

Auckland City Borrowing Act 1899

Local Act 1899 No 17
Date of assent 13 October 1899

Auckland City Borrowing Act 1899: repealed, on 18 November 1992, by section 6(1) of the Local Legislation Act 1992 (1992 No 103).

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Schedule

12

An Act to empower the City of Auckland to borrow Two Hundred Thousand Dollars.

The reference to “Two Hundred Thousand Pounds” was substituted, as from 10 July 1967, for a reference to “One Hundred Thousand Pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Preamble*[Repealed]*

Preamble was repealed, as from 19 November 1907, by section 2 Statutes Repeal Act 1907 (1907 No 40). The repealed Preamble read as follows: “WHEREAS it is desirable that the indebtedness of the City of Auckland represented by its bank overdraft on various accounts should be paid off by means of a loan at a lower rate of interest, and further to provide funds for the Council to carry out the following works within the city: The completion of drainage, [eighty-eight thousand seven hundred and eight dollars]; auxiliary water-supply, [twenty-four thousand dollars]; payment for a site for a fire-brigade station, and housing of firemen, horses, and appliances, [six thousand dollars]; and the paving of Queen Street, Auckland, with wood, asphalt, or other approved material, [twenty-one thousand two hundred and ninety-two dollars].”

The references to “eighty-eight thousand seven hundred and eight dollars”, “twenty four thousand dollars”, “six thousand dollars”, and “twenty-one thousand two hundred and ninety-two dollars” were substituted, as from 10 July 1967, for references to “forty-four thousand three hundred and fifty-four pounds”, “twelve thousand pounds”, “three thousand pounds”, and “ten thousand six hundred and forty-six pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

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 Auckland City Borrowing Act 1899.

2 Interpretation

In the interpretation of this Act the following expressions shall have the meaning hereby assigned to them:—

The Corporation shall mean the Corporation by the name of “The Mayor, Councillors, and Citizens of the City of Auckland”

The Council shall mean the Council of the said city, and for carrying out the provisions of this Act it shall have and exercise all the power of the Corporation

The agents shall mean the agents appointed or acting under the provisions of this Act, and such agents may be any bank, company, person, or persons

The Court shall mean the High Court of New Zealand

The reference to the “High Court” was substituted, as from 1 April 1980, for a reference to the “Supreme Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

The debentures authorised by this Act to be issued shall be termed **Auckland City Debentures, 1899**, and the security and remedies therefor shall extend to the coupons thereto attached

Public notice, and **publicly notify**, and similar expressions shall mean and have reference to a publication in some newspaper in general circulation in the City of Auckland

The said Act shall mean the Municipal Corporations Act 1886.

Borrowing.

3 Power of Corporation to borrow

The Corporation is hereby empowered to borrow at such rate of interest not exceeding four dollars per centum per annum in the following manner, viz:—

Any sum not exceeding one hundred thousand dollars at any time during the year one thousand nine hundred;

Any further sum not exceeding twenty thousand dollars at any time during the year one thousand nine hundred and one;

Any further sum not exceeding twenty thousand dollars at any time during the year one thousand nine hundred and two;

Any further sum not exceeding twenty thousand dollars at any time during the year one thousand nine hundred and three;

Any further sum not exceeding twenty thousand dollars at any time during the year one thousand nine hundred and four;

Any further sum not exceeding twenty thousand dollars at any time during the year one thousand nine hundred and five;

or at such later dates or in such smaller sums and upon such terms and conditions as the Council shall direct, so long as the interest to be paid for the money so borrowed shall not exceed four per centum per annum.

The references to “four dollars”, “one hundred thousand dollars”, and “twenty thousand dollars” were substituted, as from 10 July 1967, for references to “four pounds”, “fifty thousand pounds”, and “ten thousand pounds” pursuant to section 7(1) and (2) Decimal Currency Act 1964 (1964 No 27).

4 Purposes for which loan raised

Such loan shall be raised and expended exclusively for the purposes herein specified, that is to say:—

(1.) In payment of such commissions, charges, and expenses, including the cost of obtaining this Act, as the Council may determine to have been actually incurred in connection with such loan:

(2.) Repayment of existing overdraft at the National Bank of New Zealand (Limited), at Auckland, of about sixty thousand dollars, and for the construction of the following works, namely:—

Drainage, eighty-eight thousand seven hundred and eight dollars;

Auxiliary water-supply, twenty-four thousand dollars;

Purchase of land, and the erection of necessary buildings for a fire-brigade station, and housing of firemen, horses, and appliances, six thousand dollars; and for

Paving with wood, or asphalt, or other approved material, Queen Street, Auckland, twenty-one thousand two hundred and ninety-two dollars.

The references to “sixty thousand dollars”, “eighty-eight thousand seven hundred and eight dollars”, “twenty-four thousand dollars”, “six thousand dollars”, and “twenty-one thousand two hundred and ninety-two dollars” were substituted, as from 10 July 1967, for references to “thirty thousand pounds”, “forty-four thousand three hundred and fifty-four pounds”, “twelve thousand pounds”, “three thousand pounds”, and “ten thousand six hundred and forty-six pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

5 Debentures, coupons, and poll

The following provisions shall apply to the loan to be raised under the powers herein contained:—

- (1.) The debentures issued under the provisions of this Act shall have a currency not exceeding twenty-one years from the date of issue.
- (2.) No debenture issued under this Act shall be sold at a price that will produce to the purchaser a greater interest than four dollars per centum per annum.
- (3.) Such debentures and the coupons attached thereto shall be in the form or to the effect set forth in the Schedule hereto, with such modifications as to the Council seem desirable, and the same shall have the corporate seal attached thereto or thereon, and be signed by the Mayor and treasurer, and shall be numbered consecutively, and the signatures to any coupons may be made by lithography or any other process; and the sum secured by any such debenture shall, both as to principal and interest, be payable at a place or places to be determined by the Council, and stated in such debenture and coupon; and the place for the payment of coupons need not be the same as for payment of the principal sum of the debenture.
- (4.) At the maturity of the said debentures the Corporation may, without taking the vote of the ratepayers, reborrow such sum or sums as may be required for the repayment of the loan represented hereby; and the provisions of this Act shall apply to such reborrowing and all successive reborrowings.
- (5.) Sections numbered from 204 to 217, both inclusive, of the Municipal Corporations Act 1886, shall not apply to the loan raised under the provisions hereof.
- (6.) The provisions of this Act shall, so far as this loan is concerned, be paramount to and prevail over the provisions of the said Act and all Acts amending the same or passed in substitution therefor, and all other general Acts.
- (7.)
- (8.) If the poll when taken is in favour of raising the loan, then the production of the resolution of the Council authorising the raising of the loan, under the authority hereof, purporting to be authenticated by the seal of the Corporation and signed by the

Mayor, shall be conclusive evidence that such loan has been duly authorised, and may be raised; and a certificate of the Council similarly authenticated shall be conclusive evidence of the appointment of any agent or agents.

Subsection (7) was repealed, as from 19 November 1907, by section 2 Statutes Repeal Act 1907 (1907 No 40).

The reference to “four dollars” was substituted, as from 10 July 1967, for a reference to “four pounds” pursuant to section 7(2) Decimal Currency Act 1964 (1964 No 27).

6 Limitation of bank overdraft

It is hereby further enacted that after sufficient money has been borrowed under the above authority to pay off the said overdraft, the amount of the overdraft mentioned in section 201 of the Municipal Corporations Act 1886, shall be further limited by the amount of sixty thousand dollars mentioned in subsection two of section four hereof.

The reference to “sixty thousand dollars” was substituted, as from 10 July 1967, for a reference to “thirty-thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Security.

7 Power to make a special rate

The Council may, whenever necessary for the purpose of paying the annual interest payable on all or any part of the moneys secured by any debentures issued under the provisions of this Act or the City of Auckland Loans Consolidation Act 1879, or any Act which that Act was intended to supersede, or the City of Auckland Additional Loan Act 1883, and in lieu of the special rate authorised by section seventeen of the City of Auckland Loans Consolidation Act 1879, make a special rate upon all rateable property in the City of Auckland within its present area, or the area existing at the date of the making of the last-mentioned special rate, to an amount not exceeding in any one year the sum of twenty cents in the dollar on the annual value of such property; and such special rate shall as near as practicable be in the form prescribed with respect to special rates in the Municipal Corporations Act 1886.

The reference to “twenty cents in the dollar” was substituted, as from 10 July 1967, for a reference to “two shillings in the pound” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

8 Special rate to continue until money paid

Every such special rate shall be payable at such intervals, not exceeding one year, as the Council shall in and by the special order for making such rate appoint; and every such special rate shall, without any further proceeding by the Council or otherwise, be and continue to be an annual recurring rate upon all rateable property at any time situated within the area of the City of Auckland at the time of the making of such special rate, according to the annual value of each such property as appearing on the valuation-list made affecting such property, until all moneys owing in respect of the moneys raised under the authority of this Act, and of the City of Auckland Loans Consolidation Act 1879, and the City of Auckland Additional Loan Act 1883, shall have been paid off and discharged; and the Council may from time to time amend such special rates by increasing or diminishing the same, if necessary, so that the annual produce shall suffice to provide the interest and sinking funds on account of the loans for which such provision has been made.

9 Provision of the Municipal Corporations Act 1886, to apply, and limit of rate

Save where it is herein otherwise expressly provided, or there is something in the context repugnant thereto, all the provisions contained in the Municipal Corporations Act 1886, and any Act or Acts amending or substituted for the same, relating to special rates shall apply to every such special rate as aforesaid.

Notwithstanding anything in any Act to the contrary, the limit of rates to be made and levied within the said City of Auckland may be exceeded by the Council for the purposes of this Act, and the said City of Auckland Loans Consolidation Act 1879, and the City of Auckland Additional Loan Act 1883, to the extent authorised by this Act; and the said Council may levy a

rate for general municipal purposes, as well as the special rate authorised to be levied hereunder.

Section 9 was amended, as from 7 November 1901, by section 3 City of Auckland Loans Consolidation and Auckland City Borrowing Acts Amendment Act 1901 (1901 No 24(L)), by omitting the words “, but so always that there shall not be leviable by the said Council in the said City of Auckland a greater amount for special and general rates in any one year than two shillings in the pound on the annual value of all rateable properties in the city; but this provision shall not in any manner limit or control the power to make a rate for hospital and charitable-aid purposes as provided by the Hospitals and Charitable Institutions Act 1885, or any Act amending the same or in substitution thereof, nor shall the foregoing provision limit or control the power to make library rates.”

Default.

10 Power to Judge to order Council to levy a special rate

It shall be lawful for the High Court of New Zealand, upon application duly made by the holder of any debenture or coupon issued under the authority of this Act, if the interest payable in respect of such debenture or coupon shall be in arrear or unpaid, by a rule or order of the said Court to require the Corporation to show cause why such interest should not forthwith be paid, and, failing such payment, why a writ of mandamus should not issue requiring the said Council to levy a special rate to insure and provide for such payment; and it shall be lawful for the said High Court, upon cause being shown to the said rule or order, or upon proof of the due service of the same, if the Corporation shall not appear to show cause, to pronounce such decision thereon, and to make such order as to costs, and by whom and to whom the same shall be paid, as may to the said Court appear just and right.

The reference to the “High Court” was substituted, as from 1 April 1980, for a reference to the “Supreme Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

11 Application of moneys borrowed, and balances

The moneys to be borrowed under the provisions of this Act shall be applied to the several purposes specified in section four of this Act in the proportions therein set forth, and to no other purpose or purposes whatever.

The Council shall keep separate accounts of all moneys received and expended under the provisions of this Act for each

of the purposes herein mentioned, and such accounts shall be balanced twice at least in every year.

12 Purchaser of debenture not concerned

No purchaser of a debenture or debentures issued under the provisions of this Act shall in any manner be concerned to see to the application of the moneys paid for the same, or be in anywise chargeable or accountable for the loss or non-application of the same, or to inquire into the necessity for raising the same.

13 Holders of debentures may apply to a Judge of the High Court for the appointment of a Receiver

If at the expiration of fourteen days from the time when any principal money has become due upon any debenture issued under this Act, and after presentation of such debenture at the place where the same is payable, it shall not be paid, the holder of such debenture may, without prejudice to any other mode of recovery, apply to a Judge of the High Court of New Zealand, by petition in a summary way, for the appointment of a Receiver; and the Judge is hereby empowered, if satisfied of the truth of the matter as alleged in such petition, to appoint some fit person to collect and receive the whole or a competent part of the revenues until such principal and any interest due or to accrue due thereon, together with costs of the application, and all moneys arising from the revenues or such competent part of the revenues as the Court shall order until payment of such principal and interest and the costs of the application and the costs of collection as aforesaid, shall be paid to the Receiver so appointed, and when so paid shall be rateably apportioned between the debenture-holders.

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

14 Power for recovery of rates to rest in Receiver

All powers for the recovery of rates, tolls, rents, or other moneys of the Corporation shall, after the appointment of a

Receiver, cease to be exercised by the Council, and shall be vested in the Receiver.

15 Power of Receiver to amend special rate, and application of moneys

The Receiver shall, in respect of any special rates vested in him, have the power given to the Council to amend a special rate, as provided by the two-hundred-and-fourteenth section of the Municipal Corporations Act 1886, but such power shall be exercised only upon an order of a Judge of the High Court.

Every Receiver shall, before entering on his office, give such security for the faithful execution thereof as the Judge shall direct.

All moneys received by the Receiver shall be applied only under the order of a Judge of the High Court as follows:—

- (1.) In payment of the expenses of the application and order:
- (2.) In the payment of such remuneration to the Receiver and in such expenses of his office as the Judge directs:
- (3.) In the payment of the principal and interest of the loan.
- (4.) The residue, after payment of the above, shall be paid into the Borough Fund for the use of the Corporation, and the Receiver shall account for all such moneys in such manner as the Judge shall direct.

When all the principal and interest of the loan are paid, or at any other time by an order of the Judge, the powers of the Receiver shall cease and shall revert in the Council, and he shall forthwith pay any moneys in his hands into the Borough Fund Account.

No holder of any debenture or coupon to be issued under authority of this Act shall have any claim in respect thereof upon the public revenues of the Colony of New Zealand or the Government thereof.

The reference to the “High Court” was substituted, as from 1 April 1980, for a reference to the “Supreme Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

Miscellaneous.

16 Judge not deemed interested on account of liability for rates

No Judge shall, solely on account of his liability to pay rates, be deemed to be interested in any proceedings in which he is judicially concerned.

17 Objection to rate struck not allowed as defence

No objection shall be allowed in any Court to any rate which the Council or the Receiver shall purport to strike, make, or levy under the provisions of this Act, or which shall or may form the security for the debentures or coupons issued hereunder; and no informality, or irregularity, whether in form or substance, or in the making, striking, or levying of such rate, or in the election or appointment of any body or person acting in connection therewith, shall be allowed by any Court as a defence to any action or proceeding for the recovery of such rate, or be entertained as a ground for questioning such rate, or restraining the recovery thereof.

Nothing herein contained shall in any manner prejudice the holder of any debenture issued under the authority of the City of Auckland Loans Consolidation Act 1879, or the City of Auckland Additional Loan Act 1883.

Schedule**Form of debenture.**

“The Auckland City Borrowing Act 1899.”

[\$200,000] Loan, secured on the Revenue of the Corporation of the City of Auckland.

Debenture for [\$200]; redeemable, 19 . [No .]

ON presentation of this debenture at the office of the said body corporate, in Coburg Street, Auckland, New Zealand, on or after the day of 19 , the bearer thereof will be entitled to receive a sum of [\$200].

Interest on this debenture will cease after the day when payment falls due, unless default is made in payment on presentation.

Issued under the seal of the Corporation of the City of Auckland, New Zealand, this day of , 19 .

[L.S.]

, Mayor.
, Town Clerk

NOTE.—The holder of this debenture has no claim in respect thereof upon the public revenues of the Colony of New Zealand.

Form of coupon.

DEBENTURE NO of the body corporate of the Mayor, Councillors, and Citizens of the City of Auckland, under “The Auckland City Borrowing Act 1899.”

ON presentation of this coupon at the office of the said body corporate, in Coburg Street, Auckland, New Zealand, on or after the day of , 19 , the bearer will be entitled to receive [\$] .

, Mayor.
, Town Clerk.