

Auckland Harbour Act 1874

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An Act to enable the Auckland Harbour Board to construct a Dock and other Harbour Works, and to raise Money to defray the Cost thereof.

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

1 Short Title

The Short Title of this Act shall be The Auckland Harbour Act 1874.

2 Interpretation

In the construction of this Act, the words following shall have the meanings hereby assigned to them, that is to say, —

Plan in the fourth, fifth, and sixth sections means the plan authenticated for the purposes of this Act by the signatures of the Speakers of the Legislative Council and House of Representatives respectively, and deposited in the office of the Minister for Public Works at Wellington.

Debenture shall mean a debenture made and issued under this Act.

Rents shall include income profit and proceeds of all kinds.

Rates shall include tolls dues and charges of all kinds.

Wharf shall include pier jetty quay and every other construction for facilitating the shipping and landing of passengers and goods.

3 Repeal of The Auckland Harbour Docks Act 1871

The Auckland Harbour Docks Act 1871, is hereby repealed.

Auckland and Waikato Railway.

4 Certain lands vested in Her Majesty for railway, etc

[Repealed]

Sections 4 and 5 were repealed, as from 13 September 1882, by section 2 Auckland Railway-station Act 1882 (1882 No 4(L)).

5 Governor may cause railway to be constructed north of Custom House Street

[Repealed]

Sections 4 and 5 were repealed, as from 13 September 1882, by section 2 Auckland Railway-station Act 1882 (1882 No 4(L)).

Docks and harbour works.

6 Harbour Board to construct docks and other works

It shall be lawful for the Auckland Harbour Board (hereinafter called **the Board**) to construct the dock and other harbour works specified in Schedule 1 to this Act on the several sites

delineated for the same on the said plan, and the Board may construct an hydraulic lift on any or either of the said sites.

Compensation—

All persons being owners of or having any lesser estate or interest in any lands which may be deprived of water frontage or be injuriously affected by the construction of the said dock or harbour works shall be entitled to receive from the said Board compensation for such deprivation of water frontage or injury, the amount whereof shall be ascertained in the manner set forth in The Lands Clauses Consolidation Act 1863, *[Repealed]* and The Lands Clauses Consolidation Act Amendment Act 1866, *[Repealed]* which are hereby incorporated in this Act.

7 Plans etc to be approved of by Governor

Before the said dock lift or other works are commenced, detailed plans and specifications shall be submitted to and approved of by the Governor, and when so approved of shall be constructed in conformity with such plans and specifications with all convenient speed.

8 Railway Wharf to be first commenced

The first of the said works to be commenced and undertaken shall be the Railway Wharf and Breastwork, and the same shall be completed within two years from the passing of this Act.

Debentures.

9 Money may be raised by debentures

In order to raise money for the purpose of constructing such dock lift and other works, it shall be lawful for the Board from time to time to issue debentures for any sums of money not exceeding in the aggregate the sum of three hundred thousand dollars, bearing interest after a rate to be therein fixed, not exceeding six per cent per annum, payable half-yearly.

The expression “three hundred thousand dollars” was substituted, as from 10 July 1967, for the expression “one hundred and fifty thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

10 Form of debentures

Every debenture shall be in the form or to the effect set forth in Schedule 2 to this Act, and shall be sealed with the common seal of the Board, and shall be signed by the Chairman of the Board.

11 Debentures to be numbered consecutively, and have coupons attached

The debentures shall be numbered consecutively, commencing with number one, and shall have coupons attached thereto for every half-year's interest, payable to bearer.

12 Board may make arrangement for places of payment

The Board may from time to time make such arrangements as it may think fit for the payment of any of the debentures or coupons at any office or bank in Auckland or elsewhere, as to the Board may seem desirable.

13 Debentures, where to be sold

Debentures issued under this Act may be sold in New Zealand or elsewhere as the Board may think fit, and shall be sold by public tender at a price not being less than a minimum to be from time to time fixed by the Board.

14 No preference between debenture-holders

The holder of any debenture shall not have any preference over any other holder by reason of any priority of date or otherwise, but all debenture-holders shall rank alike and be entitled to equal rights.

15 Agents may be appointed to raise loan

It shall be lawful for the Board, under their common seal, from time to time to appoint an Agent or Agents for the purpose of raising and managing the loan by this Act authorized to be raised; and such Agent or Agents shall have power to do all the acts and exercise the functions mentioned in this Act that may be specified in the instrument by which such appointment is made.

16 How debentures issued by them may be signed and sealed
Debentures issued by such Agent or Agents shall be sealed with a seal to be provided by the Board for that purpose, and shall be signed by such Agent or Agents, and such sealing and signature shall have the same force and effect as though such debentures had been signed and sealed as provided by section ten of this Act.

17 Debentures may be hypothecated
Prior to the sale of any debentures, it shall be lawful for the Board, for the purpose of constructing such dock lift or other works as aforesaid, from time to time to borrow and raise money by the hypothecation or mortgage of such debentures, upon such terms and conditions as the Board may think fit: Provided that the sum to be so borrowed or raised shall not exceed the sum of one hundred thousand dollars.

The expression "one hundred thousand dollars" was substituted, as from 10 July 1967, for the expression "fifty thousand pounds" pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Security.

18 Debentures to be a first charge on rents and rates
The debentures, together with interest and sinking fund, shall be a first charge on the rents of the land and hereditaments specified in Schedule 3 to this Act, and on all rates which shall be payable in respect of any wharf or dock thereon: Provided that a uniform rate shall be charged in respect of all wharves under the control of the Board on the south side of the Auckland Harbour, and that such rate shall not exceed twenty cents a ton on weight or measurement goods exceeding one ton: Provided also that the railway wharf to be constructed as required by this Act shall be under the control and management of a person to be from time to time appointed by the Governor, and the rates shall be received by him and paid over monthly to the Board.

The expression "twenty cents" was substituted, as from 10 July 1967, for the expression "two shillings" pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

19 Board may not dispose of land except by way of lease

Except as herein provided, it shall not be lawful for the Board to dispose of, by way of sale or otherwise, any of the lands rents rates docks and wharves specified in the next preceding section: Provided that it shall be lawful for the Board, without the concurrence of the debenture-holders, from time to time to grant leases of all or any part of the said lands for such reasonable rents as can be obtained for the same, without taking any fine or premium for the making of such leases.

Sinking fund.

20 Sinking fund provided

For the purpose of providing a sinking fund for the liquidation of the principal, there shall, on the tenth day of January in such year as shall be fixed by the Board, not being later than the tenth day of January next after the expiration of five years after the date of the first debentures issued, be set apart out of the said rents and rates a sum equal to one per centum on all debentures issued at that time.

21 How to be applied

Such sum shall be applied in taking up so many debentures as the sum so set apart will cover, and the balance (if any) shall be deposited at interest in some bank, and added together with the interest to the amount set apart for the same purpose in the next succeeding year.

22 Order in which debentures shall be paid

The order in which the debentures shall be taken up shall be determined by lot in such convenient manner on a day and at a place to be from time to time fixed by the Board.

23 Further provision as to application of sinking fund

On the tenth day of January in every subsequent year, a sum equal to one per centum on the total amount for which debentures have then been issued, with the addition of a sum equal to the interest on all debentures already paid off, shall be applied in taking up so many debentures, to be determined by lot

as aforesaid, as such two sums with any balance from the preceding year and interest thereon added together will cover, and the balance (if any) shall be deposited at interest in some bank, and added together with the interest thereon to the amount to be set apart for the same purpose in the next succeeding year.

24 Interest to cease after time fixed for payment of debentures

When it shall be so decided by lot that any debenture shall be paid off, interest thereon shall be paid up to the tenth day of January following, but no longer: Provided that the full amount of the debentures, with interest thereon to that date, be paid on presentation, and such debentures, with the coupons belonging thereto and not then due, shall be given up to some person authorized by the Board to receive the same.

Receiver.

25 Interest or sinking fund in arrear, debenture-holder may apply for a Receiver

In case any interest due in respect of any debenture shall be in arrear, or any sum due in respect of the sinking fund shall not be applied as hereinbefore provided, for six calendar months, it shall be lawful for the holder of any debenture to apply by petition to the Governor praying that a Receiver may be appointed.

26 Governor may appoint one

On being satisfied that such default as alleged has been made, the Governor shall, by writing under his hand and seal, appoint some fit and proper person to be Receiver, with the powers hereinafter mentioned.

27 Receiver to enter into possession and receipt of rents and rates

Upon his appointment the Receiver shall enter into possession of the land and hereditaments specified in the said Schedule 3, and thenceforth all rents arising therefrom, and rates due in respect of any wharf dock or lift thereon, shall be paid to the

Receiver, or some person appointed by him in writing; and all books papers accounts muniments of title and other documents relating to the matters aforesaid shall be handed over to the Receiver by the person in whose possession the same may be.

28 Application of money

The money so received shall be applied, first, in payment of the expenses incurred in the execution of the powers hereby vested in the Receiver; secondly, in or towards payment rateably amongst the several debenture-holders of arrears of interest and future interest from time to time accruing; thirdly, in discharge of any sums due and accruing in respect of the sinking fund; and if there be any surplus, the same may be expended in improving any portion of the property held in security; and the balance, if any, shall be temporarily deposited at interest at some bank in New Zealand, so as to be available when required for any of the purposes aforesaid.

29 Arrears paid, application may be made to withdraw Receiver

At any time when the arrears of interest and sinking fund have been fully paid and discharged, it shall be lawful for the Board to apply to the Governor by petition praying that the Receiver may be withdrawn and possession given to the Board.

30 Governor may comply

It shall be lawful for but not compulsory on the Governor, on being satisfied that all arrears of interest and sinking fund have been paid and discharged, and that there is a reasonable probability that the same will not again be allowed to run in arrear, to comply with the prayer of the petition.

31 Interest again in arrear, Receiver may be again appointed

Provided that whenever at any future time any interest or sinking fund is again permitted to get into arrear for three calendar months, it shall be lawful for the Governor from time to time, upon a like petition and in like manner, to appoint a Receiver with the same powers as are by this Act given to the first-appointed Receiver.

32 Receiver's powers

During the time any Receiver is in possession he shall have the following powers, namely,—

- (1) To keep all wharves houses and other buildings in repair.
- (2) To insure against loss or damage by fire.
- (3) To exercise all the powers and perform all the functions and duties given to and imposed on the Board by this Act: Provided that no lease shall be granted without being first approved of by the Governor.
- (4) To employ and pay all such persons as may be necessary or proper to assist in the discharge of the duties imposed by this Act.
- (5) Subject to the approval of the Governor, to impose and alter rates for the use of wharves docks or lifts, and for that purpose to exercise all the powers now vested in the Superintendent by any Act of the General Assembly or of the Provincial Council of Auckland.

33 Receiver's remuneration

The Receiver shall be paid such remuneration out of the money received under this Act, by way of salary or commission or otherwise, as shall be from time to time fixed by the Governor in that behalf.

34 Penalty for obstructing Receiver

Any person who shall in any way obstruct or interfere with the Receiver, or with any person appointed by him, while in the exercise of the powers or performance of the duties given or imposed by this Act, or who, after being applied to, shall neglect or refuse to give up to the Receiver any books papers accounts muniments of title or other documents directed to be handed over to him by this Act, shall for every such offence forfeit and pay any sum not exceeding two hundred dollars, to be recovered in a summary way.

The expression “two hundred dollars” was substituted, as from 10 July 1967, for the expression “one hundred pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Security limited.

35 Debentures chargeable fronts and rates only specified in this Act

No debenture-holder shall have any claim whatever, in respect of any debenture issued under this Act, on the revenue of the Colony of New Zealand or of the Province of Auckland, but every such debenture shall be chargeable only on the rents and rates charged therewith by this Act.

36 Application of moneys to be borrowed

The moneys raised under the authority of this Act shall be applied to the purposes mentioned in this Act and Schedule 1 hereto, and no other; and the amounts specified in the Schedule shall be applied to the purposes opposite to which such amounts are set in the said Schedule: Provided any surplus of any of the sums specifically appropriated as aforesaid, after the construction of the work to which the sum is appropriated, may be expended on any other of the said works.

Schedule 1

	£	s	d
1. Railway Wharf and Breastwork in extension of and adjoining to present breakwater extending from Britomart.....	30,000	0	0
2. Reclamation of land between Hardinge Street and Hobson Street.....	8,000	0	0
3. Dock or Hydraulic Lift and reclamation of land adjacent thereto	96,000	0	0

	£	s	d
4. Reclamation of land in Mechanic's Bay, on the south side of the Auckland and Waikato Railway	2,000	0	0
5. Surplus for Contingencies in the above works	14,000	0	0

Schedule 2

FORM OF DEBENTURES.

(£500) New Zealand. (£500)

Auckland Harbour Dock Loan.

£150,000.

Authorized by an Act of the General Assembly, and thereby
charged upon the Auckland Harbour Endowments and Revenues
only, and not upon the Ordinary or other Revenue of New
Zealand, or of the Province of Auckland.

THE principal to be repaid at par by the application to annual
drawings of a one per centum accumulative sinking fund.

The bearer of this Debenture will be entitled to receive from the
Auckland Harbour Board (£500) sterling, on the tenth day of the
month of January following that on which this bond shall have
been drawn for payment.

The bearer will be further entitled to receive interest thereon
half-yearly, at the rate of per centum per annum, from the
day of 187 , inclusive, to the day on which the
above principal shall have become due and payable by reason of
this bond being drawn.

Watchman and Bastion to its intersection with another line bearing south to Resolution Point; on the East by the said line bearing south to Resolution Point; and on the South, from Resolution Point by the seaward boundary of Sections Nos 2 and 1 of the Suburbs of Auckland, and by the seaward termination of all roads in the said suburban sections; to the west of Resolution Point by the seaward boundaries of Lot No 1 of Section No 31 of the City of Auckland; thence by the stream or watercourse to the strand in Mechanics Bay, by the seaward boundary of Sections Nos 12 and 8 of the City of Auckland, and by the seaward terminations of the streets in the said sections, by the seaward boundary of the Ordnance ground known as Point Britomart, by Custom House Street, by the seaward boundary of Sections No 18, 25, 20, and 19 in the City of Auckland, and by the seaward terminations of all streets thereon, by Drake Street, by the seaward boundary of a Government reserve in Freeman's Bay; thence crossing the mouth of the Western Creek in the said Bay, by the seaward boundary of Section No 8 of the Suburbs of Auckland to Acheron Point above named. And also all other allotments, parcels of land, and hereditaments which now are or which may at any time hereafter become vested in the Superintendent of the Province of Auckland, or in the **Auckland Harbour Board**, as endowments for the Harbour of Auckland, and which may be declared by the said Board, by deed under their common seal, to be subject to the provisions of this Act. Excepting therefrom the several pieces or parcels of land marked "Railway and Railway Stations," numbered one and two, and coloured red on the said plan to this Act annexed; and subject nevertheless and without prejudice to any leases and tenancies which have been created and are now subsisting over portions of the said lands in this Schedule described mentioned or referred to.