

New Zealand



ANALYSIS

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1941, No. 8—*Local and Personal*

AN ACT to provide for the Establishment of an Institution to be known as the Auckland Community Welfare Centre, and for the Incorporation and Powers of a Board in connection therewith; to empower the Auckland City Council to require the Installation of Drainage Facilities in the Case of certain Properties and to make Advances and Contributions in connection therewith; to validate certain Expenditure by the said Council in connection with the North Shore Boroughs (Auckland) Water-supply Act, 1941; and to empower the said Council to contribute towards the Cost of the Acquisition of certain Land for the purposes of Part I of the Housing Act, 1919.

[17th October, 1941

WHEREAS the Freeman's Bay Christian Community Service Trust Board, a body incorporated under the provisions of the Religious, Charitable, and Educational Trusts Act, 1908, has for some time past been providing charitable services for the benefit and assistance of needy persons in the City of Auckland: And whereas the Auckland City Council and the said Trust Board, in association with the Auckland Hospital Board and certain other bodies and persons, have arranged to establish an institution, to be known as the Auckland Community Welfare Centre, for the purpose of providing facilities and services designed to promote the health and well-being of needy persons in the said city and its suburbs, and generally of furnishing assistance and relief to such persons in collaboration with the said Trust Board: And whereas it is desirable that the establishment of such institution should be duly authorized and that a Board of Trustees to act in connection therewith should be incorporated: And whereas it is desirable that the Auckland City Council should have power, in the case of properties within the City of Auckland which cannot conveniently be connected with the sewerage system of the city and from which nightsoil is removed by the said Council, to require the owners thereof to install thereon septic tanks or privies of the bored-hole latrine type and to make allowances or

advances to such owners for the purpose of enabling them to meet the cost of such installation: And whereas by subsection five of section three of the North Shore Boroughs (Auckland) Water-supply Act, 1941, the said Council was authorized from time to time to raise a special loan for the purpose of carrying out any works required to enable the Council to perform its obligations under any contract entered into pursuant to a requisition issued under section three of the said Act: And whereas it is desirable that the said Council, pending the raising of a loan as aforesaid, should be authorized to expend moneys required for the said purpose out of its District Fund: And whereas His Majesty the King has arranged to acquire certain land situated in Grey's Avenue in the City of Auckland for the purposes of Part I of the Housing Act, 1919: And whereas such land is being so acquired for the said purposes by arrangement with the said Council, and such Council has agreed, subject to the necessary authority being conferred upon it, to contribute the sum of twenty-five thousand pounds towards the cost of the acquisition of the same and the erection of dwellings thereon: And whereas it is desirable that the said Council should be authorized to make the contribution aforesaid and to provide for the same by raising a special loan:

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

Short Title.

1. This Act may be cited as the Auckland Community Welfare Centre and Auckland City Empowering Act, 1941.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“ Board ” means the Auckland Community Welfare Centre Board constituted under this Act:

“ Council ” means the Auckland City Council, and includes the body corporate called the Mayor, Councillors, and Citizens of the City of Auckland:

“ Community Service Organization ” means the Freeman's Bay Christian Community Service Trust Board.

PART I.

PROVISIONS RELATING TO THE AUCKLAND COMMUNITY
WELFARE CENTRE.

3. (1) There is hereby established a Board constituted as hereinafter provided.

Auckland
Community
Welfare
Centre Board
established.

(2) The Board shall be a body corporate under the name of the Auckland Community Welfare Centre Board, with perpetual succession and a common seal, and shall be capable of holding and dealing with real and personal property and of doing and suffering all that bodies corporate may lawfully do and suffer.

4. The Board shall consist of nine members, comprising the following persons :—

Constitution of
Board.

(a) The persons for the time being holding the offices of Mayor of the City of Auckland and of Chairman of the Auckland Hospital Board respectively, who shall be members *ex officio* :

(b) One person appointed by the Council :

(c) One person appointed by the Auckland Hospital Board :

(d) Three persons appointed by the Community Service Organization :

(e) One person appointed by the Minister of Internal Affairs :

(f) One person appointed by the Minister of Health.

5. The first members of the Board (other than the persons mentioned in paragraph (a) of the last preceding section, who shall become members thereof upon the passing of this Act) shall be appointed within sixty days after the passing of this Act.

First members of
Board.

6. The first members of the Board shall hold office until the members first appointed under the next succeeding section come into office.

Term of office of
first members.

7. (1) The appointment of members of the Board (other than *ex officio* members) shall take place in every year (excepting the year nineteen hundred and forty-one) in which municipal general elections are held under the Municipal Corporations Act, 1933, or any Act passed in substitution therefor, and in the month of such year following that in which such elections are held.

Appointment of
subsequent
members.

(2) Retiring members shall be eligible for reappointment either by the same or another appointing authority.

Term of office of
appointed
members.

8. (1) Every member of the Board appointed under the last preceding section shall come into office on the first day of the month following that fixed for his appointment, and shall, unless his office sooner becomes vacant, hold office until his successor comes into office.

(2) Every member appointed to fill any vacancy pursuant to section ten hereof shall come into office on the day following that on which he is appointed, and shall hold office only for the residue of the term for which his predecessor was appointed.

Vacancies.

9. (1) The office of a member shall become vacant if he—

(a) Dies ; or

(b) Resigns his office by writing under his hand delivered to the Secretary or Chairman of the Board, or is ousted of his office ; or

(c) Becomes of unsound mind ; or

(d) Becomes a bankrupt, or makes any composition with any of his creditors for less than twenty shillings in the pound, or makes an assignment of his estate for the benefit of his creditors ; or

(e) Is convicted on an indictment, or is sentenced by the Supreme Court on a plea of guilty, to any charge of an indictable offence, or is sentenced by the Court for any offence to imprisonment without the option of a fine or to reformative detention under any Act ; or

(f) Is absent without leave from four consecutive meetings of the Board.

(2) Any vacancy occurring under this section shall be deemed an extraordinary vacancy.

How vacancies
filled.

10. In the event of an extraordinary vacancy occurring it may be filled by the authority which appointed the member whose seat has been vacated.

Chairman of
Board.

11. (1) The Board may from time to time elect one of its members to be chairman of the Board and determine the period for which he is to hold office.

(2) At every meeting for the election of Chairman the Secretary shall preside while the Chairman is being elected, or if there shall be no Secretary, then some person appointed by the Board not being a member of the Board shall so preside, and in case of an equality of votes shall determine the election by lot in such manner as the Board determines.

12. (1) The Board may from time to time appoint standing or special committees, and may delegate to such committees any matters for consideration or inquiry or management or regulation, and may delegate to any such committee any of the powers and duties by this Act conferred or imposed upon the Board. The Board may appoint as members of any such committee persons who are not members of the Board. Committees.

(2) Every committee to which any powers or duties are delegated as aforesaid may, without confirmation by the Board, exercise or perform the same in like manner and with the same effect as the Board could itself have exercised or performed the same.

(3) Every such committee shall be subject in all things to the control of the Board, and shall carry out all directions, general or special, of the Board given in relation to such committee or its affairs.

(4) The Board may from time to time discharge, alter, continue, or reconstitute any committee appointed by it.

(5) Every committee shall, unless sooner discharged by the Board, be deemed to be discharged on the coming into office of the members appointed under section seven hereof next after the appointment of the committee.

13. (1) Upon proof in the first instance, by affidavit or otherwise, that any member of the Board is or has become incapable under this Act of holding his office, any Magistrate's Court may grant a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of the same. Ouster of office.

(2) If on the return of such summons it appears to the Court, on affidavit or oral evidence on oath, that such person is incapable under this Act of holding the said office, the Court may adjudge such person to be ousted of the same, and such person shall be ousted of such office accordingly.

(3) In any such proceeding the Magistrate's Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases, and the procedure of such Court shall, so far as applicable, apply generally to proceedings had under this section.

(4) No question which may be tried under this section shall be tried in the Supreme Court; and no proceedings in the Magistrate's Court hereunder shall be removable into the Supreme Court by certiorari or otherwise.

Quorum, &c.

14. At any meeting of the Board five members thereof shall constitute a quorum, and the decision of a majority of the members present and voting at any meeting of the Board shall be the decision of the Board. The Chairman at any meeting of the Board shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

Meetings.

15. Meetings of the Board may be held at any time or place appointed by the Board or by any three members thereof.

Validity of acts of Board not to be impaired by vacancies or defective appointments.

16. The Board may act notwithstanding any vacancy in its membership, and the validity of any act of the Board shall not be affected or called in question by reason of any defect or informality in the appointment of a member of the Board.

Contracts of Board, how made.

17. (1) Any contract which if made between private persons must be by deed shall, if made by the Board, be in writing under the seal of the Board.

(2) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith may, if made by the Board, be in writing signed on behalf of the Board by some person duly authorized in that behalf.

(3) Any contract which if made between private persons may be made orally without writing may be similarly made by or on behalf of the Board, but no oral contract shall be made for any sum exceeding twenty pounds.

Function of Board.

18. (1) The primary function of the Board shall be to provide and maintain a community welfare centre on the land described in the Schedule hereto and such other facilities and services designed to promote

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the health and well-being of needy persons in the city and suburbs of Auckland as the Board may think fit, and generally to furnish assistance and relief to such persons.

(2) No part of the said land or of any building erected thereon shall be used for the purpose of holding Church services or services of a purely religious character or for the furtherance of the work of any religious denomination, but this provision shall not prevent the carrying-out of devotional exercises at any gathering held upon the property.

19. The Council is hereby empowered to transfer to the Board the land described in the Schedule hereto to be held by the Board for the purposes of its primary function as herein set out.

Power to
Auckland City
Council to
transfer certain
land.

Provided, however, that if such land is so transferred and the Board should subsequently cease to function or fail or cease to utilize such land for the purposes aforesaid, then the Board shall at the request of the Council transfer such land to the Council to be held by it for municipal purposes.

TEMP. 19

No. 3

(LOCAL)

20. The Board may erect upon the land referred to in the last preceding section a suitable building to serve as the headquarters of the activities of the Board, to be known as the Auckland Community Welfare Centre, and may install and provide therein such equipment and facilities as the Board shall think fit.

Power of Board
to establish
Auckland
Community
Welfare Centre.

TEMP. 19

No. 3

(LOCAL)

General powers
of Board.

21. The Board shall have power—

- (a) To maintain, manage, control, operate, improve, enlarge, and develop the Auckland Community Welfare Centre as and in such manner as it shall think fit:
- (b) To expend moneys in any manner which in the opinion of the Board may be desirable for carrying out the purposes for which the Board is established:
- (c) To provide, either within or without the Auckland Community Welfare Centre, any service or facility which the Board shall think fit for the purpose of directly or indirectly benefiting needy persons in the city and suburbs of Auckland:

- (d) From time to time to enter into any contracts or arrangements with the Community Service Organization providing for the occupation or use (exclusive or otherwise) by such organization for the purposes of its work, for such period or periods and upon such terms and conditions as may be arranged between the Board and the said organization, of any part or parts of the Auckland Community Welfare Centre or of any equipment or facilities provided therein; and generally to co-operate or associate itself in such manner as it shall think fit with the said organization or with any other body in carrying out any charitable work or in providing any services or facilities as aforesaid:
- (e) To enter into such arrangements with the Auckland Hospital Board as may be thought fit for the establishment of a clinic or similar activity in the Auckland Community Welfare Centre by the Hospital Board, the equipment, operation, and maintenance thereof, and the provision therein or in connection therewith of medical, dental, surgical, or other services; and for such purposes to grant to the Hospital Board the use of portion of the said welfare centre upon such terms and for such period or periods as may from time to time be agreed upon:
- (f) If it shall think fit, to make charges for any services rendered or for the use of any facility provided:
- (g) To employ and remunerate any officers or servants upon such terms as it shall think fit:
- (h) To sell any real or personal property belonging to the Board, except the land described in the Schedule hereto and any building erected thereon:
- (i) To purchase or otherwise acquire or take on lease or bailment any real or personal property upon such terms as the Board shall think fit:

(j) To let or lease upon such terms as it shall think fit any property which for the time being may not be required for the purposes of the Board :

Provided that the property described in the Schedule hereto shall not be let or leased except pursuant to paragraphs (d) or (e) of this section :

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No. 2.

(k) To enter into any contracts or arrangements for the provision by any person or body of any services or facilities which the Board is authorized to provide :

(l) To borrow moneys, on mortgage or otherwise, upon such terms as it shall think fit :

Provided that the Board shall not be entitled to mortgage or charge the land described in the Schedule hereto :

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No. 2.

(m) From time to time to invest any of its funds not immediately required in any manner in which trustees are authorized by law to invest trust funds :

(n) To regulate its own procedure :

(o) To pay or contribute towards the costs of the promotion and passing of this Act :

(p) To accept and receive any gift, bequest, or devise of any money or property in trust for charitable purposes generally or for any specified charitable purpose, and to execute and administer any such trust in accordance with the provisions of the instrument constituting the same :

(q) Generally to do any act or thing which in the opinion of the Board may be necessary or desirable in connection with the establishment and management of the Auckland Community Welfare Centre or any other facilities or services which the Board may decide to provide, and any act or thing whatsoever which in its opinion may be of benefit to the needy of the city and suburbs of Auckland.

22. The Council may from time to time out of its ordinary funds make such contributions to the funds of the Board as it shall think fit.

Auckland City
Council may
make
contributions.

Empowering
Auckland
Hospital Board
to expend
moneys.

Exemption from
rates.

AND

No.

Banking and
withdrawal of
Board moneys.

Board may
establish an
Imprest
Account.

23. The Auckland Hospital Board is hereby authorized to expend moneys out of its ordinary funds in or towards the carrying-out of any arrangements which may be made pursuant to paragraph (e) of section twenty-one hereof.

24. The land described in the Schedule hereto while vested in the Board shall be deemed not to be rateable property for the purposes of the Rating Act, 1925.

25. (1) All moneys belonging to the Board amounting to five pounds and upwards shall within seven days after they have come to the hand of the proper officer of the Board be paid into the account of the Board at such bank as the Board from time to time appoints.

(2) No moneys shall be withdrawn from the bank except by authority of the Board and by cheque signed by two members of the Board or signed by the Treasurer and countersigned by a member of the Board.

26. (1) The Board may, pursuant to a resolution in that behalf, establish an Imprest Account, which shall be kept at such bank as the Board from time to time appoints.

(2) The Imprest Account may be held jointly in the names of and be operated on by the Treasurer and one other person to be appointed in that behalf by the Board, or may with the express approval in writing of the Audit Office, but not otherwise, be in the sole name of and be operated on by the Treasurer or other approved officer of the Board. Where the Imprest Account is held jointly in the names of the Treasurer and of one other person as aforesaid, such last-mentioned person shall be either a responsible officer of the Board or a member of the Board.

(3) The Board shall from time to time by resolution fix the maximum amount that may be held at any time in the Imprest Account, not exceeding seventy-five pounds in any case where the Imprest Account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case.

(4) Moneys in the Imprest Account shall be available only for the payment of wages and of emergency expenditure. A statement of all payments made from the Imprest Account shall be submitted to the Board for approval at its first ordinary meeting thereafter. The payment of moneys out of the Imprest Account for any purpose not hereby authorized shall be deemed to be the misappropriation of the funds of the Board.

(5) The provisions of the last preceding section shall be read subject to the provisions of this section.

27. (1) The Board shall keep full and correct Accounts. accounts of all moneys received and expended by it, and such accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act, 1926, in respect of public moneys and the audit of local authorities' accounts.

(2) The Board shall, before the end of April in each year, cause the accounts of the Board for the past year, ended the thirty-first day of March then last past, to be balanced and also full and true statements and accounts of all the moneys received and expended by the Board during the past year, and of the assets and liabilities of the Board at the end of the year, to be prepared; and such statements and accounts, signed by the Chairman and the Treasurer of the Board, shall be submitted by the Chairman to the Audit Office.

28. Where anything is omitted to be done or cannot be done at the time required by or under this Part of this Act, or is done after such time or is otherwise irregularly done or sufficient provision is not made by or under this Act, the Governor-General may, by Order in Council gazetted at any time before or after the time within which such thing is required to be done, extend such time or may validate anything done after the time required or so irregularly done, or make other provisions for such case as he thinks fit. Extensions of time.

PART II.

OTHER PROVISIONS.

Power to Council
to require sewage
facilities to be
provided.

29. (1) In respect of any land or building within the City of Auckland which in the opinion of the Council cannot conveniently be connected to the sewerage system of the city and from which nightsoil is for the time being removed by the service provided by the Council, the Council may, by notice in writing, require the owner of such land or building, within a period to be prescribed in the notice, to provide thereon either septic tank drainage or, at the option of the Council, a privy of the bored-hole latrine type.

(2) If the owner fails to comply with the notice within the period therein prescribed the Council may if it thinks fit cause to be done the work required by such notice and may recover from the owner the costs and expenses of the work, together with five per centum of those costs and expenses for supervision, and interest at the rate of six per centum per annum on the total sum until payment thereof.

(3) The Council may if it thinks fit make any contribution or allowance to the owner towards the cost of the work.

(4) Sections two hundred and thirty-four, two hundred and thirty-five, and two hundred and thirty-six of the Municipal Corporations Act, 1933, shall extend and apply to the provision of sanitary facilities under this section as if the same were drainage-works under the said Act.

Validating
expenditure of
Council in
connection with
North Shore
water-supply.

30. (1) Pending the raising of a special loan pursuant to the authority conferred by subsection five of section three of the North Shore Boroughs (Auckland) Water-supply Act, 1941, the Council is hereby authorized, and shall be deemed at all times to have been authorized, to expend moneys out of its District Fund for the purpose mentioned in the said subsection.

(2) Upon the raising of a loan pursuant to such authority the Council may out of the proceeds thereof refund to its District Fund the amount theretofore expended thereout for the purpose aforesaid.

31. (1) The Auckland City Council is hereby authorized to pay into the Housing Account the sum of twenty-five thousand pounds as a contribution towards the cost of the acquisition by His Majesty the King of land in Grey's Avenue in the City of Auckland and the erection of dwellings thereon.

Authorizing
payment by
Council to
Housing
Account.

(2) The said Council may, by special order and without taking the steps prescribed by sections nine to thirteen of the Local Bodies' Loans Act, 1926, raise a special loan for a sum not exceeding twenty-five thousand pounds for the purpose of making the payment authorized by the last preceding subsection.

SCHEDULE.

Schedule.

ALL that piece of land containing 20·2 perches, more or less, being part of Allotment 16 of Section 41 of the City of Auckland and part of the foreshore of the Auckland Harbour: as the same is delineated on a plan deposited in the office of the Chief Surveyor, Auckland, numbered 32219.

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