

**Reprint
as at 5 March 1933**



**Otago Harbour Board Empowering
Act 1932–33**

Local Act 1932 No 6
Date of assent 4 March 1933
Commencement see section 11

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

Schedule

9

An Act to amend the Otago Harbour Board Empowering Act 1926 and the Otago Harbour Board Empowering Act 1929 and to vest further powers in the Otago Harbour Board

Preamble

Whereas by the Otago Harbour Board Empowering Act 1926 (hereinafter called the **principal Act**), the Otago Harbour Board (hereinafter called the **Harbour Board**) was authorised to borrow any sums of money not exceeding in the whole 350,000 pounds, and it was provided that the moneys borrowed under the authority of the said Act should be applied for the general improvement of Otago Harbour in carrying out the works specified in the Schedule of the said Act:

And whereas the objects upon which the said loan moneys were to be expended were partly altered by the Otago Harbour Board Empowering Act 1929 (hereinafter called the **amendment Act**):

And whereas the Harbour Board has reclaimed from the sea a part of its endowment including the area in the vicinity of the mouth of the Water of Leith, all as shown in the plan deposited in the office of the Marine Department at Wellington as Number MD 7041; and in connection with and for the purpose of such reclamation has constructed a channel or canal for the purpose of disposing of the waters of the Water of Leith (which channel or canal is hereinafter referred to as the **said canal**):

And whereas it is deemed expedient for the purpose of providing additional flood protection to increase the capacity of the said canal partly by increasing its size, partly by a new and additional channel or canal, and partly by other works:

And whereas for the purposes of the said new and additional channel or canal it is necessary to occupy and use part of the area occupied by a street alongside the said canal and called Laurel Bank:

And whereas, for the purpose of replacing in part the said street, part of the proposed works consists of the acquisition and laying off and construction as a public street in manner hereinafter mentioned of the land described in the Schedule, which land is vested in the Harbour Board, and is under lease from the Harbour Board to certain lessees:

And whereas it is considered by the Harbour Board that the provision of such additional flood protection is more urgent than some of the objects mentioned in the principal Act and the amendment Act:

And whereas it has been found that the actual cost of acquiring or completing respectively some of the said objects is or will be greater than the estimated cost:

And whereas of the total amount authorised to be borrowed by the principal Act 3 several issues have been made amounting to 100,000 pounds, 125,000 pounds, and 25,000 pounds respectively:

And whereas part of the said issues was made at a discount, which discount and the brokerage paid in connection therewith amount together to the sum of 7,156 pounds:

And whereas it is deemed expedient to empower the Harbour Board to apply 10,000 pounds, part of the loan authorised to be borrowed as aforesaid, towards the cost of such additional flood protection and the works in connection therewith, and to make such consequential alterations in the principal Act and the amendment Act as are hereinafter specified:

And whereas it is also deemed expedient to increase the amount authorised to be expended on certain of the objects specified in the principal Act and the amendment Act, and to reduce the amount authorised to be expended on certain others of those objects in manner hereinafter appearing:

And whereas all those lands comprising Sections numbered Fifteen (15), Sixteen (16), and Seventeen (17), Block Seventy-three (LXXIII), on the plan deposited in the Lands Registry Office at Dunedin as Number 2086, and being part of the land included in certificate of title, Volume 177, folio 97, Otago Lands Registry, are vested in the Harbour Board, subject to the provisions of the Otago Harbour Board Empowering Act 1875:

And whereas the said lands or part thereof are or may be required by the Dunedin Drainage and Sewerage Board (hereinafter called the **Drainage Board**) in connection with the operations of that Board:

And whereas certain loans raised by the Harbour Board become due and payable in 1934:

And whereas debentures issued by the Harbour Board in respect of loans maturing in 1934 are payable either in London or New Zealand at the option of the holders and for various reasons, but principally owing to the present high rate of exchange, it is desirable that the said Board should have power to purchase debentures issued in respect of such loans respectively:

And whereas doubts have been raised as to whether the Board has such power.

1 Short Title

This Act may be cited as the Otago Harbour Board Empowering Act 1932–33.

2 Power to acquire lands and lay off street

- (1) It shall be lawful for the Harbour Board to take under the provisions of the Public Works Act 1928, or otherwise acquire for the purposes of a public street, the interests of the respective lessees in the area of land described in the Schedule and to lay off the same area of land as a public street.
- (2) The Harbour Board shall to the satisfaction of the local authority (being the Corporation of the City of Dunedin) construct the said area of land as a public street in so far as shall be necessary to place the same with regard to metalling, kerbing, and channelling in as good a state as that part of the existing street which it replaces, and the Harbour Board shall also alter the footpath, kerbing, and channelling of the other part of the said existing street in so far as shall be necessary to accord with the decreased width of the street, with all necessary metalling.
- (3) When and so soon as the works mentioned in subsection (2) shall be completed the said area of land shall be and become a public street within the meaning of the Municipal Corpor-

ations Act 1920, and the Harbour Board shall produce to the District Land Registrar at Dunedin a certificate signed by the Chairman of that Board and the Mayor of the City of Dunedin to the effect that the said works have been completed and that the said land has become a public street. The District Land Registrar shall register such certificate against the title to the land affected and shall have the street coloured off and noted on Deposited Plan No 3389.

- (4) The provisions of this section shall take effect notwithstanding anything to the contrary contained in the Municipal Corporations Act 1920, the Town-planning Act 1926, or any other Act; and the District Land Registrar of the Land Registration District of Otago shall accordingly upon request register any transfer or surrender vesting in the Harbour Board the interests of the respective lessees in the said area of land.

3 Compensation

The following provisions shall apply in respect of lands taken or acquired under the last preceding section or injuriously affected by the said works:

- (a) Compensation payable to lessees from the Harbour Board of the said area of land for or in respect of their respective interests in such land and for injurious affection by the said works to or of the remaining lands held by such lessees respectively and compensation payable to lessees of other lands held under lease from the Harbour Board for injurious affection thereof by the said works may be paid or satisfied either by a money payment or by a reduction of the rent payable under the respective leases, or partly by the one method and partly by the other.
- (b) The amount of the said compensation and the method of payment or satisfaction thereof as aforesaid may be determined by arbitration under the Arbitration Act 1908.
- (c) Any reduction of rent agreed upon or awarded may be effected by a memorandum in writing executed by the Harbour Board and by the lessee and the mortgagee under any mortgage registered against the lease, and such memorandum shall upon request be registered

against the lease by the District Land Registrar of the Land Registration District of Otago.

- (d) In the case of the lease of any portion of the said area of land upon and after the vesting in the Harbour Board of the leasehold interest therein the lease of the land of which the same forms a part shall be read and construed and take effect in all respects as if the land remaining subject thereto had been the only land originally demised thereby but subject to the reduction of rent effected by any such memorandum as aforesaid.

4 Power to execute works

The Harbour Board is hereby empowered to construct and carry out the works shown in the plan deposited in the office of the said Marine Department as Number MD 7042, notwithstanding that the said works will decrease the width of the street called Laurel Bank adjacent to the said canal.

5 Power to apply loan moneys

The Harbour Board is hereby empowered to apply 10,000 pounds of the moneys borrowed or to be borrowed under the authority of the principal Act towards the cost of the works mentioned in sections 2 and 4 (hereinbefore and hereinafter called the **said works**).

6 Reclamation and works to be deemed harbour works

The said reclamation and canal and the said works shall be deemed for all purposes to be harbour works duly authorised and executed under and in accordance with the Harbours Act 1923, including section 171.

7 Amendment of principal Act and amendment Act

Amendment(s) incorporated in the Act(s).

8 Provisos to section 3 of principal Act to apply

The several provisos to section 3 of the principal Act shall apply and operate as if the alterations made by the amendment Act and this Act had been contained in the principal Act.

9 Power to sell land

Notwithstanding the provisions of the Otago Harbour Board Empowering Act 1875 or any other Act, it shall be lawful for the Harbour Board to sell and transfer to the Drainage Board, and for the Drainage Board to purchase, the said Sections Fifteen, Sixteen, and Seventeen, Block Seventy-three, Dunedin, or any part thereof, for such consideration and with, upon, and subject to such terms and conditions, as the said Boards shall mutually agree on; and the moneys received by the Harbour Board from time to time as the price or prices of the lands sold and purchased as aforesaid shall if received before 1 January 1934, be applied towards the redemption of the debentures falling due on the said 1 January 1934 in respect of moneys borrowed by the Harbour Board, and if received after that date shall be paid into and form part of the sinking fund in connection with any loan raised by the Harbour Board as that Board shall determine and in the meantime, and until such application or payment, as the case may be, the Harbour Board may invest such moneys in such securities as the Board may determine or may deposit the same at interest in any bank, and the income derived from such investment or deposit shall be added to the principal sum and be applied for the same purpose.

10 Power to purchase debentures

- (1) It shall be lawful for the Harbour Board to apply the whole or part of all or any of its Reserve Funds in the purchase of debentures issued in respect of any loan raised by the said Board and which becomes due and payable in 1934.
- (2) For the purchase of any such debenture the Board may pay more than the face or nominal value thereof to such extent as the Minister of Finance may approve.
- (3) Any debenture so purchased shall not be deemed to be redeemed, and the Board shall continue to pay the interest payable thereunder into the Reserve Fund the moneys of which are used in the purchase of the debenture, and shall upon the maturity of the debenture pay the full face or nominal amount thereof into such Reserve Fund:

provided that in the case of the Loans (1934) Redemption Reserve Fund the total amount standing to the credit of that Reserve shall thereupon be utilised for the redemption of debentures maturing on 1 January 1934 and for expenses in connection therewith.

- (4) The purchase of any debenture or debentures as aforesaid shall not, nor shall anything herein contained, limit or affect the power of the Board to borrow moneys for the purpose of repaying the loan or respective loans in respect of which any debenture or debentures so purchased were issued, including the amount or amounts payable under or by virtue of such debenture or debentures.

11 Commencement of Act and validation

This Act shall be deemed to have come into force on 1 November 1931, and such expenditure of loan moneys, such execution of works, and such other acts as would have been lawful if this Act had been passed at the time of such expenditure, works, and acts respectively, are hereby validated.

12 Special Act

This Act shall be deemed to be a special Act within the meaning of the Harbours Act 1923.

Schedule

All those parcels of land containing together 5.12 poles, be the same a little more or less, situated in the City of Dunedin, being part of Allotments numbered respectively Five (5) and Seven (7) on the plan of subdivision of part of Block Seventy-two (LXXII), deposited in the Lands Registry Office at Dunedin as Number 3389, which parcels of land are bounded and admeasured as follows: commencing at the southernmost corner or angle of said Allotment Seven, and running thence in a north-easterly direction on a bearing of $21^{\circ}39'42''$ for a distance of 41.85 links; thence in a south-westerly direction on a bearing of $246^{\circ}39'42''$ for a distance of 21.43 links; thence in a north-westerly direction on a bearing of $291^{\circ}39'42''$ for a distance of 211.42 links, to a point in the north-westerly boundary of said Allotment Five; and thence in a south-easterly direction on a bearing of $118^{\circ}39'$ for a distance of 114.15 links; thence again in a south-easterly direction on a bearing of $118^{\circ}07'$ for a distance of 114 links, back to the commencing point: and bounded towards the south-east by Harbour Terrace; towards the north-west and north-east respectively by other parts of said Allotments Five and Seven; and towards the south-west by Laurel Bank. All as more particularly shown in the plan deposited in the office of the Marine Department at Wellington as MD 7043, and therein coloured pink.

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Notes**1 General**

This is a reprint of the Otago Harbour Board Empowering Act 1932–33. The reprint incorporates all the amendments to the Act as at 5 March 1933, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*
