

*Hon. Mr. Hackett*

## HARBOURS AMENDMENT

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### ANALYSIS

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### A BILL INTITULED

AN ACT to amend the Harbours Act, 1923.

Title.

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

1. This Act may be cited as the Harbours Amendment Act, 1948, and shall be read together with and deemed part of the Harbours Act, 1923 (hereinafter referred to as the principal Act).

Short Title.

See Reprint  
of Statutes,  
Vol. III, p. 568

10 2. (1) The principal Act is hereby amended by repealing the First Schedule, and substituting the First Schedule set out in the *First* Schedule to this Act.

Additional  
members of  
Harbour  
Boards to  
represent  
workers in  
the waterfront  
industry.

(2) Section seventeen of the principal Act is hereby amended by adding to paragraph (b) of subsection two  
15 the words “ as representing the Government ”.

(3) Section seventeen of the principal Act is hereby further amended by omitting paragraph (c) of subsection two, and substituting the following new paragraphs:—

“(c) The number of non-elective members mentioned 5  
in the third column of the said Schedule shall be appointed from time to time by the Governor-General as representing the workers in the waterfront industry.

“(d) The remaining members of the Board shall 10  
be elected as mentioned in the fourth column of the said Schedule.”

(4) In every case where the number of members of any Harbour Board is increased on the passing of this Act there shall be deemed to be an extraordinary 15  
vacancy in respect of the office of each additional member, and the vacancy shall be filled as soon as possible in the manner provided in section thirty-eight of the principal Act.

Repeals. (5) The enactments mentioned in the *Second* 20  
Schedule to this Act are hereby repealed.

Repeal. 3. Section thirty-four of the principal Act is hereby amended by repealing paragraph (g) of subsection one.

Annual allowance to Chairman. 4. (1) Section forty-two of the principal Act is hereby amended by omitting from subsection one the 25  
word “two”, and substituting the word “three”.

(2) Notwithstanding anything to the contrary contained in subsection two of section forty-two of the principal Act, the annual allowance payable to the Chairman of the Auckland Harbour Board, the Lyttelton Harbour Board, the Otago Harbour Board, or the 30  
Wellington Harbour Board who is in office at the passing of this Act may be increased during his term of office.

Penalty for breach of by-laws. Repeal. 5. The principal Act is hereby amended by repealing 35  
section two hundred and thirty-two, and substituting the following new section:—

“232. (1) Every person who contravenes or fails to comply in any respect with any provision of any by-law made under this Act commits an offence and 40  
shall be liable on summary conviction to a fine not exceeding *twenty* pounds, and, where the offence is a continuing one, to a further fine not exceeding *five* pounds for every day or part of a day during which the offence continues. 45

“(2) Where any person has been convicted under this section of a continuing offence, the Board may apply to the Supreme Court for an injunction to restrain the further continuance of the offence by that  
5 person.

“(3) The continued existence of any work or thing in a state contrary to any such by-law shall be deemed a continuing offence for the purposes of this section.”

6. Section two hundred and thirty-four of the  
10 principal Act is hereby amended by inserting, after paragraph (h) of subsection one, the following new paragraph:—

Power to make regulations.

“(hh) Prescribing rules for the use or occupation of the foreshore and the bed of any tidal  
15 or navigable water;”

7. (1) Section two hundred and thirty-eight of the  
principal Act is hereby amended by omitting from sub-  
section one the words “twenty pounds who removes  
any stone, shingle, sand, or boulders”, and substituting  
20 the words “one hundred pounds who removes any  
stone, shingle, sand, boulders, silt, mud, or other  
material”.

Removal of stone, &c., from foreshore and land near the sea.

(2) The said section two hundred and thirty-eight is hereby further amended by omitting from subsection  
25 two the words “this section”, and substituting the words “the last preceding subsection”.

(3) The said section two hundred and thirty-eight is hereby further amended by adding the following new subsections:—

30 “(3) Notwithstanding anything to the contrary in this or any other Act or in any rule of law, where the removal of any material from any part of any land is likely to produce, either directly or indirectly, any detrimental effect on the foreshore or on any beach or  
35 reserve adjoining the foreshore, or to lead, either directly or indirectly, to any inroad by the sea or by any tidal water, it shall be unlawful for the owner of the land or any person to remove that material from that part of the land without the  
40 prior consent in writing of the appropriate authority, which shall be the Minister where the foreshore,

at or adjoining the place at which the removal is likely to produce any such effect or to lead to any such inroad as aforesaid, is vested in the Crown, and the Harbour Board or local authority where the foreshore, at or adjoining that place, is vested in a Harbour Board or local authority. 5

“(4) Every person who removes any material from any part of any land in contravention of the *last preceding* subsection commits an offence and shall be liable on summary conviction to a fine not exceeding *one hundred pounds*. 10

“(5) On an application made in that behalf, a Magistrate may authorize any person to remove from any part of any specified land such quantity of such material or materials as he shall specify if he is satisfied that the removal so authorized is not likely to produce, either directly or indirectly, any detrimental effect on the foreshore or on any beach or reserve adjoining the foreshore, or to lead, either directly or indirectly, to any inroad by the sea or by any tidal water. Notice of every application under this subsection shall be given to the authority whose consent would be necessary under subsection *three* of this section if the Magistrate should refuse to authorize any removal under this subsection, and that authority may appear and be heard and adduce evidence at the hearing of the application.” 15 20 25

**8.** Section twelve of the Harbours Amendment Act, 1925, is hereby amended by inserting in subsections one and two, after the word “landing-place” in each place where that word appears, the word “slipway”. 30

**9.** (1) An Appeal Board consisting of three persons shall be set up in connection with each Harbour Board, and shall consist of one representative to be appointed by the Harbour Board and one representative to be appointed by the employees of the Harbour Board, and the senior Magistrate exercising jurisdiction in the place where the Harbour Board normally holds its meetings, and the said Magistrate shall be the Chairman of the Appeal Board. 35 40

Permits to erect and use slipways.  
See Reprint of Statutes, Vol. III, p. 674  
Appeal Board.

(2) The Appeal Board shall hear and determine all appeals by employees of the Harbour Board against dismissals, disratings, fines, or other punishments or reductions in pay or other emoluments inflicted by the  
5 Harbour Board, and also appeals on the ground of promotion being unreasonably withheld. In any determination of the Appeal Board on any appeal relating to rates of pay regard shall be had to any award or industrial agreement in force under the Industrial  
10 Conciliation and Arbitration Act, 1925, relating to employees of the Harbour Board.

See Reprint  
of Statutes,  
Vol. III, p. 939

(3) The determination of the Appeal Board shall in the case of every appeal be reported to the Minister, and shall be binding on all parties and enforceable in  
15 any Court of competent jurisdiction.

(4) For the purposes of this section the expression "employees of the Harbour Board" means all persons employed by the Harbour Board who are appointed and employed under section forty-seven of  
20 the principal Act.

## SCHEDULES

Schedules.

## FIRST SCHEDULE

Section 2

SCHEDULE TO BE SUBSTITUTED FOR THE FIRST SCHEDULE OF  
THE HARBOURS ACT, 1923

“ FIRST SCHEDULE  
“ CONSTITUTION OF BOARDS

Boards, and Number of Members.	Government Representatives.	Waterfront Industry Representatives.	Number of Elective Members, and by whom elected.
“ Auckland Harbour Board. Eighteen members	One ..	Three ..	Four by the electors of the City of Auckland ; one by the electors of the boroughs of Devonport, Birkenhead, Takapuna, and Northcote ; one by the electors of the boroughs of Newmarket, One Tree Hill, Onehunga, and Ellerslie, and of the Mount Wellington and Panmure Road Districts ; one by the electors of the boroughs of Mount Eden and Mount Albert ; one by the electors of the counties of Manukau and Franklin, and of the boroughs of Manurewa, Papakura, Papatoetoe, Pukekohe, and Otahuhu, and of the town districts of Howick, Tuakau, and Waiuku ; one by the electors of the County of Waitemata and of the boroughs of Helensville, Henderson, Mount Roskill, and New Lynn, and of the Town District of Glen Eden ; one by the electors of the counties of Waikato, Raglan, and Waipa, and of the Borough of Huntly, and of the Town District of Leamington ; and one by the electors of the City of Hamilton, and of the boroughs of Te Awamutu, Cambridge, and Ngaruawahia ; two by the payers of harbour dues on ships ; and one by the payers of harbour dues other than dues on ships.
Bay of Islands Harbour Board. Eight members	Two ..	One ..	Five by the electors of the County of Bay of Islands, and of the Borough of Kaikohe.
“ Bluff Harbour Board. Thirteen members	Two ..	One ..	Three by the electors of the boroughs of Invercargill and South Invercargill ; one by the electors of the Borough of Bluff ; one by the electors of the boroughs of Gore and Mataura ; two by the electors of the County of Southland, of the Borough of Winton, and of the town districts of Lumsden and Wyndham ; one by the electors of the County of Wallace, of the Borough of Riverton, and of the town districts of Nightcaps and Otatau ; and one by the electors of the County of Lake, and of the Boroughs of Arrowtown and Queenstown ; and one by the payers of harbour dues and the owners or part-owners of ships.
“ Foxton Harbour Board. Eight members	One ..	..	Two by the electors of the Borough of Foxton ; one by the electors of the County of Manawatu ; one by the electors of the County of Kairanga ; one by the electors of the City of Palmerston North ; one by the electors of the Borough of Feilding ; and one by the electors of the Borough of Levin.

## "FIRST SCHEDULE—continued

Boards, and Number of Members.	Government Representatives.	Waterfront Industry Representatives.	Number of Elective Members, and by Whom elected.
"Gisborne Harbour Board. Sixteen members	Two ..	One ..	Four by the electors of the Borough of Gisborne ; five by the electors of the County of Cook ; three by the electors of the County of Waikohu ; and one by the payers of harbour dues.
"Greymouth Harbour Board. Ten members	One ..	One ..	Two by the electors of the County of Grey ; two by the electors of the Borough of Greymouth ; one by the electors of the County of Inangahua ; one by the electors of the boroughs of Brunner and Runanga ; one by the electors of that part of the County of Westland situated to the north of the Waiho River and one by the electors of the boroughs of Hokitika Kumara, and Ross.
"Havelock Harbour Board. Five members	Two ..	..	Two by the electors of the Town District of Havelock ; and one by those of the electors of the Kaituna Subdivision of the Pelorus Riding of the Marlborough County whose qualification is within the harbour district.
"Hokitika Harbour Board. Seven members	..	One ..	Three by the electors of the Borough of Hokitika ; one by the electors of the Borough of Ross ; and two by those of the electors of the County of Westland whose qualification is within the harbour district.
"Lyttelton Harbour Board. Seventeen members	One ..	Two ..	Five by the electors of the City of Christchurch ; one by the electors of the boroughs of Kaiapoi and Rangiora and of the counties of Rangiora, Eyre, and Oxford ; one by the electors of the counties of Cheviot, Amuri, Waipara, Kowai, and Ashley ; two by the electors of the County of Ashburton and of the Borough of Ashburton and of the Town District of Tinwald ; two by the electors of the counties of Tawera, Paparua, Malvern, Springs, Ellesmere, Halswell, Selwyn, and Heathcote, and of the Town District of Leeston ; one by the electors of the Waimairi County and of the Borough of Riccarton ; and one by the electors of the boroughs of Lyttelton and Akaroa, and the electors of the counties of Akaroa, Wairewa, and Mount Herbert ; and one by the payers of harbour dues on ships.
"Motueka Harbour Board. Eight members	..	One ..	Two by the electors of the Borough of Motueka ; and five by the electors of the portion of the Waimea County within the harbour district.
"Napier Harbour Board. Fifteen members	Two ..	One ..	Three by the electors of the Borough of Napier ; two by the electors of the Borough of Hastings ; one by the electors of the Taradale Town District and the Meeanee Riding of the County of Hawke's Bay ; three by the electors of the County of Wairoa within the Riding of Mohaka and those of the electors of the County of Hawke's Bay whose qualifications are within the harbour district, saving those of the last-mentioned electors whose qualifications are within the Meeanee Riding of the last-mentioned county, and by the electors of the Town District of Havelock North ; one by the electors of the Borough of Waipawa and the Waipawa County ; one by the electors of the Waipukurau Borough and the Waipukurau County ; and one by the electors of the portion of the Patangata County within the harbour district.

## "FIRST SCHEDULE—continued

Boards, and Number of Members.	Government Representatives.	Waterfront Industry Representatives.	Number of Elective Members, and by whom elected.
" Nelson Harbour Board. Eleven members	Two ..	One ..	Four by the electors of the City of Nelson ; one by the electors of the Borough of Richmond ; and three by the electors of that part of the Waimea County included in the harbour district, and of the Tahurangi Town District.
" New Plymouth Harbour Board. Twelve members	One ..	One ..	Two by the electors of the Borough of New Plymouth ; one by the electors of the boroughs of Inglewood, Stratford, and Eltham ; two by the electors of those parts of the counties of Egmont, Inglewood, and Taranaki included in the harbour district ; one by the electors of those parts of the counties of Stratford and Whangamomona included in the harbour district ; one by the electors of those parts of the counties of Eltham and Hawera included in the Harbour district ; one by the electors of the County of Waimate West ; one by the electors of the Borough of Waitara ; and one by the electors of the Clifton County.
" Oamaru Harbour Board. Thirteen members	Two ..	One ..	Four by the electors of the Borough of Oamaru ; four by those electors of the County of Waitaki whose qualification is within the harbour district ; and two by those electors of the County of Waimate whose qualification is within the Harbour District.
" Otago Harbour Board. Eighteen members	One ..	Three ..	Five by the electors of the City of Dunedin and the Borough of St. Kilda ; two by the electors of the Borough of Port Chalmers ; one by the electors of the Borough of West Harbour ; one by the electors of the counties of Taieri, Peninsula, Waikouaiti, and Waihemo, and of the boroughs of Green Island, Mosgiel, Naseby, Palmerston, and Waikouaiti ; and one by the electors of the counties of Bruce, Tuapeka, Maniototo, and Clutha, and of the boroughs of Balclutha, Kaitangata, Lawrence, Milton, Roxburgh, and Tapanui ; one by the electors of the County of Vincent and of the boroughs of Alexandra and Cromwell ; two by the payers of harbour dues on ships, and one by the payers of harbour dues other than dues on ships.
" Patea Harbour Board. Eight members	One ..	One ..	Two by the electors of the Patea Borough and the Waverley Town District Subdivision of the harbour district ; one by the electors of the Hawera Borough Subdivision ; one by the electors of the Hawera Subdivision ; one by the electors of the Otoia Subdivision ; and one by the electors of the Waverley Subdivision of the Patea County.
" Tauranga Harbour Board. Thirteen members	Two ..	One ..	Two by the electors of the Tauranga Borough ; two by the electors of the Maketu and Te Puke Ridings of the County of Tauranga and the electors of the Te Puke Borough ; two by the electors of the Waimapu, Te Puna, and Katikati Ridings of the County of Tauranga ; one by the electors of the Matata Riding of the County of Whakatane ; one by the electors of the County of Rotorua ; one by the electors of the Borough of Rotorua ; and one by the electors of the Borough of Mount Maunganui.



"FIRST SCHEDULE—continued

Boards, and Number of Members.	Government Representatives.	Waterfront Industry Representatives.	Number of Elective Members, and by Whom elected.
"Timaru Harbour Board. Fifteen members	..	One ..	Three by the electors of the Borough of Timaru; one by the electors of the Tengawai and Point Ridings of the Levels County and the electors of Pleasant Point Town District; one by the electors of the Seadown and Waimataitai Ridings of the said county, and one by the electors of the Claremont, and Otupua Ridings of the Levels County; one by the electors of the boroughs of Geraldine and Temuka; one by the electors of the Mount Peel and Geraldine Ridings of the Geraldine County; one by the electors of the Temuka Riding of the Geraldine County; one by the electors of the Albury and Tekapo Ridings of Mackenzie County; one by the electors of the Fairlie and Opuha Ridings of the Mackenzie County; one by the electors of the Otaio Riding of the Waimate County and those of the electors of the Pareora Riding of the same county whose qualification is within the harbour district; and two by the electors of the Borough of Waimate and the electors of the Makikihi and Deep Creek Ridings of the Waimate County and those of the electors of the Waihao Riding of the same county whose qualification is within the harbour district.
"Tolaga Bay Harbour Board. Eight members	Two ..	One ..	One by the electors of the Tolaga Riding of the Uawa County; one by the electors of the Hauti and Mangaheia combined Ridings of the Uawa County; one by the electors of the Mangatuna Riding of the Uawa County; one by the electors of the Arakihi Riding of the Uawa County; and one by the electors of the Tauwhareparae Riding of the Uawa County.
"Wairau Harbour Board. Ten members	Two ..	One ..	Four by the electors of the Borough of Blenheim; and two by the electors of the Omapere Riding of the Marlborough County; and one by the payers of harbour dues.
"Wanganui Harbour Board. Twelve members	One ..	One ..	Six by the electors of the Borough of Wanganui; two by those of the electors of the counties of Wanganui and Waimarino whose qualifications are within the Wanganui Harbour District; and two by those of the electors of the County of Waitotara whose qualifications are within the Wanganui Harbour District.
"Wellington Harbour Board. Seventeen members	One ..	Three ..	Four by the electors of the City of Wellington; two by the electors of the City of Lower Hutt, of the counties of Hutt and Makara, of the boroughs of Petone, Upper Hutt, and Eastbourne, and of the Town District of Johnsonville; two by the electors of the counties of Wairarapa South, Masterton, Pahiatua, Akitio, Eketahuna, Mauriceville, Castlepoint, and Featherston, and of the boroughs of Martinborough, Greytown, Carterton, Masterton, Eketahuna, Featherston, and Pahiatua; and two by the electors of the City of Palmerston North and of the counties of Manawatu, Oroua, Horowhenua, Pohangina, Kairanga, and Kiwitea, and of the boroughs of Feilding, Foxton, Shannon, Otaki, and Levin; two by the payers of harbour dues on ships; and one by the payers of harbour dues other than dues on ships.

*"FIRST SCHEDULE—continued*

Boards, and Number of Members.	Government Representatives.	Waterfront Industry Representatives.	Number of Elective Members, and by Whom elected.
"Whakatane Harbour Board. Eleven members	One ..	One ..	One by the electors of the Omataroa Subdivision of the harbour district; one by the electors of the Opouriao Subdivision of the harbour district; one by the electors of the Taneatua Subdivision of the harbour district; three by the electors of the Rangitaiki Subdivision of the harbour district; one by the electors of the Waimana Subdivision of the harbour district; and two by the electors of the Whakatane Subdivision of the harbour district.
"Whangarei Harbour Board. Eight members	One ..	One ..	Two by the electors of the Borough of Whangarei; one by the electors of the Hikurangi and Kamo Town Districts; and three by the electors of the County of Whangarei."

**SECOND SCHEDULE**

## ENACTMENTS REPEALED

- 1927, No. 23 (Local)—  
The Napier Harbour Board Empowering, Loan, and Constitution Amendment Act, 1927: section 8.
- 1928, No. 11 (Local)—  
The Whakatane Harbour Amendment Act, 1928: section 5 (1).
- 1936, No. 52—  
The Thames Harbour Act, 1936: so much of the First Schedule as relates to the Harbours Act, 1923.
- 1937, No. 31—  
The Greymouth Harbour Board Reconstitution Act, 1937.
- 1938, No. 9 (Local)—  
The Opunake Harbour Act, 1938: so much of the Schedule as relates to the Harbours Act, 1923.
- 1940, No. 5 (Local)—  
The Mokau Harbour Act, 1940: so much of the Second Schedule as relates to the Harbours Act, 1923.
- 1940, No. 6 (Local)—  
The Waitara Harbour Act, 1940: section 12, and so much of the Third Schedule as relates to the Harbours Act, 1923.
- 1946, No. 40—  
The Statutes Amendment Act, 1946: section 33.
- 1946, No. 11 (Local)—  
The Wairoa Harbour Act, 1946: so much of the Fifth Schedule as relates to the Harbours Act, 1923.