

# Gisborne Harbour Act 1884

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## **The Gisborne Harbour Board Empowering Act, 1884.**

### **Preamble.**

WHEREAS the Gisborne Harbour Board, constituted under a Special Act of the General Assembly No. 10 [Local Act], 46 Victoria, 1882, are desirous of constructing certain harbour works to afford accommodation generally to shipping of a large tonnage, and to form a harbour of refuge for the East Coast: And whereas the said Board is desirous of borrowing a sum of money not exceeding two hundred thousand pounds for the construction of such works, and for other works incidental thereto:

**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 Gisborne Harbour Act, 1884.”

#### **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 “The Gisborne Harbour Board Act, 1882.”

“Chairman” means the Chairman of the Board.

“Harbour district” or “district” means the harbour district established under this Act.

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

“The said Act” means “The Harbours Act, 1878.”

#### **4 Constitution of Board.**

From and after the second Monday in the month of February, in the year one thousand eight hundred and eighty-five, the Board shall consist of nine members, of whom five shall form a quorum, and such members shall be respectively appointed, succeed to office, and be elected as follows:—

- (1.) Three members to be appointed by the Governor;
- (2.) The Mayor of the Borough of Gisborne, for the time being;
- (3.) The Chairman of the County of Cook, for the time being;
- (4.) Two members to be elected by the ratepayers of the County of Cook; and
- (5.) Two members to be elected by the ratepayers of the Borough of Gisborne, together with all persons who shall have paid harbour, pilotage, and wharfage dues and charges in respect of the Harbour of Gisborne, to the amount of not less than five pounds sterling during the year preceding the day of election.

*Repeal.*

Section five of “The Gisborne Harbour Board Act, 1882,” is hereby repealed.

#### **5 Qualification.**

Any person qualified to be, and not incapable of being, a Councillor of the said borough, shall be eligible for election by the ratepayers of the said borough as a member of the Board:

And any person qualified to be, and not incapable of being, a member of the Council of the County of Cook shall be eligible for election as a member of the Board for the county in which he is so qualified.

#### **6 Returning Officer to be appointed.**

“The Regulation of Elections Act, 1876,” and any amendments thereof, shall apply to every election held under this Act, and the Board shall appoint some person to be Returning Officer for the conduct of elections throughout the harbour district.

*Conduct of elections.*

The Returning Officer at every such election shall make such arrangements as he may deem necessary (not being inconsistent with this Act) for the due conduct of every such election, and, except as may be provided by this Act, every such election shall, in the borough, be conducted and held in the same manner as the election of Councillors is held within the County of Cook, in the

same manner as nearly as may be as the election of members of the County Council are held in such county.

**7 Secretary to prepare list of payers of harbour dues qualified to vote.**

The Secretary of the Board shall, in the month of January next, prepare a list of all those persons who shall have in the twelve preceding months paid the sum of five pounds and upwards for harbour or wharf dues; and the said Secretary shall, thereafter, in the month of January in each year, prepare such a list, and forward the same to the Returning Officer.

The list aforesaid, when prepared, shall be the list for the year of the persons qualified to vote for election of members of the Board in respect of payment of dues; and every such person shall have one vote only for each such member to be elected.

**8 Roll of electors for borough.**

The burgess roll in force for the time being, with the addition of the voters' list hereinbefore mentioned, shall be the roll to be used in the borough at elections under this Act.

**9 Limitation of votes.**

No ratepayer in the borough being also a payer of dues and entitled in both capacities to vote at an election of members of the Board shall have more than five votes at any such election for each member to be elected by the ratepayers of the borough, whatever may be the value of his property or his separate qualifications.

**10 Elections in Cook County.**

For the purpose of holding elections in the County of Cook under the provisions of this Act,—

- (1.) The Chairman of the said county shall from time to time, at least fourteen days before the date appointed for the holding of an election as aforesaid, require the Clerk of the Council, in the month of January next preceding such election, to make up from the ratepayers' rolls then in force for the said several ridings of the said county, a separate roll to be used at elections under this Act:

*Roll of electors for county.*

- (2.) Such roll shall contain the names of all persons then upon the ratepayers' rolls of the said several ridings in respect of property within the said several ridings, and opposite every person's name shall be inserted in manner as provided, with respect to a riding of a county, in section ten of "The Counties Acts Amendment Act, 1883," the number of votes such person is entitled to exercise in respect of his entire property within the county, not exceeding five votes in any case, but no person's name shall be inserted twice on such roll; and such roll may be either written or printed, or partly written and partly printed; and it

shall be the duty of the aforesaid Chairman to see that the roll authorized to be made for the purposes of this Act is properly made; and the same, when signed by the Chairman and Clerk, shall, without any further authority or proceeding, be deemed to be the roll for the said county, to be used at election of members of the Board under this Act.

**11 First election of elective members.**

The first election of the elective members shall be held on the second Monday in February, one thousand eight hundred and eighty-five, in manner provided by the said Act. They shall come into office on their election, and shall hold office from the time of their election until the biennial election of members of the Board, to be held in the year one thousand eight hundred and eighty-seven.

**12 Board to cease to hold office on election of Board under this Act.**

The Board holding office on the second Monday in February, one thousand eight hundred and eighty-five, shall cease to hold office on the coming into office of the members elected under this Act.

**13 Endowment.**

The parcels of land described in the Second Schedule hereto are hereby set apart as an endowment for the Gisborne Harbour Board for the purposes of this Act: Provided always that the said land shall only be disposed of by lease, as provided for in this Act.

**14 Power to lease lands.**

The Board may let any lands vested in it other than those described in the Second Schedule, or any part thereof, at such rents and profits and upon such terms and conditions as the Board shall determine, so that such leases be for any term not exceeding sixty-five years, and the lands described in the Second Schedule for any period not exceeding thirty years, to take effect from the time of the execution thereof.

**15 Borrowing powers.**

It shall be lawful from time to time for the Board to borrow upon debentures, for a period not exceeding thirty years, a sum not exceeding two hundred thousand pounds at a rate not exceeding five per centum per annum, as the said Board may require for the construction of such works as are specified in the First Schedule hereto.

**16 Security of debentures.**

The said debentures, together with interest, shall be secured on the lands and hereditaments described in the Second Schedule hereto, and the proceeds thereof, upon the rents, profits, and dues chargeable and receivable by the said Board as harbour or other dues, or in respect of the said land and harbour

works, and upon the rates hereinafter mentioned by virtue of this Act to be made and levied.

**17 Harbour district constituted.**

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

**18 Consent of rate payers to be obtained before loan is raised.**

Before the loan authorized by this Act is raised, the consent of the ratepayers in the harbour district shall first be obtained, in the mode hereinafter prescribed:—

- (1.) A notice shall be published in a newspaper circulating in the district, and shall specify the time and place in each borough and riding at which meetings are to be held to consider a proposal to raise such special loan, or any part thereof, and the following particulars, namely:—
  - (1.) The particular work proposed to be undertaken:
  - (2.) The sum proposed to be borrowed for such purpose:
  - (3.) Any special rate or tolls or the rents and profits of any property which it is proposed to pledge as security for such loan, not being moneys received by way of grant from the General Government or moneys theretofore pledged as security for any loan or appropriated to any special purpose.

**19 Chairman to call meeting of ratepayers to consider proposal to borrow.**

The Chairman shall call meetings of the ratepayers, to be held within each borough situate within the district, and of the ratepayers of each riding within the County of Cook, upon a day not more than ten days after the last publication of such notice, to consider the said proposal; and shall appoint one of the members of the Municipal Corporation or County Council elected for the riding, as the case may be, to preside at each meeting, if such member shall be willing to act; and if no such member is willing to act, or becomes incapacitated from acting from any cause, then such person as the Chairman thinks fit.

The member or person so appointed shall be called the “Presiding Officer,” and he shall preside at the meeting to be held in the borough or riding for which he has been appointed, and shall also preside at the taking of any poll as hereinafter provided.

After due consideration and discussion of the proposal, the Presiding Officer shall give notice that a poll will be taken.

The poll shall be taken as follows:—

*How poll to be taken.*

- (1.) The Chairman shall publish a notice setting forth the day, not less than one nor more than three weeks from the day of the said meeting, on which the poll will be taken:
- (2.) The Chairman shall give notice in writing to the Presiding Officer, requiring him to take the poll upon the day appointed:
- (3.) The Presiding Officer shall, upon the day so appointed, proceed to take the poll in the manner provided by "The Regulation of Local Elections Act, 1876," for taking a poll at any election, and shall provide voting papers and all things necessary for taking the poll:
- (4.) The voting papers shall be printed in the form in the Third Schedule hereto attached, with the words, "I vote for the above proposal," and "I vote against the above proposal," legibly printed at the foot of each voting paper:
- (5.) The voter shall erase one or other of the said lines, and his vote shall be deemed to be given according to the one of the said lines which he leaves un erased:
- (6.) All the provisions of "The Regulation of Local Elections Act, 1876," as regards taking a poll, shall, so far as they are applicable, and except as by this section otherwise provided, apply to the taking a poll on the proposal to raise a special loan.
- (7.) A separate poll shall be taken in each borough and riding or road district as aforesaid, and each voter shall have and may exercise as many votes as he has and may exercise at any election of the members of the local governing body of such borough, road district, or county respectively.

**20 As to number of votes for each ratepayer.**

Every ratepayer within the district shall be entitled to vote according to the following scale, that is to say,—

- (1.) If his rateable property is valued on any valuation roll at not more than one thousand pounds, he shall have one vote:
- (2.) If such property is so valued at more than one thousand but not more than two thousand pounds, he shall have two votes:
- (3.) If such property is so valued at more than two thousand but not more than three thousand pounds, he shall have three votes:
- (4.) If such property is so valued at more than three thousand but not more than seven thousand five hundred pounds, he shall have four votes:
- (5.) If such property is valued at more than seven thousand five hundred pounds, he shall have five votes.

**21 When resolution deemed to be carried.**

If the number of votes given for the proposal represent an absolute majority of the votes exercisable within the harbour district, the resolution in favour of the proposal shall be deemed to be carried, and the Board may proceed with the proposal accordingly; but if there is not such a majority in favour of the proposal the resolution shall be deemed to be rejected, and the Board shall not so proceed.

*Chairman to declare numbers polled.*

As soon as conveniently may be after the result of the poll has been ascertained the Chairman shall give public notice of the number of votes recorded for and against the proposal as above provided, and shall declare the resolution to be carried or rejected as the case may be.

**22 Chairman to send result of polling to Colonial Secretary. *Gazette* notice final.**

When any such resolution is carried the Chairman shall send a notice thereof to the Colonial Secretary, who shall publish the same in the *Gazette*; and such notice so gazetted shall be final that the raising of the loan to which it refers has been duly authorized under the provisions of this Act, notwithstanding any omission or irregularity in any provision, matter, or thing required to be done hereunder or under "The Regulation of Local Elections Act, 1876."

**23 Board shall levy rate.**

The Board, after the passing of this Act, shall, if the resolution in favour of the proposal be carried as aforesaid, make and levy a rate in the proportions in the different parts of the district hereinafter mentioned not exceeding one penny in the pound upon all rateable property in the harbour district.

**24 Application of rate.**

The proceeds of such rate shall be applied towards payment of the annual charges to accrue in respect of any loans to be raised under this Act.

The amount to be levied by the Board in each year shall not exceed such amount as is required to provide for the payment of interest on the aggregate amount for which debentures shall at that time be issued, and in addition one pound per centum per annum on such aggregate amount to be appropriated for the purposes of a sinking fund, after taking into account whatever sum of money may be available from the revenue of the Board for the previous year for payment of interest and sinking fund on the loan hereby authorized to be made.

**25 Proportions of rate.**

The rate to be levied under this Act on the rateable property in the Borough of Gisborne shall be double the rate to be levied on the rateable property in the several ridings comprised in the Gisborne Harbour District.

**26 Board to have powers of local body for levying rates.**

For the purpose of making, levying, and recovering the hereinabove mentioned rates, the Board shall have and may exercise all the powers of making, levying, or recovering rates in each borough and in each riding within the district, which any local body having rating powers within such borough or such riding, has or may have under the law for the time being in force regulating the recovery of rates therein respectively.

**27 No rate to be quashed.**

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

**28 Creditor of Board may apply to Supreme Court for appointment of Receiver.**

When and so often as the Board shall fail to pay at the proper time and place for so paying any sum either of principal or interest which it ought to pay under this Act, 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 Supreme Court for relief under this Act, and the Judge may, if satisfied of the truth of the matters alleged in such petition, appoint upon such terms as to security and remuneration as he shall think fit, a Receiver of the rate liable for the payment of such sum.

**29 Special rate to vest in Receiver.**

The before-mentioned special rate 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.

**30 Powers of Board exercisable by Receiver.**

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.

**31 Moneys collected by Receiver how applied.**

All moneys received by the Receiver shall be applied—

- (1.) In payment of the expenses of the application and order;

- (2.) In payment of the Receiver's remuneration fixed as aforesaid, and his reasonable and necessary expenses;
- (3.) In payment *pro ratâ* of the sums then overdue by the Board which are secured by the said rate; and
- (4.) The residue, after payment of the above, to the Board; And the Receiver shall account for all such moneys in such manner as the Judge directs.

**32 When Receiver's powers cease.**

When all the sums then overdue are paid, or at any time by an order of a Judge of the Supreme Court, on the application of the Board, if such Judge shall think 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 them.

## SCHEDULES

### FIRST SCHEDULE

The construction of, at or near the site reported upon by Sir John Coode, a break-water to afford refuge and accommodation for vessels of large tonnage, and to reclaim and use such portions of the foreshore and land beneath the sea adjoining the harbour as may be necessary for the construction of such works and for purposes incidental thereto.

**SECOND SCHEDULE**

All that parcel of land described in the Schedule to “The Gisborne Harbour Board Act, 1882,” and all that parcel of land situated in the Tologa Bay District, known as Tauwhareparae Block, containing by admeasurement 44,150 acres.

