

# Otago Harbour Board Leasing Act 1885

Local Act 1885 No 16  
Date of assent 14 September 1885

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**An Act to provide for the Leasing of the Lands vested in the Otago Harbour Board.**

### Preamble

WHEREAS it is desirable that the provisions under which the Otago Harbour Board has power to lease the lands vested in it, should be consolidated, and that the form of lease to be used by the Board in leasing its lands should be defined by statute:

**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 Otago Harbour Board Leasing Act 1885.

**2 Interpretation**

The following words and expressions shall wherever used throughout this Act have the meanings hereby assigned to each respectively:—

**Board** means the Otago Harbour Board

**Vessel** shall have the same meaning as is assigned to it in the eighth section of The Harbours Act 1878.

**3 Board may lease lands**

The Board may lease any lands vested in it or any part thereof for any term not exceeding twenty-one years in possession without any fine, premium, or foregift, with power to grant renewals from time to time for a similar period, or provide for payment of valuation as appears in the form in the Schedule hereto:

Provided that every lease to be granted by the Board shall, except in cases contemplated by the ninth section hereof, be in the form or to the effect set forth in the said Schedule:

Provided also that the lease of all such lands shall, except in cases provided for in the next section, be sold by public auction and at least twenty-one days' notice of such intended sale shall be given by advertising the same in each issue till the day of sale of a daily newspaper circulating in the City of Dunedin.

**4 Mode in which land may be dealt with after having been offered at auction and not sold**

Any land which has once been offered for sale by auction as aforesaid, and not sold, may at any time within twelve months thereafter be sold by private contract at a rent not less than the reserved rent when it was so offered; or it may, at any time

either before or after the expiration of twelve months, be again offered by public auction, subject as hereinbefore provided, or it may be offered for sale by public tender as the Board think fit.

**5 Board may let lands on annual tenancy**

Notwithstanding anything hereinbefore contained to the contrary, it shall be lawful for the Board to let any of its lands by public auction or public tender for a tenancy determinable after the expiration of one year by three months' notice in writing on either side, and in cases contemplated by this section it shall not be necessary for the Board to issue any lease.

**6 Board may accept surrenders conditionally**

It shall be lawful for the Board, on such terms as it may think fit, to accept surrenders of any now existing leases:

Provided that the lessees shall accept a new lease or leases, in accordance with the provisions contained in this Act, of the land the lease or leases whereof shall have been so surrendered:

Provided also that the rent to be payable under such new lease shall be fixed by two arbitrators or their umpire, to be appointed pursuant to and in accordance with the provisions of The Supreme Court Practice and Procedure Amendment Act 1866:

Provided also that the rent to be payable under any such new lease as aforesaid shall in no case be less than that payable under the previous lease.

The third proviso was inserted, as from 17 August 1886, by section 6 Otago Harbour Board Leasing Act 1885 Amendment Act 1886 (1886 No 12(L)).

**7 Board may grant leases to sub-lessees**

The Board may, with the consent of any lessee, his executors, administrators, or assigns, grant to a sublessee a lease direct from the Board of the whole or any part of the land comprised

in any such lease, for the whole residue of the term created by the original lease:

Provided that the rent payable to the Board is not lessened, or the term for which the original lease was granted extended thereby.

The provisions of this section shall apply although no lease shall have been actually executed, but only an agreement for a lease entered into.

### **8 Foreshore may be used and occupied for certain purposes**

The Board may from time to time, subject to the provisions of the one hundred and fifty-sixth section of The Harbours Act 1878, license and permit any part of the foreshore vested in it to be used or occupied for all or any of the following purposes:—

- (1) The building or repairing of vessels of any kind.
- (2) The erection and use of any boat-shed, landing-place, or wharf.
- (3) The erection of baths and bathhouses, and any enclosure or fence necessary for the protection and privacy of the same.
- (4) Any other purpose relating to the convenience of shipping, or the public, or for any local enterprise or object of which the Governor in Council may approve.

### **9 Subject to certain conditions, Board may lease foreshore for fifty years**

The Board may, with the consent of the Governor in Council, but without obtaining any special Act, lease for any period not exceeding fifty years any piece of land vested in it, being on the shore of the sea, or of any creek, bay, or arm of the sea, or navigable river communicating with the sea, and so that such lease may extend as far as low-water mark:

Provided always that no lease shall be made or assented to by the Governor in Council if the Marine Engineer for the time being shall report that the granting of the same will in any way impede or disturb navigation in the harbour:

Provided also that at least twenty-one days' notice of the intention to apply for such consent of the Governor in Council shall be given

by advertising the same till the day of application in each issue of a daily newspaper circulating in the City of Dunedin.

## 10 Repeal

All provisions respecting leasing contained in The Harbours Act 1878, The Harbours Act 1878 Amendment Act 1883, and The Otago Harbour Board Act 1883, in so far as they affect the Otago Harbour Board, are hereby repealed, and it is hereby declared that the powers of the Board in respect to the leasing of the lands vested in it are contained in this Act.

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## Schedule

(*Ed.*)

[*New Zealand.*]

### MEMORANDUM OF LEASE

THE Otago Harbour Board, hereinafter called **the Board**, being registered as the proprietors of an estate in fee-simple, subject, however, to such incumbrances, liens, and interests as are notified by memorandum underwritten or indorsed hereon, in that piece of land situated in the \_\_\_\_\_, in the Provincial District of Otago, containing \_\_\_\_\_, be the same a little more or less, as the same is described in the schedule hereto, do hereby lease to \_\_\_\_\_ all the said land, to be held by \_\_\_\_\_ the said as tenant for the term of years computing from the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_ at the yearly rental of [\\$] \_\_\_\_\_, payable \_\_\_\_\_, subject to the following covenants, conditions, and restrictions:—That the said executors, administrators, or assigns will, during the said term, pay the said rent on the above-mentioned days at the office of the said Board in Dunedin aforesaid, and will pay and discharge all existing and future taxes, rates, and assessments whatsoever chargeable in respect of the said demised premises or on the landlord or tenant thereof (including the cost of making and repairing the footpaths in front of the said land), and will bear and perform all other burdens or duties in any way incumbent on the owner or occupier thereof: And, also, will not carry on offensive trades, will not, without leave, assign or sublet, nor will, without the consent in writing of the said Board, remove or take away any buildings or erections which may

at any time be on the said land or any part thereof: And, also, that it shall be lawful for the said Board and also for the Corporation of the \_\_\_\_\_, their successors or assigns, with the consent of the Board first obtained, at any time or times during the said term without any further consent on the part of the said \_\_\_\_\_ executors, administrators, or assigns than is hereby given to enter upon the said land hereby demised, and lay any drain pipes, or construct any sewers as the said Board or the said Corporation, their successors, or assigns, with such consent as aforesaid may think proper through any part of the said land without making any compensation to the said \_\_\_\_\_ executors, administrators, or assigns therefor, and that for such purposes the officers, servants, and workmen of the said Board or of the said Corporation, their successors, or assigns, shall have full right to enter upon the said demised premises, with or without horses or vehicles, as may be necessary at all reasonable hours in the daytime. And it is hereby expressly declared that wherever the words “six calendar months” occur throughout subsection (2) of section 56 of The Land Transfer Act 1870, the words “twenty-one days” shall for the purpose of this lease, be substituted therefor, so that the said subsection which is implied herein shall, in the reading and construction of this lease, be read and construed as if the said words “twenty-one days” had been inserted therein instead of the aforesaid words “six calendar months.” And also that three calendar months previous to the expiration of the said term two separate valuations shall be made by three indifferent persons to be appointed in writing as follows, one by the said Board, their successors or assigns, one by the said \_\_\_\_\_ executors, administrators, or assigns, and the other by the two valuers so to be appointed, and the decision of such three valuers, or any two of them, shall be binding on all parties, one of such valuations to be made of all the buildings and improvements then on the said land and the other of the fair annual ground-rent of the said land only, without any buildings or improvements, for a further term of years from the expiration of the term hereby granted, and before the expiration of the lease hereby granted a lease of the said land and premises for such further term of years shall be put up to public auction at the upset price of the annual rent of the said land as valued without buildings and improvements, subject to the payment by the purchaser of the value of the said buildings and improvements fixed by the valuers as aforesaid, and in the event of any person or persons other

than the said            executors, administrators, or assigns, becoming entitled to the lease of the said lands for the said further term, such person or persons shall forthwith pay in cash to the said Board, their successors or assigns, for the benefit of the said            executors, administrators, or assigns, the amount of the value of the buildings and improvements so fixed as aforesaid, and shall enter into a lease for the said further term at the annual ground rent at which the said land shall be so sold at such auction, and the said Board, their successors or assigns, shall pay over to the said            executors, administrators, or assigns, the amount of the value of the said buildings and improvements paid to them by the purchaser, without any deduction whatsoever; but if there be no biddings at the said auction upon the upset price as before-mentioned, or if the said            executors, administrators, or assigns, shall be the highest bidder thereat, then the said            executors, administrators, or assigns, shall accept, and the said Board, their successors or assigns, shall grant to the said            executors, administrators, or assigns, a renewed lease of the said land and premises for the further term of            years from the expiration of the term hereby granted at either the upset price as aforesaid or the bid or highest bid which the said            executors, administrators, or assigns, shall have given therefor as the case may be, and such renewed lease shall contain or have implied therein the same covenants, conditions, provisions, and agreements as are contained or implied in this present lease, including the foregoing provision for valuation and renewal: And lastly, that the covenants and provisions implied in leases by the said Land Transfer Act 1870, or any statutory modification or amendment thereof shall be negatived or modified in respect of this lease in so far as the same are or may be inconsistent with the modifications hereby made, or the covenants and provisions herein expressed, and the above named do hereby accept this lease of the above-demised land to be held by            as tenant , and subject to the conditions, restrictions, and covenants, herein set forth and implied.

Dated this            day of            , 18            .  
Sealed with the common seal of the Otago Harbour Board as lessor, in the presence of            }  
Signed by the above named            as            }  
lessee in the presence of            }

MEMORANDUM OF INCUMBRANCES.

THE SCHEDULE REFERRED TO IN THE FOREGOING  
LEASE INDORSEMENT.

No . Lease of , situate in

(Lessor.)

(Lessee.)

Particulars entered in the Register-Book Vol , Folio  
, the day of , 18 , at o'clock.

District Land Registrar of the District of

Correct for the purposes of the Land Transfer Act.