

Gisborne Harbour Act 1905

Local Act 1905 No 15
Date of assent 23 September 1905

Contents

		Page
	Title	2
1	Short Title	2
2	Act to be a special Act	2
3	Interpretation	2
4	Harbour defined	3
Constitution of harbour board		
5	Constitution of Board <i>[Repealed]</i>	3
6	Qualification of members <i>[Repealed]</i>	3
7	Local Elections Act applied <i>[Repealed]</i>	3
8	List of payers of dues <i>[Repealed]</i>	3
9	Roll of electors in borough <i>[Repealed]</i>	3
10	Elections in counties <i>[Repealed]</i>	3
11	First and subsequent elections <i>[Repealed]</i>	4
Endowment		
12	Endowment lands	4
Rating-powers of the board		
13	Harbour district defined	4
14	Power to levy rate	4
15	Application of rate	5
16	Special-district rate	5
17	Balance of annual charges to be raised by ordinary rate	6
18	Rates payable half-yearly	7
19	Rate not to be quashed	7
20	Interest on loan fund to be payable to the Board	7
21	Repayment of advance made to pay off overdraft	8
22	Further payments out of loan fund of \$30,000 and \$40,000	8
23	Funds held by the Public Trustee	9
24	Investment of funds	9
25	Public Trustee to give notice when funds available for investment	10

26	Appointment and powers of Receiver on default by Board	10
	Schedule 1	11
	Seaward limits of Gisborne Harbour	
	Schedule 2	11
	Gisborne Harbour Board endowment	
	Schedule 3	13
	Further endowment	
	Schedule 4	13
	Acts repealed	
	<i>[Repealed]</i>	

An Act to consolidate certain Acts of the General Assembly relating to Gisborne Harbour.

BE IT 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 Gisborne Harbour Act 1905.

2 Act to be a special Act

This Act shall be deemed to be a special Act within the meaning of The Harbours Act 1878, which Act is hereby incorporated with this Act.

3 Interpretation

In this Act, if not inconsistent with the context,—

Board means the Gisborne Harbour Board as constituted under this Act

Chairman means the Chairman of the Board

Harbour district or **district** and **special district** mean the harbour district and special harbour district established under this Act

Returning Officer means the officer appointed by the Board to conduct elections within the harbour district

The said Act means The Harbours Act 1878.

4 Harbour defined

The limits of Gisborne Harbour shall be those set forth in Schedule 1 hereto.

Constitution of harbour board

5 Constitution of Board

[Repealed]

Sections 5 to 11 were repealed, as from 1 January 1911, by section 27 Harbours Amendment Act 1910 (1910 No 47).

6 Qualification of members

[Repealed]

Sections 5 to 11 were repealed, as from 1 January 1911, by section 27 Harbours Amendment Act 1910 (1910 No 47).

7 Local Elections Act applied

[Repealed]

Sections 5 to 11 were repealed, as from 1 January 1911, by section 27 Harbours Amendment Act 1910 (1910 No 47).

8 List of payers of dues

[Repealed]

Sections 5 to 11 were repealed, as from 1 January 1911, by section 27 Harbours Amendment Act 1910 (1910 No 47).

9 Roll of electors in borough

[Repealed]

Sections 5 to 11 were repealed, as from 1 January 1911, by section 27 Harbours Amendment Act 1910 (1910 No 47).

10 Elections in counties

[Repealed]

Sections 5 to 11 were repealed, as from 1 January 1911, by section 27 Harbours Amendment Act 1910 (1910 No 47).

11 First and subsequent elections*[Repealed]*

Sections 5 to 11 were repealed, as from 1 January 1911, by section 27 Harbours Amendment Act 1910 (1910 No 47).

Endowment**12 Endowment lands**

- (1) The parcels of land described in Schedules 2 and 3 hereto are hereby set apart as an endowment for the Gisborne Harbour for the purposes of this Act; provided that the said land shall only be disposed of by lease, as provided for in this Act.
- (2) The Board may lease any lands vested in it or over which it has any control (other than those described in the said Schedule 3, or any part thereof) at such rents and profits and upon such terms and conditions as it determines, so that such leases be for any term not exceeding sixty-five years, and may let any of the lands described in the said Schedule 3 for any period not exceeding thirty years, to take effect in every case from the time of the execution thereof.

Rating-powers of the board**13 Harbour district defined**

A harbour district is hereby constituted for the purpose of this Act, and such district shall comprise the whole of the Counties of Waiapu and Cook and the Borough of Gisborne.

14 Power to levy rate

- (1) The Board shall make and levy, in the proportions in the different parts of the harbour district hereinafter mentioned, a rate not exceeding half a cent in the dollar upon all rateable property in the harbour district.
- (2) The rate to be levied on the rateable property in the Borough of Gisborne shall be double the rate to be levied on the rateable property in the other parts of the harbour district.
- (3) The amount to be levied under this section in each year shall not exceed such amount as is required to provide for the payment of interest, sinking fund, and other charges on the loan

of four hundred thousand dollars raised under the authority of The Gisborne Harbour Act 1884, after taking into account whatever sum of money may be available for payment thereof from the revenue of the Board for the previous year.

The words “half a cent in the dollar” in subsection (1) were substituted, as from 10 July 1967, for the words “a penny in the pound” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

The words “four hundred thousand dollars” in subsection (3) were substituted, as from 10 July 1967, for the words “two hundred thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

15 Application of rate

The proceeds of such rate shall be applied towards payment of the annual charges to accrue in respect of the loan heretofore raised by the Board.

16 Special-district rate

Whereas upon the raising of the said loan of four hundred thousand dollars the Board, in order to better secure the sum so borrowed, entered into an engagement with the debenture-holders to set aside and invest a sum of fifty thousand dollars as a sinking fund: And whereas it was enacted by law that it should be unlawful for the Board, without the sanction of the General Assembly first had and obtained, to expend a greater sum than one hundred and thirty thousand dollars: And whereas the Board was subsequently authorised by The Gisborne Harbour Act 1884 Amendment Act 1888, to expend a further sum of eighty thousand dollars upon condition that the interest payable upon the said sum of eighty thousand dollars should be paid by a special-district rate to be raised and levied upon all rateable property within the Borough of Gisborne and the County of Cook and the County of Waikohu, but not within the County of Waiapu (hereinafter referred to as “the special district”), as provided in the last-mentioned Act: And whereas it was further enacted that, after deducting the said sum of eighty thousand dollars and the said sum of one hundred and thirty thousand dollars, the balance of the loan of four hundred thousand dollars, including the sum of fifty thousand dollars and any interest accrued thereon in the hands of the Sinking Fund Commissioners appointed by the Board, should be vested in

the Public Trustee, and such moneys were duly vested accordingly: Be it therefore enacted as follows:—

- (a) The proportion of interest payable upon the said sum of eighty thousand dollars shall be raised and paid by a special-district rate to be raised and levied upon all rateable property within the special district.
- (b) Such special-district rate shall not exceed one cent in the dollar in the Borough of Gisborne, and half a cent in the dollar in the County of Cook and the County of Waikohu; provided that the rate levied upon rateable property in the Borough of Gisborne shall be double the rate levied upon rateable property in the County of Cook and the County of Waikohu.
- (c) The special-district rate shall not be deemed to be a special rate within the meaning of The Rating Act 1894, but shall for all purposes be deemed to be an ordinary and additional rate raised and levied over rateable property in a restricted district.

This section was amended, as from 17 September 1910, by section 5 Gisborne Harbour Amendment Act 1910 (1910 No 1(L)) by inserting the words “and the County of Waikohu”.

The words “four hundred thousand dollars”, the words “fifty thousand dollars”, the words “one hundred and thirty thousand dollars”, the words “eighty thousand dollars”, the words “one cent in the dollar” and the words “half a cent in the dollar” were substituted, as from 10 July 1967, for the words “two hundred thousand pounds” the words “twenty-five thousand pounds”, the words “sixty-five thousand pounds”, the words “forty thousand pounds”, the words “two pence in the pound” and the words “one penny in the pound” respectively pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

17 Balance of annual charges to be raised by ordinary rate

- (1) For every annual period commencing from the first day of January the Board shall raise the annual amount required to provide the sinking fund and the balance of interest on the loan not provided for by the special-district rate by the ordinary rate to be raised and levied on the rateable property of the whole harbour district as is hereinbefore provided.
- (2) The annual amount required to provide the sinking fund and the balance of interest on the loan not provided for by the special-district rate shall mean such sum as the Board may in any year estimate to be necessary for that purpose, after taking into

account the estimated balance of ordinary revenue available in that year (deducting working-expenses and cost of administration) and the interest accrued or accruing *de die in diem* within that year upon the then unexpended balance of loan fund vested in the Public Trustee as aforesaid.

18 Rates payable half-yearly

The special-district rate and the ordinary rate for each annual period shall be payable within the annual period in two equal instalments, at such times in each case, not being necessarily the same times, as the Board from time to time determines.

19 Rate not to be quashed

No rate made under this Act shall be capable of being set aside or of being quashed by any proceedings of any Court or otherwise, or no defect in the same or in the time prescribed for the payment of any instalment shall be set up as a defence to any action which may be brought to recover the same.

20 Interest on loan fund to be payable to the Board

The income of all investments by the Public Trustee of loan fund of the Board vested in him as aforesaid, including the income of investments of the said sum of fifty thousand dollars, but excluding the income of all sinking fund and accretions thereof, shall hereafter be paid over by the Public Trustee to the Board in each year as soon as conveniently may be after such income is received by him, save only that the Public Trustee may, and he is hereby directed to, deduct and retain in each year out of such income any moneys payable to him by the Board in that year, whether for sinking fund or otherwise:

Provided that it shall not be necessary for the Board to pay, and the Board is hereby relieved from paying, the sinking fund of two dollars per centum per annum upon the two sums of one hundred and eighteen thousand and three hundred and thirty-two dollars and fifty thousand dollars, part of the loan of four hundred thousand dollars, paid by the Board to the Public Trustee.

The words "fifty thousand dollars", the words "two dollars", the words "one hundred and eighteen thousand and three hundred and thirty-two dollars" and the words "four hundred thousand dollars" in subsection (3) were substituted,

as from 10 July 1967, for the words “twenty-five thousand pounds”, the words “one pound”, the words “fifty-nine thousand one hundred and sixty-six pounds” and the words “two hundred thousand pounds” respectively pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

21 Repayment of advance made to pay off overdraft

Whereas the Board prior to the passing of The Gisborne Harbour Board Act 1884 Amendment Act 1887, incurred an overdraft at the bank on the General Account, and it was by the last-mentioned Act provided that it should be lawful for the Board to advance such sums from the Loan Account as should be sufficient to pay off such overdraft, and that the Board should refund one-tenth part of such sum to the Loan Account out of the general revenue of the Board during each year for ten years after the passing of the said Amendment Act: And whereas it is expedient to postpone such payment: Be it therefore enacted that the said period of ten years so far as it is unexpired shall be intercepted, and shall not be deemed to run or to have run since the payment of the second instalment until the balance of loan-money now vested in the Public Trustee is expended on the harbour-works, or the year commencing on the first day of November, one thousand nine hundred and fifteen, whichever first happens; and it shall not be incumbent upon the Board, until such expenditure of balance of loan-money now vested aforesaid or the first day of November, one thousand nine hundred and fifteen, as the case may be, to refund any such instalment.

22 Further payments out of loan fund of \$30,000 and \$40,000

Whereas by The Gisborne Harbour Board Empowering Act 1896, the Public Trustee was directed to pay to the Board out of loan-moneys in his hands the sum of thirty thousand dollars for the purpose of harbour-works: And whereas by the provisions of The Gisborne Harbour Board Further Empowering Act 1900, the Public Trustee was directed to pay to the Board also out of loan-moneys a further sum of forty thousand dollars for the purposes of harbour-works, and both of such sums were declared to be advanced on the same conditions as the first sum of eighty thousand dollars: Be it therefore enacted that charges for interest and sinking fund upon the said sums

of thirty thousand dollars and forty thousand dollars shall be raised and paid only as in the case of the aforesaid sum of eighty thousand dollars previously authorised against the special district constituted under this Act.

The words “thirty thousand dollars”, the words “forty thousand dollars”, the words “eighty thousand dollars” in section 22 were substituted, as from 10 July 1967, for the words “fifteen thousand pounds”, the words “twenty thousand pounds”, the words “forty thousand pounds” respectively pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

23 Funds held by the Public Trustee

Subject to the provisions of this Act, all moneys and funds vested in the Public Trustee shall be held, invested, and administered by him in accordance with The Public Trust Office Consolidation Act 1894.

24 Investment of funds

It shall be the duty of the Public Trustee to invest all moneys the property of the Board (including in such moneys all unexpended loan-moneys, sinking fund, and the accretions thereof) as may from time to time be available for investment in manner following:—

- (a) On first mortgage of any real estate in New Zealand held in fee-simple to an amount not exceeding three-fifths of its estimated value, according to a valuation to be approved of by the Public Trust Board;
- (b) In purchasing debentures of the Board issued to secure the said loan of four hundred thousand dollars (any debenture so purchased shall be deemed to be cancelled);
- (c) In the Government securities of the United Kingdom or of any colony or dependency thereof issued under the authority of the Parliament or other legislative authority of the said kingdom, colony, or dependency respectively, and secured upon the public revenues thereof; or
- (d) On debentures issued by any local authority under any law now or hereafter in force secured upon general or special rates.

The words “four hundred thousand dollars” in subsection (3) were substituted, as from 10 July 1967, for the words “two hundred thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

25 Public Trustee to give notice when funds available for investment

The Public Trustee shall from time to time as funds become available for investment give notice thereof to the Board, which may forward a recommendation of any security within the class hereinbefore authorised in any part of the colony in which the Board considers an investment should be made; and if, on an approved valuation by the Public Trustee, the requisite margin is shown, such investment shall be made by the Public Trustee out of the funds of the Board available for that purpose.

26 Appointment and powers of Receiver on default by Board

- (1) When and so often as the Board fails to pay at the proper time and place any sum, either of principal or interest or sinking fund, which it ought to pay under the Act, or in any other event which may entitle the debenture-holders or creditors of the Board to intervene, then immediately or at any time thereafter any person to whom such sum is owing may apply *ex parte* by petition in a summary way to a Judge of the High Court for relief under this Act, and the Judge may, if satisfied of the truth of the matters alleged in the petition, appoint upon such terms as to security and remuneration as he thinks fit a Receiver of the rates liable for the payment of such sum.
- (2) Such rates shall, from the date of the said order, and upon its being publicly notified by the Receiver, vest in the Receiver, and shall cease to be vested in the Board.
- (3) All powers for the recovery of such rate shall, after the appointment of the Receiver, and upon its being publicly notified, cease to be exercised by the Board, and shall be exercised by the Receiver.
- (4) All moneys received by the Receiver shall be applied—
 - (a) In payment of the expenses of the application and order;
 - (b) In payment of the Receiver’s remuneration fixed as aforesaid, and his reasonable and necessary expenses;

- (c) In payment *pro rata* of the sums secured by the said rates and then overdue by the Board; and
- (d) The residue after payment of the above to the Board.
- (5) The Receiver shall account for all such moneys in such manner as the Judge directs.
- (6) When all the sums then overdue are paid, or at any time by an order of a Judge of the High Court on the application of the Board, if such Judge thinks fit to make such order, the powers of the Receiver shall cease, and he shall forthwith pay any moneys in his hands to the Board, who shall again be capable of exercising the powers of which the appointment of the Receiver had deprived it.

The references to the “High Court” in subsections (1) and (6), were substituted, as from 1 April 1980, for the words “Supreme Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

27

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

Schedule 1

Seaward limits of Gisborne Harbour

A STRAIGHT line from Young Nick’s Head to Tuahine Point.

Schedule 2

Gisborne Harbour Board endowment

This Schedule was substituted, as from 7 November 1929, by section 2(2) Gisborne Harbour Board Amendment Act 1929 (1929 No 18(L)). See section 2(1) of that Act as to the lands described in this Schedule vesting in and becoming the property of the Gisborne Harbour Board as an estate in fee-simple as an endowment subject to the provisions of the Gisborne Harbour Act 1905. See section 2(4) of the amending Act as to the Board not being able, in respect of any lands hereby vested in it, exercising any powers of leasing foreshore lands or lands being part of the bed of any river or the bed of the sea except pursuant to the provisions of the Harbours Act 1923.

All that area situated in the Gisborne Registration District, in the Provincial District of Auckland, containing by admeasurement 1,156 acres, more or less, being part of Lot 1 on plan numbered 2956, de-

posited in the Lands Registry Office at Gisborne, and bounded as follows: commencing at a point on low-water mark of the ocean at the intersection with a line on a bearing of 146° from the south-western corner of Awapuni No 2 Block; thence by low-water mark of the ocean to the mouth of the Turanganui River; thence by low-water mark of the right bank of aforesaid river to the Waikanae Stream; thence by low-water mark of the right bank of the said stream to the eastern side of Lowe Street, Borough of Gisborne; thence by the eastern side of Lowe Street to low-water mark on the left bank of the Waikanae Stream; thence by low-water mark of the left bank of the said stream to its junction with the Turanganui River (excepting from out this area railway reserve across Waikanae Stream); thence by low-water mark of the right bank of the Turanganui River to the mouth of the Taruheru River; thence by low-water mark of the right bank of Taruheru River to its intersection with the western boundary of Lytton Road; thence by a line in continuation of the western side of Lytton Road to low-water mark of the left bank of the Taruheru River; thence by low-water mark of the left bank of said river to its confluence with the Waimata River; thence by a right line to low-water mark of the left bank of the said river; thence by low-water mark of the left bank of the Waimata River and by low-water mark of the left bank of the Turanganui River to the Mouth of the Kopuawhakapata Stream; thence by low-water mark of the right bank of the said stream to the west boundary of Hirini Street; thence by west boundary of Hirini Street to low-water mark of the left bank of the Kopuawhakapata Stream; thence by low-water mark of the left bank of the Kopuawhakapata Stream to its junction with the Turanganui River; thence by low-water mark of the left bank of the Turanganui River to its mouth; thence by low-water mark of the ocean to a point in line with Pah Hill; thence by a line bearing $232^{\circ} 10'$, a distance of 8500 links; thence by a line bearing 326° , a distance of 17000 links, to the point of commencement: as the said area is more particularly shown and delineated on plan marked MD 6703 and deposited in the office of the Marine Department at Wellington.

Schedule 3
Further endowment

ALL that parcel of land situated in the Tologa Bay district known as the Tauwhareparae Block, containing by admeasurement 44,150 acres.

Schedule 4
Acts repealed

[Repealed]

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