vesting management of a Government wharf in a local authority.
- (l) Prescribing dues and rates in respect of any such Government wharf.
- (m) Resuming control of any such Government wharf.
- (n) Validating acts done by Harbour Board without prior approval of Minister.

Clause 3 abolishes the requirement that contracts exceeding £250 must be made only after public tender. This provision places Harbour Boards in the same position as Borough Councils and Town Councils. The Counties Bill at present before the House proposes to make the same provision in the case of contracts by County Councils or Road Boards.

Clause 4: Section 142A of the principal Act authorises a Harbour Board to acquire land for housing for its employees and to erect houses on that land. This clause makes it clear that a Board may acquire land with houses already erected on it.

Clause 5: Section 165 (1) of the principal Act authorises the Governor-General to grant the control of the foreshore to a local authority, Domain Board, or Scenic Board, or to persons acting as trustees for the inhabitants of the locality, where the foreshore outside the limits of a harbour is not vested in a Harbour Board or other local authority. This clause extends this provision to cases where the foreshore inside a harbour is not vested in a Harbour Board or other local authority, and also authorises the control to be granted to a Harbour Board. Where the foreshore is inside the limits of a harbour for which there is a Harbour Board, the control of the foreshore may be granted only to that Board.

Clause 6 abolishes the requirement that ships entering port under a pilotage exemption certificate must display a white flag at the mainmast head from the time of approaching within two leagues of the pilot station to the time the ship anchors in the port.

Clause 7 authorises the Minister of Marine to delegate to the Secretary for Marine any of his powers under the principal Act.

Clause 8: The First Schedule to the principal Act prescribes the number of members of Harbour Boards and the representation of the several constituent or combined districts, and the Second Schedule sets out a list of the Harbour Boards whose members comprise the members of a local authority. Although these Boards may be abolished or the representation of the constituent or combined districts may be altered from time to time by Order in Council, there is no express authority to amend either of those Schedules except by an amending Act. The purpose of this clause is to enable those Schedules to be amended consequentially by Order in Council in such cases.

Hon. Mr McAlpine

HARBOURS AMENDMENT

ANALYSIS

Title

1. Short Title
2. Minister of Marine may exercise certain powers conferred on Governor-General
3. Contracts may be made without calling tenders

4. Housing for Harbour Board employees
5. Grant of control of foreshore to local authorities
6. Entering port under pilotage exemption certificate
7. Delegation of Minister's powers
8. Power to amend Schedules

A BILL INTITULLED

An Act to amend the Harbours Act 1950

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

5 as follows:

1. **Short Title**—This Act may be cited as the Harbours Amendment Act 1956, and shall be read together with and deemed part of the Harbours Act 1950 (hereinafter referred to as the principal Act).

10 2. **Minister of Marine may exercise certain powers conferred on Governor-General**—(1) The principal Act is hereby amended in the manner indicated in the Schedule to this Act.

(2) Every reference to the Governor-General or the Governor-General in Council in any other Act or in any regulation, order, bylaw, application, notice, licence, or document whatsoever shall, in relation to any powers conferred on the Minister by any of the enactments referred to in the Schedule to this Act, be read as a reference to the Minister or, where the powers may be exercised either by the Governor-General or the Governor-General in Council or the Minister, be read as including a reference to the Minister.

3. Contracts may be made without calling tenders—Section 10 one hundred and thirty-one of the principal Act is hereby repealed.

4. Housing for Harbour Board employees—Section one hundred and forty-two A of the principal Act (as enacted by section eleven of the Harbours Amendment Act 1952) is hereby amended by inserting in subsection one, after the words “erect dwellings thereon”, the words “or may acquire land on which dwellings are already erected”.

5. Grant of control of foreshore to local authorities—
(1) Section one hundred and sixty-five of the principal Act 20 (as amended by paragraph (a) of section four of the Harbours Amendment Act 1952) is hereby further amended as follows:

- (a) By omitting from subsection one the words “outside the limits of a harbour”;
- (b) By inserting in subsection one, after the words “Scenic 25 Board”, the words “Harbour Board”.

(2) Section one hundred and sixty-five of the principal Act is hereby further amended by adding to subsection one the following proviso:

“Provided that, where the foreshore is inside the limits of a 30 harbour for which there is a Harbour Board, the control of the foreshore may be granted under this subsection only to the Harbour Board.”

6. Entering port under pilotage exemption certificate—
Section two hundred and twenty-one of the principal Act is 35 hereby amended by omitting the words “and unless from the time of approaching within two leagues of the pilot station to the time of the ship anchoring in the port there is displayed at the top of the mainmast head of the ship a white flag not less than six feet long and four feet broad”.

7. Delegation of Minister's powers—(1) The principal Act is hereby amended by inserting, after section two hundred and sixty-five, the following section:

“265A. (1) The Minister may from time to time, by writing under his hand, delegate to the Secretary for Marine any of his powers under this Act.

“(2) Subject to any general or special conditions attached by the Minister, the Secretary for Marine may exercise any powers delegated to him as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

“(3) Where the Secretary for Marine purports to act pursuant to any delegation under this section, he shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

“(4) Every delegation under this section shall be revocable in writing at will, and no such delegation shall prevent the exercise of any power by the Minister.

“(5) Every delegation made under this section shall, until it is revoked, continue in force according to its tenor, notwithstanding that the Minister may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

“(6) Where under this section the Minister delegates to the Secretary for Marine any power which the Minister is authorised to exercise by notice in the *Gazette*, the Secretary for Marine shall exercise that power by notice in the *Gazette*.

“(7) Every reference to the Minister in any other Act or in any regulation, order, bylaw, application, notice, licence, or document whatsoever shall, in relation to any power that the Minister has delegated to the Secretary for Marine under this section, be read as a reference to the Secretary for Marine.”

(2) Section two of the principal Act is hereby amended by inserting in section two, after the definition of the term “publicly notified”, the following definition:

“‘Secretary for Marine’ means the Secretary for Marine appointed under the Shipping and Seamen Act 1952; and includes his deputy.”

40 (3) Section sixty-four of the principal Act is hereby amended by omitting from subsection two the words “Secretary of the Marine Department”, and substituting the words “Secretary for Marine”.

8. Power to amend Schedules—(1) Section fifteen of the principal Act is hereby amended by adding the following subsection:

“(4) Where any Harbour Board for the time being specified in the First Schedule to this Act is abolished, the Governor-General may, by Order in Council, amend that Schedule by omitting the name of the Harbour Board so abolished.” 5

(2) Section thirty of the principal Act is hereby amended by adding the following subsection: 10

“(6) The Governor-General may from time to time, by Order in Council, make such amendments to the First Schedule to this Act as may be necessary to give effect to any alteration of the representation of any area or district made by an Order in Council under the foregoing provisions of this section.” 15

(3) Section twenty-nine of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) Where the members of a local authority have been 20 constituted a Harbour Board or where any Harbour Board for the time being specified in the Second Schedule to this Act is abolished, the Governor-General may, by Order in Council, amend that Schedule by including therein the name of the Harbour Board so constituted or, as the case may be, by 25 omitting the name of the Harbour Board so abolished.”

SCHEDULE

Section 2

AMENDMENTS CONFERRING ON MINISTER OF MARINE CERTAIN POWERS
OF GOVERNOR-GENERAL

Section of Principal Act Amended	Nature of Amendment
Section 5	By omitting the words "The Governor-General", and substituting the words "The Minister".
Section 7	By omitting the words "The Governor-General may from time to time", and substituting the words "The Minister may from time to time, by notice in the <i>Gazette</i> ".
Section 9	By inserting, after the words "the Governor-General in Council", the words "or the Minister, by notice in the <i>Gazette</i> "; by inserting in the proviso, after the words "Order in Council", the words "or notice by the Minister".
Section 10	By omitting the words "The Governor-General may from time to time, by Order in Council", and substituting the words "The Governor-General in Council or the Minister, by notice in the <i>Gazette</i> , may from time to time".
Section 11	By omitting from subsection (1) the words "Every Order in Council under section nine or section ten hereof shall be made upon such terms and conditions as the Governor-General in Council thinks fit", and substituting the words "Every Order in Council or notice by the Minister under section nine or section ten hereof shall be made or issued upon such terms and conditions as the Governor-General in Council or the Minister, as the case may be, thinks fit"; by inserting in subsection (2) and also in subsection (3), after the words "Order in Council" wherever they occur, the words "or notice by the Minister"; by inserting in subsection (2), after the word "Governor-General", the words "or by the Minister".
Section 12	By inserting, after the words "Order in Council", the words "or notice by the Minister".

SCHEDULE—continued**AMENDMENTS CONFERRING ON MINISTER OF MARINE CERTAIN POWERS
OF GOVERNOR-GENERAL—continued**

Section of Principal Act Amended	Nature of Amendment
Section 156	By omitting from paragraph (e) the words “the Governor-General in Council”, and substituting the words “the Minister”.
Section 159	By omitting the words “Order in Council” wherever they occur, and substituting in each case the words “approval by the Minister”.
Section 162	By omitting the words “the Governor-General in Council”, and substituting the words “the Minister, by notice in the <i>Gazette</i> ”.
Section 163	By omitting the words “the Governor-General”, and substituting the words “the Minister”; by omitting the words “Order in Council”, and substituting the words “notice in the <i>Gazette</i> ”.
Section 176	By omitting the words “the Governor-General in Council”, and substituting the words “the Minister”.
Section 177	By omitting the words “the Governor-General in Council”, and substituting the words “the Minister”.
Section 178	By omitting from paragraph (b) the words “the Governor-General in Council”, and substituting the words “the Minister”.
Section 180	By omitting the words “the Governor-General in Council” wherever they occur, and substituting in each case the words “the Minister”.
Section 181	By inserting in paragraph (b), after the words “the Governor-General in Council”, the words “or by the Minister”.
Section 184	By adding to subsection (2) the words “or of the Minister”.
Section 191	By omitting from subsection (1) and also from subsection (2) the words “the Governor-General in Council”, and substituting in each case the words “the Minister”.

SCHEDULE—*continued***AMENDMENTS CONFERRING ON MINISTER OF MARINE CERTAIN POWERS
OF GOVERNOR-GENERAL—*continued***

Section of Principal Act Amended	Nature of Amendment
Section 192	By inserting in subsection (1), after the words “Order in Council”, the words “or the Minister may from time to time, by notice in the <i>Gazette</i> ”; by inserting in subsection (2) and also in subsection (3), after the words “Order in Council”, the words “or notice by the Minister”.
Section 193	By inserting, after the words “Order in Council”, the words “or the Minister may from time to time, by notice in the <i>Gazette</i> ”.
Section 194	By inserting in subsection (1) and also in subsection (2), after the words “Order in Council” wherever they occur, the words “or notice by the Minister”; by inserting in subsection (1), after the words “the Governor-General”, the words “or the Minister”.
Section 260	By inserting, after the words “Order in Council” wherever they occur, the words “or notice by the Minister”.
Section 265	By inserting, after the words “Governor-General in Council”, the words “or the Minister”; by inserting, after the words “Order in Council”, the words “or, in the case of anything done without the proper authority of the Minister, the Minister may, by notice in the <i>Gazette</i> .”.