

## HARBOURS AMENDMENT BILL

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### EXPLANATORY NOTE

*Clause 1* relates to the Short Title to the Bill.

*Clause 2* extends the powers of the Governor-General in Council under the principal Act (where there is no Harbour Board) to navigable lakes and navigable rivers. The definition of the word "harbour" does not cover certain inland waters.

*Clause 3* authorises a Harbour Board, with the prior written consent of the Audit Office, to pay money by cheque issued by a cheque-writing machine. Cheques issued in this manner shall be deemed to have been duly signed and countersigned in accordance with the provisions of the principal Act relating to the signing and countersigning of cheques.

*Clause 4* amends section 58 of the principal Act and provides that a Board may pay salaries from imprest accounts.

*Clause 5* amends section 61 of the principal Act which relates to matters which must be recorded in the annual statement and account of a Board. It will not be necessary to include a list of contracts entered into by the Board.

*Clause 6* empowers Boards to make advances to employees on mortgage for housing purposes. This power will be in addition to that contained in section 142A of the principal Act which authorises Boards to acquire land or dwellings for sale or lease to employees. A similar provision was enacted by section 3 of the Electric Power Boards Amendment Act 1953 and the conditions governing the granting of mortgages by Harbour Boards follow those relating to Power Boards. Boards may raise loans under the provisions of the Local Authorities Loans Act 1956 for the purposes of this clause. *Sub-clause (2)* makes a consequential amendment to the last-mentioned Act.

*Clause 7* permits the Minister of Marine, a Harbour Board, or a local authority to grant licences on conditions authorising the licensees to remove stone, shingle, etc., from the foreshore, the bed of a harbour, river, or the sea where these areas are vested in the Minister, the Board, or the local authority as the case may be.

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Price 1s.

*Clause 8* extends the powers of the Minister to issue licences for the use of the foreshore to cover navigable lakes and navigable rivers.

*Clause 9* amends the bylaw making powers of public bodies to whom the control of the foreshore or the bed of a lake has been granted. Earlier this year in the unreported case of the *Titahi Bay Domain Board v. Bridger* the Supreme Court held that under the existing provisions the Board had no authority to make bylaws regulating motor vehicles on a beach. This clause provides that authority, together with authority for bylaws to deal with the control of animals.

*Clause 10* amends section 175 of the principal Act and requires that plans of proposed reclamations be prepared by registered surveyors and show both the area and boundaries of the proposed reclamation.

*Clause 11* repeals and re-enacts, with amendments, section 176 of the principal Act. The existing restrictions on works in tidal lands or waters are extended to navigable lakes and rivers.

*Clause 12* extends the restrictions contained in the principal Act upon undertaking harbour works or placing structures on, in, over, through, or across tidal lands or tidal waters to the bed of the sea or the bed of harbours, navigable lakes, or navigable rivers.

*Clause 13*: This clause extends the power of Boards to make bylaws to regulate and control anchorages to cover land provided by a Board in connection with an anchorage. Fees for the use or occupation of such land and any buildings provided by the Board may be fixed under this clause. A Board may require the registration of persons to whom it grants leases, licences, or tenancies and charge fees in respect of such registration.

*Clause 14* makes a small drafting change without changing the substance of the existing provision. The definition of the term "harbour" includes the meaning of the term "port" and using the latter is unnecessary.

*Clause 15* amends the provisions relating to the making of regulations governing the use of motor launches on harbours, rivers, and lakes. Difficulty has been experienced in regulating speed boats on inland waters under the existing provisions which depend upon a restricted definition of the term "harbour". This clause extends the definition of "harbour" for this particular purpose. A new power to make regulations governing the use of surfboards has been included. *Subclause (4)* validates existing regulations which would have been valid if this clause had been in force when the regulations were made. The rights of the individual before the passing of this Bill are preserved.

*Clause 16* extends the restrictions on the deposit of ballast or rubbish which now exist in the cases of harbours and tidal lands so that they will apply to navigable rivers and navigable lakes.

*Clause 17* is new and provides powers for Harbour Boards to move vehicles which have been left on Harbour Board land or wharves, and to deal with vehicles that have been abandoned.

*Clause 18* extends the right of an owner of a boat with a valid survey certificate to ply for hire on navigable lakes or rivers.

*Hon. Mr Scott*

## HARBOURS AMENDMENT

### ANALYSIS

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### A BILL INTITULED

#### 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 1964, and shall be read together with and deemed part of the Harbours Act 1950\* (hereinafter referred to as the principal Act).

**2. Where no Harbour Boards, Governor-General in Council** 5  
**to have powers conferred on Harbour Boards**—Section 6 of the principal Act is hereby amended by inserting in subsection (1), after the word “harbours” the words “or navigable lakes or navigable rivers”.

**3. Board may use cheque-writing machines**—Section 50 of 10  
the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) Notwithstanding anything to the contrary in subsection (2) of this section, it shall be lawful, with the prior consent in writing of the Audit Office and subject to such 15  
conditions as the Audit Office prescribes, for any money to be paid by the Board by cheque issued by a cheque-writing machine, and every cheque issued by means of such a machine, and bearing a facsimile of the signatures of the persons authorised pursuant to that subsection to sign and 20  
countersign cheques shall be deemed to have been duly signed and countersigned in accordance with the provisions of that subsection.”

**4. Salaries may be paid from imprest accounts**—Section 58  
of the principal Act is hereby amended by inserting in sub- 25  
section (3), after the words “payment of” where they first occur, the words “salaries and”.

**5. Contracts not to be included in annual statement**—  
Section 61 of the principal Act is hereby amended by repeal- 30  
ing paragraph (a).

\*1957 Reprint, Vol. 5, p. 813

Amendments: 1959, No. 6; 1961, No. 114; 1962, No. 74; 1963, No. 90

**6. Boards may make advances to employees for housing purposes—**(1) The principal Act is hereby amended by inserting, after section 142A (as inserted by subsection (1) of section 11 of the Harbours Amendment Act 1952), the

5 following section:

“142B. (1) A Harbour Board may from time to time advance money to any employee of the Board for the purpose of enabling the employee to—

- 10 “(a) Purchase land and erect a dwelling thereon; or  
“(b) Erect a dwelling on land owned by the employee; or  
“(c) Purchase an existing dwelling; or  
“(d) Add to or repair an existing dwelling owned and occupied by the employee.

15 “(2) Any advance under this section shall be made only in respect of a dwelling occupied or intended to be occupied by the employee, and any such advance may be made to the employee alone or, where the property in respect to which the advance is made is owned or is intended to be purchased by the employee and his wife jointly, to the employee and  
20 his wife.

“(3) Any money borrowed under this section may be secured on debentures issued by the Board under the provisions of the Local Authorities Loans Act 1956 as if the power to borrow conferred by this section were conferred  
25 by a special Act.

“(4) Any advances by a Board under this section may be made out of loan money borrowed under subsection (3) of this section or out of money in the Harbour Fund General Cash Account.

30 “(5) The following provisions shall apply in respect of advances made by a Board under this section:

- “(a) All money advanced shall be secured by way of first mortgage on the land in respect of which the advance is made:  
35 “(b) Where the advance is made out of loan money borrowed by the Board under subsection (3) of this section, the rate of interest payable in respect of the advance shall not be less than the rate payable by the Board in respect of the loan money:

- “(c) Where the advance is made out of money in the Harbour Fund General Cash Account the rate of interest payable in respect of the advance shall not be less than the rate for the time being ruling, pursuant to Part I of the Local Authorities Loans Act 1956, in respect of loans to Harbour Boards: 5
- “(d) The amount of the advance shall not exceed nine-tenths of the value of the property mortgaged as estimated by a public valuer registered as an urban valuer under the Valuers Act 1948 and shall not in any case exceed such sum as may for the time being be fixed by the Minister of Finance as the maximum amount which may be advanced by the Board under this section: 10
- “(e) Any money advanced and interest payable shall be paid in equal periodical instalments of principal and interest: 15
- “(f) Every mortgage to secure an advance shall contain a covenant by the mortgagor that all money for the time being owing under the mortgage shall become due and payable— 20
- “(i) If the mortgagor dies, or resigns, or is dismissed, or for any other reason ceases to be an employee of the Board unless within three months after the mortgagor ceases to be an employee as aforesaid the property mortgaged is sold to another employee of the Board approved by the Board in that behalf; or 25
- “(ii) If the mortgagor sells, leases, or otherwise parts with the possession of the property mortgaged otherwise than in accordance with an agreement with the Board. 30
- “(6) Collateral security may be taken by the Board in respect of any mortgage to secure an advance under this section; and in particular collateral security may be taken over any policy of life insurance, whether the policy is on the life of the mortgagor or on the life of any other person.” 35
- (2) The Local Authorities Loans Act 1956 is hereby consequentially amended by inserting in the proviso to section 24, after the words “section one hundred and forty-two A”, the words “or section 142B”. 40

**7. Boards may grant licences to take stone, etc.**—The principal Act is hereby further amended by inserting, after section 146, the following section:

5 “146A. (1) Where a portion of the foreshore or the bed of a harbour or of a river or of the sea is vested in the Crown, a Harbour Board, or a local authority, the Minister, the Board, or the local authority, as the case may be, may issue licences authorising the licensees to remove stone, shingle, sand, boulders, silt, mud, or other material from that fore-  
10 shore, harbour, or river bed, or from the bed of the sea.

“(2) The Minister, Board, or local authority, as the case may be, shall determine the area to which the licence relates, the term of the licence, the annual fee to be charged, the royalties to be paid, and the conditions upon which any licence  
15 shall be held.”

**8. Minister may in certain cases issue licences**—Section 162 of the principal Act (as amended by section 7 of the Harbours Amendment Act 1959) is hereby further amended by insert-  
20 ing, after subsection (2), the following subsection:

“(3) In this section ‘foreshore’ includes any navigable lake or navigable river.”

**9. Grant of control of foreshore or bed of lake to public body**—Section 165 of the principal Act (as substituted by section 9 of the Harbours Amendment Act 1961) is hereby  
25 amended by repealing subsection (2), and substituting the following subsection:

“(2) The public body to which the control of any part of the foreshore or of the bed of any lake is so granted may make such bylaws as are necessary for the proper preservation  
30 and control thereof, for the conduct and dress of persons and the control of animals and vehicles of any description using or frequenting the same; and generally for the regulating of the use of that part of the foreshore or lake bed and preventing any nuisance arising thereon.”

**10. Areas of proposed reclamation to be shown on plans**—

35 (1) Section 175 of the principal Act is hereby amended by omitting from subsection (2) the words “licensed surveyor”, and substituting the words “registered surveyor”.

(2) Section 175 of the principal Act is hereby further  
40 amended by omitting from subsection (2) the word “extent”, and substituting the words “boundaries and area”.

**11. Works on tidal lands, etc., not to be constructed without sanction of Minister**—(1) The principal Act is hereby further amended by repealing section 176, and substituting the following section:

“176. No board or other body or authority, whether incorporated or not, or person, shall commence, make, erect, or construct any works, or place any pile or other structure in, on, over, through, or across tidal lands, or tidal waters, or the bed or bottom of any harbour, navigable lake, or navigable river, without first obtaining the sanction of the Minister in the manner provided in this Act.”

(2) The Harbours Amendment Act 1956 is hereby amended by repealing so much of the Schedule thereto as relates to section 176 of the principal Act.

(3) Section 10 of the Harbours Amendment Act 1961 is hereby repealed.

**12. Restriction on works affecting harbours or navigation under statutory powers**—Section 178 of the principal Act is hereby amended by omitting the words “or the seashore below low-water mark, or in the bed or bottom of any port or harbour,” and substituting the words “or the bed of the sea, or the bed or bottom of any harbour, navigable lake, or navigable river,”.

**13. Bylaws as to anchorages**—Section 232 of the principal Act is hereby amended by repealing paragraph (37), and substituting the following paragraph:

“(37) Regulate and control the use of any anchorage (enclosed or otherwise) for yachts, boats, launches, and other small craft (whether or not used exclusively for pleasure or exempt from dues), or for aircraft, and the use of any buildings, equipment, or land provided by the Board in connection therewith; provide for the proper conduct of the persons using, occupying, or frequenting any such anchorage, buildings, or land; fix fees, rents, or payments for moorings, mooring sites, sheds or other structures, or land, provided or erected by the Board in connection with the use of any such anchorage by all or any of the aforesaid small craft, or by aircraft, and for the use or occupation of buildings, equipment, sheds or other structures,

5 or land provided by the Board as aforesaid; and provide for the registration with the Board by and of persons to whom the Board grants any lease, tenancy, licence, or other permission to use or occupy any of the said amenities or land, and fix fees or payments to be paid by such persons to the Board in respect of such registration:”.

14. **Power to make General Harbour Regulations**—Section 241 of the principal Act is hereby amended by omitting 10 from subsection (2) the words “ports or”.

15. **Regulations as to use of motor launches, etc.**—(1) Section 241A of the principal Act (as inserted by section 17 of the Harbours Amendment Act 1959) is hereby amended by inserting as subsection (2), the following subsection:

15 “(2) For the purposes of this section, the term ‘harbour’ means any harbour properly so called, whether natural or artificial, and any haven, estuary, navigable lake, navigable river and tidal water, and the sea adjacent thereto not under the control of a Harbour Board.”

20 (2) Any regulations made under the principal Act before the passing of this Act which would have been valid if this section had been in force when the regulations were made are hereby validated and declared to have been lawfully made:

25 Provided that nothing in this subsection shall be construed to render any person liable for any penalty for an offence against any such regulations arising out of any acts or omissions which occurred before the passing of this Act.

16. **Restriction on deposit of ballast or rubbish**—Section 242 of the principal Act is hereby amended—

30 (a) By inserting in paragraph (a) of subsection (1) after the words “low-water mark”, the words “, or into any navigable lake or navigable river”:

(b) By inserting in paragraph (b) of subsection (1) after the words “into the sea”, the words “or into any navigable lake or navigable river”:

35 (c) By adding to paragraph (c) of subsection (1) the words “or in any navigable lake or navigable river”.

17. **Board may cause vehicles to be moved**—The principal Act is hereby further amended by inserting, after section 250A 40 (as inserted by section 19 of the Harbours Amendment Act 1959), the following section:

“250B (1) Where a motor vehicle is on a wharf or a place that is within the jurisdiction and under the control of a Harbour Board, any officer of the Board appointed by the Board to be a traffic officer may move that motor vehicle or cause it to be moved to any place of safety: 5

“(a) At the expense of the owner if, in the opinion of the officer, that motor vehicle causes a danger or obstruction on the wharf or place; or

“(b) If it is desirable that the motor vehicle should be moved; and 10

“(i) After making reasonable inquiries the owner or driver of the motor vehicle cannot be found; or

“(ii) The driver of the motor vehicle refuses or fails to move the vehicle after being requested to do so.” 15

“(2) The provisions of section 76 of the Transport Act 1962 shall apply in relation to any wharf or place that is within the jurisdiction and under the control of a Harbour Board as if that wharf or place were a road within the meaning of that Act and as if the term “local authority” in that section included a Board.” 20

**18. Surveyed ship entitled to ply for hire in harbours**—The principal Act is hereby further amended by repealing section 258, and substituting the following section: 25

“258. Subject to the provisions of Part VII of the Transport Act 1962, the owner of any ship or boat which has a valid survey certificate granted under the Shipping and Seamen Act 1952 shall be entitled to ply for hire in any harbour, navigable lake, or navigable river, and to carry the number of passengers (if any) specified in that certificate, on payment of the licence fee (if any) prescribed by bylaws or regulations in force in that harbour, navigable lake, or navigable river.” 30