

Reprint  
as at 3 June 2017



## Hawke's Bay Earthquake Act 1931

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Commencement	28 April 1931

Hawke's Bay Earthquake Act 1931: repealed, on 3 June 2017, by section 3(1) of the Statutes Repeal Act 2017 (2017 No 23).

### Contents

	Page
Title	4
1 Short Title	4
2 Earthquake defined	4

### Part 1

#### Declaration and adjustment of rights and liabilities

##### *The Hawke's Bay Adjustment Court*

3 Interpretation	4
4 Adjustment Court established	4
5 Constitution of court	4
6 Reserve nominated members	5
7 Oath of office and secrecy	5
8 Constitution of court not to be questioned	5
9 Registrar, Deputy Registrars, and other officers of court	5
10 Seal of the court	6
11 Records of the court	6

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Treasury.**

*Jurisdiction and procedure of the court*

12	Declaratory orders as to rights or liabilities	6
13	Nature of declaratory orders	7
14	Rehearings of applications for declaratory orders	7
15	Applications to court for relief from obligations or encumbrances	7
16	Orders for relief	8
17	Certain powers of execution, etc, not to be exercised while proceedings pending in court, except with leave of court	8
18	Notice to be given before such powers are exercised or continued with respect to property or persons in the earthquake area <i>[Repealed]</i>	9
19	Power to reopen transactions in certain cases where such powers have been exercised since the earthquake <i>[Repealed]</i>	9
20	Special equitable jurisdiction of court	9
21	Quorum	9
22	Rules and procedure of court	10
23	Evidence Act, with certain modifications, to apply	10
24	Proceedings may be heard in camera	10
25	No fees payable	10

*Miscellaneous*

26	Power to stay proceedings in other courts pending proceedings in Adjustment Court	11
27	Proceedings may in certain cases be referred by court to Magistrate or other person	11
28	Enforcement of orders	12
29	Registration of orders affecting interests in land	12
30	Orders exempt from stamp duty	12
31	Orders to bind all persons having interest in land affected	12
32	Proceedings not to be impeached for want of form, or appealed against	13
33	Contempt of court	13
34	This Part to apply to Crown	13
35	Expenses of administration of this Part to be appropriated by Parliament	13
36	Regulations	13
37	Power to establish additional courts	14

**Part 2****Rehabilitation***Financial provisions*

38	Authority to make payments from Reserve Fund Account	14
39	Realisation of Reserve Fund securities	14
40	Authority to advance payments out of public moneys and charge to Reserve Fund Account	14

	<i>Financial assistance to earthquake sufferers</i>	
41	Discretion of Minister of Finance to grant financial assistance	15
42	Hawke's Bay Rehabilitation Committee constituted	15
43	Applications to committee by persons desiring assistance	15
44	Committee to make recommendations to Minister	16
45	Provision for relief of hardship arising from earthquake in respect of land tax or income tax	16
46	Crown to have preferential claim for repayment in event of bankruptcy or winding up within 5 years	16
47	Moneys paid in respect of land to be a first charge thereon in certain cases	17
48	Securities to be taken in name of His Majesty	17
49	Application of repayments and interest	17
	<i>Financial assistance to local authorities</i>	
50	Local authority defined	18
51	Local authorities may, without taking poll of ratepayers, borrow moneys for purpose of repairing earthquake damage	18
52	Loans may be granted by State Advances Office	19
53	Terms of State Advances loans	19
54	Application of instalments under State Advances loans	19
	<i>Regulations</i>	
55	Regulations	19
	<b>Part 3</b>	
	<b>Miscellaneous</b>	
56	Authority for State Advances Superintendent to allow usual rebate of interest where prompt payment of instalments has been prevented by earthquake	20
57	Validation of <i>ex gratia</i> payments to State Fire policy holders in connection with earthquake fire damage	20
58	Authorising expenditure out of Consolidated Fund for public works and services in connection with the earthquake	20
59	Validation of payments by local authorities and certain other bodies to earthquake relief funds	21
60	Authority for transfer of moneys from West Coast Earthquake Relief Fund to Hawke's Bay Earthquake Relief Fund	22
61	Extension of power of local authorities to borrow by way of overdraft	22
62	Postponement of elections of mayor and councillors for boroughs of Napier and Hastings	22
63	Authorising Napier Borough Council to grant a mortgage of certain land with a power of sale <i>[Repealed]</i>	23
64	Appointment of special committee by Napier Borough Council	23

65	Audit of earthquake relief funds by Audit Office <i>[Repealed]</i>	25
66	Power to make regulations rendered necessary by the earthquake	25

## **An Act to make provision for various matters arising out of the Hawke's Bay earthquake**

### **1 Short Title**

This Act may be cited as the Hawke's Bay Earthquake Act 1931.

### **2 Earthquake defined**

In this Act, except where a contrary intention appears, **earthquake** or **Hawke's Bay earthquake** means the earthquake which occurred in New Zealand on the morning of 3 February 1931, and includes all earthquakes which occurred in New Zealand during the month of February 1931, and also includes all fires arising out of such earthquakes.

## **Part 1**

### **Declaration and adjustment of rights and liabilities**

#### *The Hawke's Bay Adjustment Court*

### **3 Interpretation**

In this Part, except where a contrary intention appears,—

**court** or **Adjustment Court** means the Hawke's Bay Adjustment Court established under this Part

**earthquake area** means the boroughs of Napier, Hastings, Wairoa, Waipawa, and Waipukurau; the town districts of Taradale and Havelock North; and the counties of Hawke's Bay and Wairoa

**President** means the President for the time being of the Adjustment Court.

### **4 Adjustment Court established**

There shall be a court of record, to be called the Hawke's Bay Adjustment Court, which shall (in addition to the jurisdiction and powers specially conferred by this Act) have all the powers inherent in a court of record.

### **5 Constitution of court**

- (1) The court shall consist of 3 members—namely, a President and 2 nominated members.
- (2) The President of the court from time to time shall be the Chief Justice of New Zealand, or such present or past Judge of the Supreme Court of New Zealand as the Chief Justice from time to time assigns to the position of President.

- (3) The nominated members of the court shall be fit persons appointed for that purpose from time to time by the Governor-General.

#### **6 Reserve nominated members**

- (1) The Governor-General may from time to time appoint fit persons to be reserve nominated members of the court.
- (2) If at any time a vacancy exists in the office of nominated member of the court, or if any nominated member is not present at any sitting of the court, the President may summon any reserve nominated member to attend the sittings of the court and to act as a nominated member thereof, and while so acting such reserve nominated member shall have and may exercise all the powers, functions, and privileges, and shall perform all the duties, of the nominated member for whom he is acting.

#### **7 Oath of office and secrecy**

Before entering on the exercise of the functions of their office, the nominated members of the court shall make oath or affirmation before the President that they will faithfully and impartially perform the duties of their office, and also that, except in the discharge of their duties, they will not disclose to any person any evidence or other matter brought before the court or any of the deliberations of the court.

#### **8 Constitution of court not to be questioned**

- (1) The appointment of the President, or of a nominated member, or of a reserve nominated member of the court shall not be questioned on any ground whatsoever; and no act done by the court sitting with a reserve nominated member, or done by such reserve nominated member, shall be questioned on the ground that the occasion for such reserve nominated member acting as a member of the court had not arisen or had ceased.
- (2) Whether the court at any sitting thereof is duly constituted as required by the provisions of this Act, or has been duly convened for such sitting, are matters to be determined by the President, whose decision thereon shall be final and conclusive, and shall not be questioned in any proceedings in the court or in any other court.
- (3) The fact that a sitting of the court has been held shall be conclusive evidence of a decision by the President that the court was duly constituted at and duly convened for that sitting.

#### **9 Registrar, Deputy Registrars, and other officers of court**

- (1) There shall be a Registrar of the court, who shall keep the records of the court and shall perform all such administrative duties in respect of the court as the President may from time to time direct.

- (2) There may be appointed such Deputy Registrars of the court as may be deemed necessary, who shall, subject to the control of the Registrar, possess, exercise, and perform the same powers, functions, and duties as the Registrar; and every reference in this Act to the Registrar of the court shall, so far as applicable, extend and apply to a Deputy Registrar accordingly.
- (3) There may also be appointed in respect of the court such other officers as may be deemed necessary.
- (4) The office of Registrar or of Deputy Registrar, and any other office in respect of the court, may be held in conjunction with any other office in the Public Service.

#### **10 Seal of the court**

- (1) The court shall have, in the custody of the Registrar and each Deputy Registrar, a seal of the court, in such form or forms as the President approves, for the sealing of all orders, warrants, and other instruments requiring to be sealed.
- (2) Judicial notice shall be taken of the seal of the court by all courts and for all purposes.

#### **11 Records of the court**

The Registrar of the court shall keep proper books in which shall be entered minutes of all proceedings in the court.

#### *Jurisdiction and procedure of the court*

#### **12 Declaratory orders as to rights or liabilities**

Where any person claims—

- (a) that he is entitled to or interested in any right of personal status, or any right in respect of property, or any personal right, or any other right, and that the establishment of such right has been or may be rendered difficult or impossible by reason of the loss or destruction of any document, or by reason of any other matter, arising out of the earthquake; or
- (b) that he is or may be under any liability, or that any property to which he is entitled or in which he is interested is or may be subject to any liability, and that the determination of questions as to the existence or extent of such liability has been or may be rendered difficult or impossible by reason of any such loss, destruction, or other matter—

such person may apply to the court for an order determining any question as to the existence of such right or liability, and declaring the terms thereof, and ordering that notwithstanding such loss, destruction, or other matter the applicant shall enjoy the same rights or be subject to the same liabilities as if such loss, destruction, or other matter had not occurred, or making such particular order as may appear to the court to be adequate to place the applicant in the

same position as nearly as may be as he would have been in if such loss, destruction, or other matter had not occurred.

### **13 Nature of declaratory orders**

- (1) In any case where the court is exercising only the jurisdiction conferred by the last preceding section, and is not exercising any other jurisdiction conferred by this Act, the court shall as far as possible restrict itself to decisions in reinstatement of the previously existing rights and liabilities of the parties without adjudicating upon any question consequentially arising out of such rights or liabilities; but no objection shall be taken to any order of the court upon the ground that any further or other adjudication or decision affecting the rights and liabilities of the parties is expressed or implied therein.
- (2) The jurisdiction hereby conferred upon the court to make a declaratory order shall be discretionary, and the court may, on any grounds which it deems sufficient, refuse to make any such order.

### **14 Rehearings of applications for declaratory orders**

The court may at any time, on the application of any person affected, and upon such terms and conditions as it thinks fit, grant a rehearing of any application for an order under section 12 on the ground that documentary evidence has been discovered since the original hearing which was in existence on 3 February 1931 but which was believed at the time of the original hearing to have been lost or destroyed by reason of the earthquake.

### **15 Applications to court for relief from obligations or encumbrances**

- (1) Where any person claims—
  - (a) that he was on 3 February 1931 and at the time of the application still is subject to any obligation wholly or partly pecuniary in its nature, whether absolute or contingent, and whether accrued or accruing; or
  - (b) that any property to which he is entitled or in which he is interested was on 3 February 1931 and at the time of the application still is subject to any liability, mortgage, lien, liability for distress or execution, charge, or encumbrance of any kind, wholly or partly pecuniary in its nature (all hereinafter included in the term **encumbrance**); and
  - (c) in either of the above cases, that by reason of any matter arising out of the earthquake he would suffer undue hardship if he were required to comply with or continue to be bound by such obligation, or if such property continued to be subject to such encumbrance—such person may apply to the court for relief from such obligation or encumbrance.
- (2) The court may entertain any such application notwithstanding that any person other than the applicant is or may be also liable under such obligation or encumbrance, or that any person entitled to the benefit of the encumbrance has or

may have recourse to other property in addition to that to which the applicant is entitled or in which he is interested.

## **16 Orders for relief**

- (1) Upon any application under the last preceding section the court may make such order as it deems just and equitable under the circumstances of the case. In particular, without limiting the generality of the foregoing provision, the court may have regard to the loss suffered as a result of the earthquake by each party affected by the application, the relative positions (financial and otherwise) of such parties, the degree to which the granting of any relief would be reasonably likely to be of permanent benefit to the applicant (considering his circumstances, and particularly his assets and his other liabilities, if any), and any other relevant considerations.
- (2) Any order made under this section may discharge an obligation or encumbrance wholly or in part, or extend the time allowed for the discharge thereof, or vary or amend any of the terms thereof or incidents attending the same, in such manner, and subject to such terms and conditions, as the court may think fit.

## **17 Certain powers of execution, etc, not to be exercised while proceedings pending in court, except with leave of court**

- (1) While any proceedings are pending in the court relating to any person or property, it shall not be lawful with respect to such person or property, except with the leave of the court granted upon such terms and conditions as the court thinks fit, to do any of the acts defined in the next succeeding subsection, or to continue or complete the doing of any such act, whether commenced before or after the passing of this Act or before or after the commencement of such proceedings.
- (2) The acts referred to in the last preceding subsection are the following:
  - (a) to issue any process of execution in pursuance of any judgment, decree, or order of any court in its civil jurisdiction obtained (whether before or after the passing of this Act) in respect of any liability incurred on or before 3 February 1931 or in pursuance of any order made under the Destitute Persons Act 1910 on or before the said date:
  - (b) to seize or sell any property by way of distress for rent due on or before 3 February 1931:
  - (c) to exercise any power of sale conferred by any mortgage, bill of sale, debenture, debenture trust deed, or other security given on or before 3 February 1931:
  - (d) to exercise any power of re-entry or retaking possession of chattels conferred by any lease or bailment granted before 3 February 1931:



- (e) to exercise any power of rescission in respect of any contract made before 3 February 1931:
- (f) to file a creditor's petition in bankruptcy, or, in the case of a company, a petition for its winding-up by the Supreme Court.

Section 17(2)(a): replaced, on 11 November 1931, by section 53(1) of the Finance Act 1931 (No 4) (1931 No 44).

Section 17(2)(b): replaced, on 11 November 1931, by section 53(1) of the Finance Act 1931 (No 4) (1931 No 44).

Section 17(2)(c): replaced, on 11 November 1931, by section 53(1) of the Finance Act 1931 (No 4) (1931 No 44).

**18 Notice to be given before such powers are exercised or continued with respect to property or persons in the earthquake area**

*[Repealed]*

Section 18: repealed, on 11 November 1931, by section 53(2) of the Finance Act 1931 (No 4) (1931 No 44).

**19 Power to reopen transactions in certain cases where such powers have been exercised since the earthquake**

*[Repealed]*

Section 19: repealed, on 11 November 1931, by section 53(2) of the Finance Act 1931 (No 4) (1931 No 44).

**20 Special equitable jurisdiction of court**

- (1) In order that full effect may be given to the intent of this Act the court shall, in every matter coming before it, have full power and jurisdiction to deal with and determine such matter in such manner, and to make such order, not inconsistent with the provisions of this Act, as it deems just and equitable under the circumstances of the case, notwithstanding that express provision in respect of such matter is not contained herein.
- (2) In the course of the proceedings on any application the court may, subject to rules of court, without further application and upon such terms as to notice to parties and otherwise as the court thinks fit, proceed to exercise any other part of its jurisdiction the exercise of which in that proceeding the court deems necessary or advisable.

**21 Quorum**

- (1) The presence of the President and at least 1 other member shall be necessary to constitute a sitting of the court:  
provided that the President sitting alone may exercise the jurisdiction of the court—
  - (a) if he thinks fit, in any interlocutory matter arising in any proceeding; or
  - (b) with the consent of the parties, in any proceeding.

- (2) The decision of a majority (including the President) of the members present at the sitting of the court, or, if the members present are equally divided in opinion, then the decision of the President, shall be the decision of the court.
- (3) The decision of the court in every case shall be signed by the President, and shall be delivered by him. No dissenting opinion shall be announced in any case.

## **22 Rules and procedure of court**

- (1) The rules of court determining the practice, procedure, and powers of the court shall be such as may be made in that behalf by the Governor-General by Order in Council.
- (2) Subject to the provisions of this Act and of rules of court, the practice and procedure of the court shall be such as the court thinks in each case to be most consistent with natural justice and convenience.

## **23 Evidence Act, with certain modifications, to apply**

- (1) The court may act on any testimony, sworn or unsworn, and may receive as evidence any statement, document, information, or matter which in the opinion of the court may assist the court to deal effectually with the matters before it, whether the same would, apart from this section, be legally admissible evidence or not.
- (2) Subject to the foregoing provisions of this section, the Evidence Act 2006 shall apply to the court and to the members thereof, and to all proceedings therein, in the same manner as if the court were a court within the meaning of that Act.

Section 23(2): amended, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

## **24 Proceedings may be heard in camera**

The court may at its discretion with or without application by or hearing any party, and shall if all the parties to the proceeding so request, hear and try any proceeding in chambers; and may at all times in any proceeding, whether heard and tried in chambers or in open court, make an order forbidding the publication of any report or account of the evidence or other proceedings therein, either as to the whole or any portion thereof; and the breach of any such order, or any colourable or attempted evasion thereof, may be dealt with as contempt of court.

## **25 No fees payable**

- (1) No fee shall be received or demanded in respect of any matter or proceeding in the court.
- (2) Unless the court otherwise orders, no costs shall be awarded to any party in any proceeding in the court, but the court shall have power if it thinks fit, on account of the relative positions of the parties, or if it considers any act on the part of a party to have been unconscionable or in the circumstances improper,

or for any other reason, to order that a sum by way of costs (not exceeding in any case the sum that might have been awarded as costs if the proceedings had been an action in the Supreme Court) be paid by any party to any other party.

*Miscellaneous*

**26 Power to stay proceedings in other courts pending proceedings in Adjustment Court**

Any court other than the Adjustment Court may at any time, upon such terms and conditions as it thinks fit, stay any proceedings in such court pending the completion of any proceedings for the time being pending or to be commenced in the Adjustment Court.

**27 Proceedings may in certain cases be referred by court to Magistrate or other person**

- (1) Any proceeding in the court may be referred by the court, if it thinks fit,—
  - (a) with or without application by or hearing any party, to a Magistrate to be specified by the court; or
  - (b) to any person to whom all the parties to the proceeding may, in writing, agree that it should be referred.
- (2) A Magistrate to whom a proceeding has been referred under this section shall have all the powers and duties of the court in respect of the hearing and determination of such proceeding and of the making or refusal of an order.
- (3) On receipt of the order of the court referring a proceeding to him the Magistrate shall forthwith cause notice to be served upon the parties, appointing a time and place for the hearing of such proceeding.
- (4) An appeal shall lie to the court from the decision of a Magistrate upon a proceeding referred to him under this section.
- (5) Where a proceeding is referred to a person other than a Magistrate under paragraph (b) of subsection (1), the time of hearing and the procedure upon such proceeding shall be in the discretion of such person, and his determination shall be final and conclusive, and he shall have all the powers of the court in respect of the hearing and determination of the proceeding and the making or refusal of an order.
- (6) Any order or determination made by a Magistrate or other person under this section shall be under the hand of such Magistrate or other person, and such Magistrate or other person shall forthwith transmit such order or determination to the Registrar of the court, who shall cause it to be filed in the proper register of the court, whereupon, subject to the provisions of subsection (4), it shall have effect according to its tenor as if it were an order of the court.

**28 Enforcement of orders**

- (1) For the purpose of enforcing any order of the court a copy of such order, under the seal of the court, may be filed without fee in any office of the appropriate court, as determined under the next succeeding subsection, whereupon the order shall be enforceable in the same manner as a final judgment of that court in its civil jurisdiction.
- (2) The appropriate court for the filing of such copy shall be—
  - (a) where the order is exclusively an order for the payment of moneys not exceeding in all the sum of 100 pounds, the Magistrate's Court; and
  - (b) in every other case, the Supreme Court.

**29 Registration of orders affecting interests in land**

- (1) Any order of the court affecting or relating to any estate, right, or interest in land may, if the court so orders, or if the rules of the court so provide, be registered against the title to that land either under the Land Transfer Act 1915, or the Deeds Registration Act 1908, as the case may be.
- (2) For the purposes of such registration a copy of the order, under the seal of the court, shall be transmitted by the Registrar of the court to the District Land Registrar or the Registrar of Deeds, as the case may be; and the said District Land Registrar or Registrar of Deeds shall thereupon register it accordingly without fee. Unless the court otherwise orders, or the rules of the court otherwise provide, the production of the certificate of title shall not be necessary for the purpose of any such registration under the Land Transfer Act 1915.
- (3) Until registration has been so effected an order of the court in respect of any estate or interest in land subject to the Land Transfer Act 1915 shall affect only the equitable title thereto.

**30 Orders exempt from stamp duty**

No order of the court shall be subject to stamp duty under the Stamp Duties Act 1923.

**31 Orders to bind all persons having interest in land affected**

- (1) Every order of the court affecting any estate, right, or interest in land shall bind all persons having any interest in that land, whether or not they are parties to or have notice of the proceeding in which the order is made, and whether or not they are subject to any disability.
- (2) Subject to the last preceding subsection, every declaratory order of the court shall have the same effect and be binding on the same persons as if it were a valid declaratory order made by the Supreme Court.

**32 Proceedings not to be impeached for want of form, or appealed against**

Proceedings in the court shall not be impeached or held bad for want of form, nor shall the same be removable to any court by certiorari or otherwise; and no order or proceeding of the court shall be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court on any account whatsoever.

**33 Contempt of court**

- (1) If any person wilfully insults any member of the court, or the Registrar, or any Deputy Registrar or other officer of the court, during his sitting or attendance in court, or while he is going to or returning from the court, or a witness in court, or wilfully interrupts the proceedings of the court, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt at any sitting of the court, it shall be lawful for a constable or any officer of the court, with or without the assistance of any other person, to take the person so offending into custody and remove him from the precincts of the court, to be detained in custody until the rising of the court.
- (2) The court may, after giving any person so offending a reasonable opportunity of being heard in his defence, either order him to pay a fine not exceeding 10 pounds or commit him to prison for a period not exceeding 14 days.

**34 This Part to apply to Crown**

All the provisions of this Part shall apply to the Crown.

**35 Expenses of administration of this Part to be appropriated by Parliament**

All expenses incurred in connection with the administration of this Part shall be paid out of moneys from time to time appropriated by Parliament for the purpose.

**36 Regulations**

The Governor-General may from time to time, by Order in Council, make regulations—

- (a) fixing the remuneration and travelling and other allowances of the members of the court;
- (b) providing, where there is no provision in this Part in respect of any matter or thing necessary to give effect to this Part, in what manner and form the deficiency shall be supplied;
- (c) making any provision which may be convenient for the administration of this Part, or which may be desirable or necessary in order to carry its objects into full effect.

**37 Power to establish additional courts**

The Governor-General may from time to time, by Order in Council made upon the recommendation of the Chief Justice, establish 1 or more additional Hawke's Bay Adjustment Courts, and all the provisions of this Part shall, with the necessary modifications, apply with respect to every such court.

**Part 2  
Rehabilitation***Financial provisions***38 Authority to make payments from Reserve Fund Account**

Notwithstanding anything to the contrary in any Act, the Minister of Finance may from time to time, without further appropriation than this section, make payments from the Reserve Fund Account for the following purposes:

- (a) for the purpose of granting financial assistance in accordance with the provisions of this Part, to an amount not exceeding in all the sum of 1,250,000 pounds, to persons who have suffered loss or damage by reason of the earthquake:
- (b) for the purpose of transferring from time to time as required sums not exceeding in all the sum of 250,000 pounds to the State Advances Account for loans to local authorities in accordance with this Part.

**39 Realisation of Reserve Fund securities**

- (1) For the purpose of making the payments authorised by the last preceding section, the Minister of Finance may from time to time sell any securities purchased under the authority of Part 12 of the Public Revenues Act 1926.
- (2) All moneys received from any such sale shall be paid into the Public Account to the credit of the Reserve Fund Account.
- (3) All costs, charges, and expenses from time to time incurred by the Minister of Finance in connection with any such sale or in connection with the administration of this Part shall, without further appropriation than this section, be paid out of the Reserve Fund Account.

**40 Authority to advance payments out of public moneys and charge to Reserve Fund Account**

In anticipation of the realisation of securities under the last preceding section any payments authorised by section 38 or section 39 to be made out of the Reserve Fund Account may, notwithstanding anything to the contrary in any Act, be made out of any moneys for the time being in the Public Account. All payments so made shall be charged to the Reserve Fund Account.

*Financial assistance to earthquake sufferers*

**41 Discretion of Minister of Finance to grant financial assistance**

- (1) Subject to the following provisions of this Part and of any regulations thereunder, the Minister of Finance may from time to time grant financial assistance to persons who have suffered loss or damage by reason of the earthquake in such cases, to such extent, and subject to such terms and conditions, as the Minister thinks fit.
- (2) Such assistance may be of such nature and in such form as the Minister of Finance thinks fit. In particular, without limiting the provisions of this section, such assistance may be by way of loan or by way of grant, or partly by way of loan and partly by way of grant. Any such loan may be made without security or upon such security as the Minister of Finance thinks fit.

**42 Hawke's Bay Rehabilitation Committee constituted**

- (1) For the purposes of considering applications for assistance and of exercising the powers, duties, and functions hereinafter set forth, there is hereby established a committee, to be known as the Hawke's Bay Rehabilitation Committee (hereinafter called the **committee**), which shall consist of 5 persons to be appointed by the Minister of Finance and to hold office as members of the committee during his pleasure.
- (2) The Minister of Finance may from time to time appoint one of the members of the committee to be the chairman of the committee.
- (3) In the absence of the chairman from any meeting of the committee the members present shall appoint one of their number to be chairman of that meeting.
- (4) Three members shall form a quorum at any meeting of the committee. The powers of the committee shall not be affected by any vacancy in the membership thereof.
- (5) At any meeting of the committee the chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote. The decision of the committee on any matter shall be determined by a majority of the valid votes recorded thereon.
- (6) The Minister of Finance may from time to time appoint an officer of the Public Service to be the secretary of the committee.
- (7) The committee may make rules consistent with this Act governing its own procedure.

**43 Applications to committee by persons desiring assistance**

- (1) Any person who desires assistance in accordance with the foregoing provisions of this Part may make an application to the committee in such form as it may prescribe, giving such information and particulars as the committee may re-

quire, which information and particulars shall be verified in such manner as may be required by the committee.

- (2) Upon receipt of such application the committee may of itself, or by any of its members, or by any other person authorised by it in that behalf, make such investigations in respect of such application as the committee shall think fit.
- (3) The committee or any person authorised by it in that behalf shall, when making investigations in respect of any such application, have all the powers of a commission under the Commissions of Inquiry Act 1908.

#### **44 Committee to make recommendations to Minister**

In respect of every such application made to the committee the committee may make such recommendation to the Minister of Finance as it thinks fit, and shall set out in such recommendation the nature and extent of the assistance (if any) recommended and the terms and conditions suggested therefor. On receipt of any such recommendation the Minister of Finance may take such action thereon as he deems expedient.

#### **45 Provision for relief of hardship arising from earthquake in respect of land tax or income tax**

In any case where the committee reports to the Commissioner of Taxes that in its opinion the payment of land tax or of income tax by any taxpayer under the Land and Income Tax Act 1923 would by reason of the earthquake entail serious hardship to the taxpayer, the Commissioner of Taxes may in his discretion release the taxpayer wholly or in part from his liability to pay land tax or income tax for any 1 or more of the years ending on 31 March in the years 1932 to 1936 inclusive.

#### **46 Crown to have preferential claim for repayment in event of bankruptcy or winding up within 5 years**

- (1) Subject to the next succeeding subsection, if any person is adjudicated bankrupt, or, in the case of a company, if an order is made or an effective resolution is passed for its winding up, within 5 years after any moneys have been paid, whether by way of loan or grant or otherwise, in respect of such person or company, under the foregoing provisions of this Part, then, notwithstanding anything to the contrary in any other Act, the Crown shall have a preferential claim in such bankruptcy or winding-up, to be paid in priority to all other debts, for the total amount of such moneys, reduced by so much thereof as may for the time being have been repaid.
- (2) The Minister of Finance may, if he thinks fit, remit any such claim in whole or in part, or allow any other debt or debts to be paid in priority to or rank equally with such claim.



**47 Moneys paid in respect of land to be a first charge thereon in certain cases**

- (1) Subject to the provisions of this section, where any moneys are paid to any person under the foregoing provisions of this Part, whether by way of loan or grant or otherwise, in respect of any land, such moneys shall, until repayment thereof, be a first charge upon such land in favour of His Majesty the King.
- (2) Such charge may be registered in the manner provided by the Statutory Land Charges Registration Act 1928 but without payment of any fee.
- (3) In so far as such charge relates to moneys paid by way of grant—
  - (a) it shall not be enforced unless within a period of 5 years after the date of the registration of such charge a mortgagee under a mortgage affecting such land executed before the date of such registration or some other person—
    - (i) exercises any power of sale conferred by such mortgage in respect of such land; or
    - (ii) issues any process of execution against such land in pursuance of any judgment, decree, or order of any court in its civil jurisdiction obtained in respect of any covenant, condition, or agreement expressed or implied in such mortgage; and
  - (b) at the expiration of such period of 5 years, if such charge has not then been enforced, it shall be deemed to have been satisfied.
- (4) In this section **land** has the same meaning as in the Land Transfer Act 1915.

**48 Securities to be taken in name of His Majesty**

- (1) All securities for loans under the foregoing provisions of this Part shall be taken in the name of His Majesty the King.
- (2) All deeds or other instruments required for or in connection with the release, discharge, satisfaction, or assignment of any such security or of the debt secured thereby, or of any claim or charge in favour of His Majesty in respect of any moneys paid under the foregoing provisions of this Part may be executed, for and on behalf of His Majesty, by the State Advances Superintendent.
- (3) No such security, and no release, discharge, satisfaction, or assignment of any such security shall be subject to stamp duty under the Stamp Duties Act 1923; and no fee shall be charged for registering any such security, release, discharge, satisfaction, or assignment, whether under the Land Transfer Act 1915, the Deeds Registration Act 1908, or the Chattels Transfer Act 1924.

**49 Application of repayments and interest**

- (1) All moneys received on account of any securities, claims, or charges in favour of His Majesty, or otherwise on account of any moneys advanced or paid under the foregoing provisions of this Part, shall be credited as follows:

- (a) repayments of principal shall be credited to the Reserve Fund Account; and
  - (b) interest shall be credited to the Consolidated Fund.
- (2) The Minister of Finance may from time to time grant such relief as he thinks fit from compliance with any terms and conditions imposed by him in granting any financial assistance as aforesaid or with the terms of any security for any moneys advanced by way of loan, or from repayment of the whole or any part of any such moneys, and may from time to time extend the time for any such repayment, and may release or waive any such security or charge on land notwithstanding that any moneys secured thereby may not have been repaid.

*Financial assistance to local authorities*

**50 Local authority defined**

In this Part the term **local authority** includes the Council of a city or borough, the Council of a county, a Harbour Board, a Road Board, a Town Board, a Maori Township Board, a Drainage Board, a Water-supply Board, a River Board, an Electric-power Board, a Fire Board, a Hospital Board, and such other public bodies as are from time to time declared by the Governor-General by Order in Council to be local authorities for the purposes of this Part.

Section 50: amended, on 27 November 1947, pursuant to section 9(2)(a) of the Maori Purposes Act 1947 (1947 No 59).

**51 Local authorities may, without taking poll of ratepayers, borrow moneys for purpose of repairing earthquake damage**

- (1) Any local authority may, without taking the steps described in sections 9 to 13 of the Local Bodies' Loans Act 1926, borrow such moneys as may be required for the purpose of repairing any damage caused by the earthquake.
- (2) The power conferred by the last preceding subsection may be exercised by any local authority, not being a Fire Board or a Hospital Board, pursuant to a resolution passed at a special meeting of that local authority and confirmed at a subsequent meeting (either ordinary or special) held not sooner than the tenth day after the day of such special meeting. Public notice of the place and date fixed for such subsequent meeting, and of the resolution proposed to be confirmed thereat, shall be given at least twice in the period intervening between the 2 meetings.
- (3) Any sum paid by a local authority out of its general fund or account, whether before or after the passing of this Act, for the purpose of repairing any damage caused by the earthquake may be refunded to the general fund or account out of loan moneys subsequently borrowed by the local authority pursuant to this section.

**52 Loans may be granted by State Advances Office**

- (1) The State Advances Superintendent is hereby authorised to lend money to any local authority empowered to borrow money under the last preceding section for the purpose of repairing any damage caused by the earthquake.
- (2) All loans under this section shall be made in the Advances to Local Authorities Branch of the State Advances Office out of the funds from time to time provided in that behalf pursuant to the provisions of this Part.

**53 Terms of State Advances loans**

With respect to every loan granted by the State Advances Superintendent under the last preceding section the provisions of section 74 of the Local Bodies' Loans Act 1926 shall apply, with the following modifications:

- (a) the loan may be free of interest for a period not exceeding 5 years from the date of the advance of the loan moneys:
- (b) the rate of interest to be charged shall be 4% per annum:
- (c) the loan and interest thereon shall be repaid by half-yearly instalments over a term of years (not exceeding 30) calculated from the date on which interest first commences to accrue on any portion of the loan moneys:

provided that the Minister of Finance may from time to time grant such relief as he thinks fit from compliance with the terms and conditions of any such loan or with the terms of any security for any such loan, or from repayment of the whole or any part of any such loan or any interest thereon, and may from time to time extend the time for such repayment, and may authorise the release or discharge of any such security notwithstanding that any moneys secured thereby may not have been repaid.

**54 Application of instalments under State Advances loans**

The State Advances Superintendent shall from time to time pay into the Public Account all instalments of principal and interest received by him on account of loans granted under section 52, and such moneys shall be credited as follows:

- (a) instalments of principal shall be credited to the Reserve Fund Account; and
- (b) interest shall be credited to the Consolidated Fund.

*Regulations*

**55 Regulations**

The Governor-General may from time to time, by Order in Council, make regulations—

- (a) fixing the remuneration and travelling and other allowances of members of the Hawke's Bay Rehabilitation Committee:

- (b) providing, where there is no provision in this Part or not sufficient provision in respect of any matter or thing necessary to give effect to this Part, in what manner and form the deficiency shall be supplied:
- (c) making any provision which may be convenient for the administration of this Part, or which may be desirable or necessary in order to carry its objects into full effect.

### **Part 3**

#### **Miscellaneous**

**56 Authority for State Advances Superintendent to allow usual rebate of interest where prompt payment of instalments has been prevented by earthquake**

- (1) Where by reason of the earthquake the mortgagor under any mortgage to the State Advances Superintendent has failed to pay within 14 days of its due date any instalment of principal and interest due under such mortgage on any date from 20 January 1931 to 20 April 1931, both inclusive, the Superintendent may, if he thinks fit, notwithstanding anything to the contrary in section 41 of the State Advances Act 1913, allow with respect to such instalment a rebate of interest calculated at the rate of 0.5% per annum.
- (2) All such rebates allowed before the passing of this Act are hereby validated and declared to have been lawfully allowed.

**57 Validation of *ex gratia* payments to State Fire policy holders in connection with earthquake fire damage**

All *ex gratia* payments heretofore made by the State Fire Insurance General Manager in connection with property insured in the State Fire Insurance Office against ordinary fire risk and destroyed or damaged in the month of February 1931 by fires arising out of the earthquake are hereby validated, and the State Fire Insurance General Manager may hereafter make such payments at his discretion.

**58 Authorising expenditure out of Consolidated Fund for public works and services in connection with the earthquake**

- (1) There may, without further appropriation than this section, be paid out of the Consolidated Fund such amounts as the Minister of Finance may from time to time determine for the purpose of assisting in the repair of damage to or the restoration of public works caused by the earthquake, and for the purpose of providing for any relief of distress or hardship or for any special public services which it has been necessary for the Government to grant or undertake as a result of the earthquake.

- (2) This section shall be deemed to have come into force on 3 February 1931 and any entries after that date purporting to be made under the authority of section 59 of the Public Revenues Act 1926 may be adjusted accordingly.

**59 Validation of payments by local authorities and certain other bodies to earthquake relief funds**

- (1) All payments heretofore made by any local authority or other body to which this section applies to public funds established for the relief of distress or hardship due to the earthquake are hereby declared to have been validly made if made in accordance with the provisions of this section, and any such local authority or other body may hereafter make payments in accordance with such provisions to any such fund.
- (2) This section shall apply to local authorities as hereinafter defined, and to the following bodies, namely:
- (a) any savings bank constituted under the Savings Banks Act 1908 or the trustees of such savings bank:
  - (b) any friendly society or branch thereof:
  - (c) any acclimatisation society registered under the Animals Protection and Game Act 1921–22:
  - (d) the Coromandel Queen Carnival Executive:
  - (e) the Masterton Trust Lands Trustees:
  - (f) the New Zealand Meat-producers Board:
  - (g) *[Repealed]*
  - (h) any law society incorporated under the Law Practitioners Act 1908:
  - (i) the New Zealand Institute of Architects, incorporated under the New Zealand Institute of Architects Act 1913:
  - (j) the New Zealand Society of Accountants, incorporated under the New Zealand Society of Accountants Act 1908:
  - (k) any other body specifically approved by the Minister of Finance.
- (3) For the purposes of this section the term **local authority** means a Borough Council, County Council, Road Board, Town Board, Harbour Board, River Board, Land Drainage Board, Electric-power Board, Railway Board, Domain Board, or Fire Board.
- (4) No payment by a friendly society or branch thereof as aforesaid shall be valid if made out of a benefit fund unless made with the precedent consent of the actuary and the Registrar of Friendly Societies.
- (5) A friendly society or branch may, with the precedent consent of the actuary and the Registrar of Friendly Societies, pay out of any of its funds to any registered friendly society or branch affected by the earthquake such sums as the actuary

may certify can be paid without danger to the financial position of the paying society.

- (6) The decision of the Minister of Finance as to whether or not any fund established as aforesaid is a public fund within the meaning of this section shall be final.

Section 59(2)(g): repealed, on 16 October 2001, by section 165(4) of the Dairy Industry Restructuring Act 2001 (2001 No 51).

**60 Authority for transfer of moneys from West Coast Earthquake Relief Fund to Hawke's Bay Earthquake Relief Fund**

The Minister of Finance may from time to time as he thinks fit, without further appropriation than this section, transfer moneys from any public fund under his control established for the relief of distress or hardship due to the earthquakes which occurred in New Zealand in the month of June 1929 to any public fund under his control established for the relief of distress or hardship due to the Hawke's Bay earthquake.

**61 Extension of power of local authorities to borrow by way of overdraft**

- (1) Where by reason of the earthquake it is necessary so to do a local authority within the meaning of the Local Bodies' Finance Act 1921–22 may, with the precedent consent of the Minister of Finance, and subject to such terms and conditions as he may from time to time impose, borrow moneys under the power conferred by section 3 of that Act in excess of the limits imposed by subsection (2) of that section.
- (2) All moneys heretofore borrowed under the said section 3 in excess of such limits by reason of the earthquake are hereby declared to have been lawfully borrowed.

**62 Postponement of elections of mayor and councillors for boroughs of Napier and Hastings**

- (1) Notwithstanding anything to the contrary in the Municipal Corporations Act 1920 (hereinafter referred to as the **said Act**) or in any other Act, the following provisions of this section shall apply with respect to the boroughs of Napier and Hastings (hereinafter referred to as the **said boroughs**).
- (2) Subject to the provisions of the next succeeding subsection, the first elections of mayors and of councillors for the said boroughs to be held after the passing of this Act shall be the elections to be held pursuant to the said Act on the first Wednesday in May 1933, and it shall not be or be deemed to have been necessary to take any steps after 31 January 1931 in connection with the district electors lists for the said boroughs required by the said Act to be prepared on or before such last-mentioned date.
- (3) The Governor-General may at any time, by Order in Council, direct that an election of mayor and a general election of councillors for either or both of the said boroughs be held on such day before the first Wednesday in May 1933, as

may be specified in the Order in Council, and such elections shall be held accordingly, and all the provisions of the said Act, as modified pursuant to this section, shall apply with respect to such elections as if they were the elections required under the said Act to be held on the first Wednesday in May 1931.

- (4) Until an election is held in either of the said boroughs pursuant to the foregoing provisions of this section, the Governor-General may appoint any qualified person to fill any vacancy in the office of mayor or any extraordinary vacancy in the office of councillor for such borough, and every person so appointed shall hold office in all respects as if he had been duly elected to fill the vacancy.
- (5) The first elections of representatives of either of the said boroughs on the Hawke's Bay Hospital Board, the Hawke's Bay Electric-power Board, and the Napier Harbour Board respectively to be held after the passing of this Act shall be held at the same time as the first elections of a mayor and of councillors for such borough are held pursuant to the foregoing provisions of this section.
- (6) The Governor-General may from time to time, by Order in Council, make regulations—
  - (a) modifying or excluding the provisions of the said Act, or any of them, in so far as they relate to the first elections to be held in either or both of the said boroughs pursuant to this section, or to the preparation of district electors lists or rolls, or to any other steps required to be taken in connection with such elections:
  - (b) prescribing such other matters as may be considered necessary in connection with such elections or for the purpose of giving effect to this section.

**63 Authorising Napier Borough Council to grant a mortgage of certain land with a power of sale**

*[Repealed]*

Section 63: repealed, on 8 September 1999, by section 6(a) of the Napier Borough Endowments Amendment Act 1999 (1999 No 3 (L)).

**64 Appointment of special committee by Napier Borough Council**

Whereas under the authority conferred by section 49 of the Municipal Corporations Act 1920 (hereinafter referred to as the **said Act**), the Napier Borough Council on 2 March 1931 appointed John Saxon Barton, Esquire, Stipendiary Magistrate, and Lachlan Bain Campbell, Esquire, inspecting engineer, Department of Public Works, to be a special committee of management, and delegated to such committee all the powers and duties by the said Act conferred or imposed upon the Council, except the powers expressly excepted from the authority to delegate conferred by the said section 49:

And whereas it is expedient to make further provision with respect to such committee:

Be it therefore enacted as follows:

- (1) The validity of the appointment of such committee shall not be questioned in any proceedings on any ground whatsoever.
- (2) The validity of anything heretofore done by such committee shall not be questioned in any proceedings on the ground that it was in excess of the powers exercisable by such committee or on any other ground.
- (3) Subject to the provisions of any regulations made under this section, the following provisions shall, notwithstanding anything to the contrary in the said Act or in any other Act, apply with respect to such committee, and shall be deemed to have so applied from the time of its appointment, namely:
  - (a) the committee may in the name and on behalf of the Council or the Corporation of the Borough of Napier, as the case may require, exercise any power, and shall perform all the duties, conferred or imposed upon the Council by the said Act or by any other Act (including this Act) or by any instrument or otherwise. In particular, without limiting the provisions of this section, the committee may exercise the power to appoint standing or special committees conferred by the said section 49 of the said Act, and any other powers of the Council with respect to such committees:
  - (b) the Council shall not revoke, modify, or restrict the delegation to the committee of the Council's powers and duties, or exercise any control over the committee:
  - (c) any power given to the Council to do anything by special order or to borrow money may be exercised by the committee by an entry in the minute book of the committee signed by all the members of the committee:

provided that before exercising any such power other than the power to borrow moneys in anticipation of revenue the committee shall give public notice at least twice of the entry proposed to be made in its minute book in that behalf, and of the date on which it is proposed to make such entry, being not earlier than the tenth day after the day of the first publication of such notice:

provided also that the committee may exercise any power given to the Council to borrow money without taking the steps described in sections 9 to 13 of the Local Bodies' Loans Act 1926:
  - (d) all cheques drawn on any bank account of the Council or of the Corporation of the Borough of Napier shall be signed by such person or persons as the committee from time to time directs:
  - (e) the Governor-General may from time to time, by Warrant under his hand, appoint any person to be an additional member of the committee, or remove or accept the resignation of any member for the time being of the committee, or appoint any person to be a member in substitution for any person who has ceased to be a member thereof.



- (4) The Governor-General may from time to time, by Order in Council, make regulations—
- (a) modifying or excluding the provisions of the said Act, or any of them, in so far as they relate to such committee:
  - (b) regulating the exercise and performance by the committee of any of the powers or duties conferred or imposed upon it under this section, or modifying any such powers or duties:
  - (c) providing that any such powers or duties shall from such date as may be prescribed by the regulations cease to be exercised or performed by the committee, and thenceforth be exercised or performed by the Council:
  - (d) prescribing such other matters as may be considered necessary for the purpose of giving effect to this section.
- (5) The Governor-General may at any time, by Order in Council, discharge such committee as from a date to be specified in the Order in Council.

**65 Audit of earthquake relief funds by Audit Office**

*[Repealed]*

Section 65: repealed, on 9 November 1931, by section 14(2) of the Hawke's Bay Earthquake Relief Funds Act 1931 (1931 No 29).

**66 Power to make regulations rendered necessary by the earthquake**

- (1) The Governor-General may from time to time, by Order in Council, make such regulations as he deems necessary, having regard to the exigencies of the Hawke's Bay earthquake and the conditions arising therefrom, for the purpose of validating, authorising, or prohibiting any act (whether of commission or omission), thing, or proceeding. In particular, without limiting the power conferred by this section, regulations under this section may make provision for all or any of the following purposes:
- (a) for the remission of taxation on race meetings conducted for the purpose of raising funds for the relief of distress or hardship due to the earthquake:
  - (b) for the remission of stamp duty on any instruments or class or classes of instruments rendered necessary by or in any way arising out of the earthquake (including receipts for money donated to earthquake relief funds) or on instruments replacing stamped instruments lost, destroyed, or damaged by reason of the earthquake:
  - (c) for making allowances for stamps destroyed or spoiled by reason of the earthquake by giving in exchange other stamps of the same value or by paying to the owner the amount thereof, with such deduction in either case as may be prescribed:

- (d) validating the actions of public officials and any other persons done in good faith with respect to any emergency arising out of the earthquake and restricting the taking of legal proceedings in connection therewith:
- (e) extending the time for doing anything under any Act:
- (f) extending the time for taking any legal proceedings; and authorising the taking of any such proceedings without complying with any statutory conditions precedent:
- (g) for the filing, enrolment, registration, or lodgement in any public office of authenticated copies of deeds lost or destroyed by reason of the earthquake:
- (h) regulating actions for the recovery of deeds or documents lost or destroyed by reason of the earthquake:
- (i) validating and authorising the erection of temporary shops and buildings on public reserves, roads, and streets in the Borough of Napier; and providing for the removal thereof:
- (j) validating and authorising alterations to the statutory closing day under the Shops and Offices Act 1921–22 in the boroughs of Napier and Hastings:
- (k) validating and authorising contracts of local authorities which are made with members thereof or in which members are concerned or interested:
- (l) regulating drainage and sanitation, and conserving public health, safety, and convenience, and preventing and abating nuisances:
- (m) validating, authorising, and compelling the destruction of damaged buildings:
- (n) providing for the payment by instalments of fees for the issue, renewal, or transfer of licences under the Land Agents Act 1921–22 and under the Auctioneers Act 1928; for remitting or reducing the amount of such fees or instalments either generally or in particular cases; and for suspending the operation of such licences for such periods as may be thought fit:
- (o) for the remission of the fees payable under any Act, regulations, rules, or bylaws, for the issue or renewal of any certificates, licences, documents, or books required to replace certificates, licences, documents, or books lost, destroyed, or damaged by reason of the earthquake:
- (p) suspending or restricting with respect to any borough affected by the earthquake the operation of all or any of the provisions of Part 13 of the Municipal Corporations Act 1920 or of any other Act relating to the accounts or special funds of the corporations or councils of boroughs:
- (q) for the control of building operations in any borough affected by the earthquake; and, in particular, authorising the council of any such borough to issue building permits on such terms and conditions as such Council thinks fit, or as may be prescribed, and to remove or compel the

removal of any buildings erected within such borough at any time since 3 February 1931:

- (r) Validating and authorising breaches by banks of any of the provisions of the Banking Act 1908 where such breaches are due to the earthquake; and providing that any days during which any bank premises in the earthquake area were not open for business as a result of the earthquake shall for all or any purposes be deemed to have been bank holidays:
  - (s) *[Repealed]*
  - (t) for the remission of light dues, harbour dues, and other charges in respect of ships carrying persons who suffered as a result of the earthquake or carrying goods for the relief of distress or hardship due to the earthquake, and for the remission of such dues and charges in respect of such goods:
  - (u) validating and authorising payments by the New Zealand Meat-producers Board in respect of the transport of stock which has, by reason of the earthquake, been taken from one district to another district to be slaughtered:
  - (v) modifying the provisions of the Hospitals and Charitable Institutions Act 1926 relating to subsidies to Hospital Boards in respect of amounts levied from contributory local authorities, or relating to the recovery of amounts so levied, or relating to the apportionment of the net estimated expenditure of Hospital Boards among contributory local authorities, or relating to the relief by a Hospital Board of persons not resident in the district of such board; and making any provision which may be desirable or necessary with respect to such matters:
  - (w) modifying or extending all or any of the provisions of the Town-planning Act 1926 and making any provision which may be deemed necessary or expedient with respect to the planning or replanning of any area or areas affected by the earthquake:
  - (x) authorising any local authority affected by the earthquake to use loan moneys for purposes other than the purposes for which such moneys were borrowed.
- (2) Any regulations made under this section may provide that such regulations shall have effect as from any date specified therein, being not earlier than 2 February 1931, and such regulations shall have effect accordingly, and be deemed to have been valid and of full effect as from such specified date; and the powers, rights, duties, and liabilities of all persons in respect of all things done or suffered, whether before or after the passing of this Act or before or after the making of such regulations, shall be determined accordingly.
- (3) Any regulations made under this section may be of general or of particular application, and all such regulations shall have the force of law as if enacted in

this Act, anything to the contrary in any other Act, Order in Council, or regulations, or in any Proclamation, rules, or bylaws notwithstanding.

- (4) All regulations made under this section shall be published in the *Gazette*, and shall be laid before both Houses of Parliament within 14 days after the gazetting thereof if Parliament is then in session, and, if not, then within 14 days after the commencement of the next ensuing session.

Section 66(1)(s): repealed, on 31 July 1931, by section 2(5) of the Rent Restriction Extension Act 1931 (1931 No 11).

## **Reprints notes**

### **1    *General***

This is a reprint of the Hawke's Bay Earthquake Act 1931 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2    *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3    *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4    *Amendments incorporated in this reprint***

Statutes Repeal Act 2017 (2017 No 23): section 3(1)

Evidence Act 2006 (2006 No 69): section 216

Dairy Industry Restructuring Act 2001 (2001 No 51): section 165(4)

Napier Borough Endowments Amendment Act 1999 (1999 No 3 (L)): section 6(a)

Maori Purposes Act 1947 (1947 No 59): section 9(2)(a)

Finance Act 1931 (No 4) (1931 No 44): section 53

Hawke's Bay Earthquake Relief Funds Act 1931 (1931 No 29): section 14(2)

Rent Restriction Extension Act 1931 (1931 No 11): section 2(5)