

Timaru Harbour District Act 1906

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Contents

		Page
	Title	1
	Preamble	1
1	Short Title	2
2	Timaru Harbour Board and Waimate Borough Council to each appoint a Commissioner to inquire as to inclusion of Borough of Waimate in the Timaru Harbour District, and the terms, &c, of its inclusion	2
3	Colonial Secretary to appoint a Judge of the High Court to act as Chairman of Court of Inquiry, and a Commissioner on default of either body	3
4	Powers of Court of Inquiry	3
5	Borough of Waimate to be deemed to be included in or excluded from the Timaru Harbour District as decided or agreed on and gazetted	3
6	How vacancies in Court of Inquiry to be supplied	4
7	Costs of inquiry	4
8	Act to be deemed to be a special Act	5

An Act to provide for the Inclusion of the Borough of Waimate in the Timaru Harbour District should such Inclusion be found to be Just and Equitable, and for other Purposes.

Preamble

WHEREAS when the boundaries of the Timaru Harbour District were originally defined the Borough of Waimate was excluded therefrom, and it has since continued to be so excluded, although comprised within the territorial limits of the said harbour district: And whereas it is alleged that the persons resident or carrying on

business in the said borough benefit by the Port of Timaru, without contributing anything towards the rates or contributions levied on the harbour district for the payment of charges incurred in consequence of the construction of the harbour-works, and that such immunity from liability is unfair to the ratepayers in the said harbour district; and it is expedient that provision be made for inquiring into the aforesaid matters, and remedying any injustice that may be found to exist: And whereas it is also desirable to make provision for certain other matters hereinafter mentioned:

BE IT THEREFORE 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 is The Timaru Harbour District Act 1906.

2 Timaru Harbour Board and Waimate Borough Council to each appoint a Commissioner to inquire as to inclusion of Borough of Waimate in the Timaru Harbour District, and the terms, &c, of its inclusion

On receipt of an application in writing from the Chairman of the Timaru Harbour Board, the Colonial Secretary shall require the Timaru Harbour Board and the Council of the Borough of Waimate respectively to each appoint a Commissioner to inquire and determine whether or not it is just and equitable that the Borough of Waimate be included in the Timaru Harbour District; and if the decision is in the affirmative, then from what date it should be so included, the terms of its inclusion, particularly as to past loans and future liabilities, and how and by whom the same ought to be borne, the mode and proportion of representation to which it is to be entitled on the said Harbour Board, and any other matters that it may be necessary to inquire into or determine in order to give due effect to such decision:

Provided that payment of past interest shall not be included in any decision.

3 Colonial Secretary to appoint a Judge of the High Court to act as Chairman of Court of Inquiry, and a Commissioner on default of either body

The Colonial Secretary shall appoint a Judge of the High Court to sit with the Commissioners aforesaid upon such inquiry, and to act as Chairman, and exercise equal jurisdiction with them in respect of the determination of the matters aforesaid. If either the said Harbour Board or the Council of the Borough of Waimate fails to appoint a Commissioner within one month after being required so to do, the Colonial Secretary shall make the necessary appointment.

The words "High Court" were substituted, as from 1 April 1980, for the words "Supreme Court" pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

4 Powers of Court of Inquiry

The Commissioners and the said Judge shall sit as a Court of Inquiry, and shall have the powers of Commissioners under The Commissioners Act 1903, and any Act amending the same, and may accept, admit, and call for such evidence as in equity and good conscience such Court thinks fit, whether strictly legal evidence or not; and no proceedings in or decision of the said Court shall be removable into any other Court by *certiorari* or otherwise, or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any Court of judicature on any account whatsoever. The decision of the Commissioners and the said Judge, or of the majority of them who act, shall be final and conclusive, and shall be stated in writing signed by the Judge as Chairman, and forwarded to the Colonial Secretary.

5 Borough of Waimate to be deemed to be included in or excluded from the Timaru Harbour District as decided or agreed on and gazetted

On receipt of the written statement of such decision by the Colonial Secretary he shall cause the same to be published in the New Zealand Gazette, and thereupon the said Borough of Waimate shall become and be deemed to be part of the Timaru Harbour District in accordance with the terms of the

said decision, or shall continue to be excluded therefrom if the decision be to that effect. In either case the Timaru Harbour District as now existing, or as enlarged by the inclusion of the said borough, shall be deemed to be the Timaru Harbour District referred to in all general and special Acts relating to or affecting the said Board. If the said Harbour Board and the Council of the Borough of Waimate enter into an agreement in writing to be approved of by the said Council by special order agreeing to the inclusion of the said borough in the said harbour district, and settling and defining the terms of such inclusion, and the mode and proportion of representation on the said Harbour Board to which the said Borough is to be entitled, it shall not be necessary to appoint such Court of Inquiry as aforesaid, but such agreement shall be published in like manner and have the force and effect of a decision of such Court.

6 How vacancies in Court of Inquiry to be supplied

If any vacancy in the membership of such Court of Inquiry shall arise by death, or if in the opinion of the Colonial Secretary any member thereof shall become unfit to act or be incapacitated from acting, such vacancy shall be supplied or another member shall be appointed in lieu of the member becoming unfit or incapacitated as aforesaid, and it shall be supplied in the same manner as the original appointment; and in such case it shall not be necessary to commence the proceedings afresh, but they may be continued from the stage at which the vacancy occurred.

7 Costs of inquiry

The costs of and incidental to such inquiry shall be fixed and determined by the said Court of Inquiry, or the majority of the members thereof, and borne and paid as directed by the decision. In default of payment, the amount thereof may be recovered by the Colonial Secretary from the party in default as a debt due to the Crown, and when received shall be paid as may have been directed by the said Court of Inquiry.

8 Act to be deemed to be a special Act

This Act shall be deemed to be a special Act within the meaning of the Harbours Act 1950; and all the provisions of that Act as amended, and of the special Acts relating to the said Board, shall apply to this Act, except so far as such provisions may be repugnant to or inconsistent with this Act, and to that extent they shall be deemed to be modified. The corporate capacity, rights, or liabilities of the Timaru Harbour Board as now constituted shall not be affected by this Act.

A reference to the Harbours Act 1908 was substituted, as from 4 August 1908, for a reference to the Harbours Act 1878 pursuant to section 1(2) Harbours Act 1908 (1908 No 75). That reference was in turn substituted, as from 29 August 1923, by a reference to the Harbours Act 1923 pursuant to section 259(1) Harbours Act 1923 (1923 No 40). That reference was in turn substituted, as from 15 October 1950, by a reference to the Harbours Act 1950 pursuant to section 269(1) Harbours Act 1950 (1950 No 34). The term “special Act” was omitted from the Harbours Act 1950, as from 1 December 1961, by section 2 Harbours Amendment Act 1961 (1961 No 114).