

New Zealand.

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1918, No. 3.—*Local and Personal.*

AN ACT to enable the Napier Harbour Board to borrow Moneys for the Purpose of Repayment of Loans, and providing for certain other Matters affecting the said Board. Title.

[10th December, 1918.]

WHEREAS by the Napier Harbour Board Empowering and Loan Act, 1884 (hereinafter called the 1884 Act), the Napier Harbour Board (hereinafter called the Board) was empowered to borrow moneys not exceeding in the whole the sum of three hundred thousand pounds, at any rate of interest not exceeding six pounds per centum per annum: And whereas, in exercise of the authorities contained in the 1884 Act, the Board borrowed the sum of three hundred thousand pounds, and issued debentures to the extent of the amount so borrowed, bearing interest at the rate of five pounds per centum per annum, and secured as therein appearing and by the said Act authorized, which debentures are repayable on the first day of January, nineteen hundred and twenty: And whereas by the Napier Harbour Board Loan Act, 1892 (hereinafter called the 1892 Act), the Board was empowered to borrow moneys not exceeding in the whole the sum of two hundred thousand pounds, at any rate of interest not exceeding six pounds per centum per annum: And whereas, in exercise of the authorities contained in the 1892 Act, the Board borrowed the sum of two hundred thousand pounds, and Preamble.

issued debentures to the extent of the amount so borrowed, bearing interest at the rate of five pounds per centum per annum, and secured as therein appearing and by the said Act authorized, which debentures are repayable on the first day of January, nineteen hundred and twenty-eight: And whereas by the Napier Harbour Board Amendment and Endowment Improvement Act, 1899 (hereafter called the 1899 Act), the Board was empowered to borrow, on the security of the lands mentioned in section ten of the said Act, such sum or sums of money as it should think fit, not exceeding in the whole the sum of thirteen thousand pounds: And whereas, in exercise of the authorities contained in the 1899 Act, the Board borrowed the sum of thirteen thousand pounds, and issued debentures to the extent of the amount so borrowed, bearing interest at the rate of five pounds per centum per annum, and secured as therein appearing and by the said Act authorized, which debentures are repayable on the first day of March, nineteen hundred and twenty-one, or at an earlier date at the option of the Board: And whereas by the Napier Harbour Board Amendment and Endowment Improvement Act, 1912 (hereinafter called the 1912 Act), the Board was empowered to borrow moneys not exceeding in the whole the sum of thirty thousand pounds on the security of the lands therein referred to and the (then) present and future rents thereof, at any rate of interest not exceeding five pounds per centum per annum: And whereas, in exercise of the authorities contained in the 1912 Act, the Board borrowed the sum of thirty thousand pounds, and issued debentures to the extent of the amount so borrowed, bearing interest at the rate of five pounds per centum per annum, and secured as therein appearing and by the said Act authorized, which debentures are repayable on the first day of January, nineteen hundred and twenty-eight: And whereas by the Napier Harbour Board Empowering and Vesting Act, 1917 (hereinafter called the 1917 Act), the Board was empowered to borrow moneys not exceeding in the whole the sum of fifty-thousand pounds on the security of the Harbour Fund of the Board, at a rate of interest not exceeding five pounds ten shillings per centum per annum: And whereas, in exercise of the authorities contained in the 1917 Act, the Board borrowed the sum of fifty-thousand pounds, and issued debentures to the extent of the amount so borrowed, bearing interest at the rate of five pounds ten shillings per centum per annum, and secured as therein appearing and by the said Act authorized, which debentures are repayable on the first day of January, nineteen hundred and twenty-eight: And whereas in the case of each of the before-recited loans, with the exception of that obtained under the authority of the 1899 Act, the Board has established and maintained a sinking fund in accordance with the requirements of the Act authorizing the loan to which such respective sinking fund pertains: And whereas in no case will the sinking fund established and maintained in respect of the said respective last-mentioned loans be sufficient to repay the whole of the loan to which it pertains when that loan falls due: And whereas it is expedient that provision should be made to enable the Board to re-borrow sufficient moneys to enable it to repay, as the respective loans raised under the authority of the 1884 Act, the 1892 Act, the 1912 Act, and the 1917 Act respectively fall due, such portion of each such

loan as the sinking fund established and maintained in respect of such loan is insufficient to meet, and also to enable it to repay the loan under the 1899 Act when it falls due, or at any earlier date on which the Board shall think fit to repay the same, and also to vest in the Board the other powers and authorities herein contained :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Napier Harbour Board Loans Enabling Act, 1918. Short Title.

2. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1908, which Act is hereby incorporated in this Act in so far as it is not repugnant to or inconsistent with this Act. Special Act.

3. The interpretation of the expressions "the district" and "the Napier Harbour Rating District" as contained in the 1884 Act and in the 1892 Act respectively shall for the purposes of those Acts respectively, in relation to the application of this Act to those Acts respectively, be deemed to be the same interpretation which is given to the expression "the district" in the 1912 Act or the 1917 Act respectively (the meaning of the said expression under each of the last-mentioned Acts being identical). Amendments in previous Acts.

4. For the purpose of uniformity the provisions of the 1917 Act in respect to the appointment, removal, powers, and duties of Sinking Fund Commissioners and the filling-up of vacancies occurring in the office of Sinking Fund Commissioners shall, in relation to the application of this Act to the 1884 Act, the 1892 Act, and the 1912 Act respectively, with respect to moneys re-borrowed under the authority of this Act, apply to the 1884 Act, the 1892 Act, and the 1912 Act respectively, in lieu of the provisions contained in or implied under the last-mentioned Acts respectively in the like respects, but nothing herein shall be deemed to alter the quantum of moneys directed to be appropriated and set apart as a sinking fund under each of the before-mentioned Acts or the fund out of which such sinking fund is in each case directed to be provided. Appointments, &c. of Sinking Fund Commissioners.

5. Section five of the 1912 Act is hereby, in relation to the application of this Act to that Act with respect to moneys re-borrowed under the authority of this Act, amended by substituting for the words "not exceeding five pounds per centum per annum" where occurring within brackets therein the words "not exceeding five pounds ten shillings per centum per annum." Amendment of 1912 Act.

6. The Board shall have power by resolution of the Board to re-borrow under the authority of the 1884 Act, the 1892 Act, the 1899 Act, the 1912 Act, and the 1917 Act respectively (each of which Acts, subject to the context, is sometimes hereinafter referred to as the principal Act); and of this Act, the whole or any part, and from time to time respective parts, of such a sum of money as shall be required, at the time when the principal of the loan raised under the authority of the principal Act respectively becomes payable, to repay so much of the said principal as, in the case of the loan raised under the authority of each of the principal Acts with the exception of the 1899 Act, is not provided for by the accumulated Power to re-borrow moneys.

sinking fund held by the Sinking Fund Commissioners for the payment of such loan (but so that, in the event of there being more than one such re-borrowing in relation to the same principal Act, the amount so re-borrowed shall not exceed the amount of principal then outstanding in respect of the original loan); and as, in the case of the loan raised under the authority of the 1899 Act, shall not exceed the principal amount outstanding on that loan at the time or respective times of such re-borrowing or re-borrowings; and, in any case where the principal Act under which the original loan was raised required that the preliminary steps therein set out should be taken as conditions precedent to the raising of the loan, it shall not be necessary for the Board to take such preliminary steps as conditions precedent to the re-borrowing of the moneys hereby authorized to be re-borrowed or any other preliminary steps whatsoever.

Security for moneys re-borrowed.

7. (1.) The Board may enter into, make, and give by way of security for moneys re-borrowed under the authority of this Act, and the interest thereon, the same security as is authorized by the principal Act (as modified or amended by this Act) which authorized the raising of the original loan in relation to which such re-borrowing is effected; and (without prejudice to the generality of the foregoing) the Board, and, in the case of the 1917 Act or any other Act (whether or not herein referred to by title) having similar powers, the Receiver, shall have power, in cases where the principal or original Act gives the same power, to make and levy a special rate in accordance with the authority and for the purposes, *mutatis mutandis*, conferred by and contained in the principal or original Act as modified or amended by this Act.

(2.) In all cases where there shall be more than one re-borrowing in relation to the loan raised under the same principal Act the securities for all such re-borrowings shall rank *pari passu*.

Power to consolidate loans.

8. (1.) Without prejudice to anything hereinbefore contained, the Board shall have power to re-borrow, in manner provided by section six hereof, in one consolidated loan, the whole or any part, or from time to time respective parts, of such a sum of money as shall be required, at the time when the principal of the respective loans raised under the authority of the 1892 Act, the 1912 Act, and the 1917 Act becomes payable (the principal, in the case of each of the said Acts, becoming payable on the same date), to repay the aggregate of the principal-moneys which is not provided for by the aggregate accumulated sinking funds held by the Sinking Fund Commissioners for the payment of such respective loans; and the provisions of sections six and seven of this Act shall, *mutatis mutandis*, apply to the re-borrowing of such consolidated loan; and (without prejudice to the generality of the foregoing) the moneys re-borrowed in respect of such consolidated loan, and the interest thereon, shall be entitled *pro rata* and in accordance with the amounts of principal-moneys not provided for as aforesaid in respect of the respective Acts aforesaid to the benefit of the security which may be entered into, made, and given by the Board, as provided by section seven hereof, for moneys re-borrowed in respect of the said respective Acts.

(2.) The foregoing provisions shall apply also, *mutatis mutandis*, in respect of the moneys re-borrowed in connection with any two of

the before-mentioned Acts, and also in respect of any future two or more loans of the Board raised under the authority of any existing or future special Acts which fall due on even dates.

9. In each case in which the Board shall re-borrow moneys as authorized by this Act the Board may fix such period for the currency of the loan as it shall think fit, not being a longer period than is allowed by the Harbours Act, 1908.

Periods of currency of loans of money re-borrowed.

10. (1.) The certificate under the seal of the Board that the amount therein mentioned is the principal amount which in terms of this Act the Board is authorized to re-borrow in respect of any loan to which this Act applies shall be conclusive evidence to persons lending moneys to the Board and to all other persons that the Board is authorized to re-borrow the amount so mentioned.

Protection of lenders.

(2.) No person lending moneys to the Board under the authority of this Act shall be bound or concerned to see or inquire as to the application of such moneys or be responsible for the misapplication thereof.

(3.) The securities for any moneys re-borrowed by the Board under the authority of this Act in respect of any loan shall be entitled and subject to the same priorities as regards the securities for any other loan or loans of the Board (whether original or by way of re-borrowing) as the securities for the original loan with respect to which such moneys were so re-borrowed were entitled and subject to, with the exception that to the extent to which (if at all) the rate of interest on moneys re-borrowed under the authority of this Act with respect to the loan under the 1912 Act shall be in excess of the rate of interest authorized by the 1912 Act such increased rate of interest to the extent of the increase thereof shall not have priority over, but shall be subject to, any other then existing loans of the Board raised under any other Act or Acts or the moneys re-borrowed under the authority of this Act with respect to any such other existing loans.

11. The Sinking Fund Commissioners for any special loan heretofore raised under the authority of any special Act heretofore passed or of the Harbours Act, 1908 (including loans raised by way of re-borrowing under the authority of this Act), are hereby empowered, by the direction or with the consent of the Board (which direction or consent the Board is hereby empowered to make, or give, or withhold), to invest any portion of the sinking fund held by them in the purchase of any debenture securing repayment of any part of the loan for which such sinking fund was created; and any investment made as aforesaid shall be a legal and proper investment, anything in the Trustee Act, 1908, or any other Act to the contrary notwithstanding.

Purchase by Sinking Fund Commissioners of their own debentures.

12. The provisions set out in the Schedule to this Act shall apply in relation to debentures issued by the Board for moneys borrowed under the authority of this Act, and for all other loans hereafter raised by the Board under the authority of any special Act or under the authority of the Harbours Act, 1908.

Register of Debentures, &c.

13. Section twenty-two of the War Legislation Act, 1917, shall apply to the Board as if the Board were a local authority within the meaning of the Local Bodies' Loans Act, 1913, saving that anything required by that section or by the last-mentioned Act to be done by special order may be done by the Board by resolution of the Board.

Section 22 of War Legislation Act, 1917, to apply to the Board.

Section 20 of Finance Act, 1918, to apply to the Board.

Section 26 of the Appropriation Act, 1915, not to apply.

Amendment to 1917 Act.

14. The Board is hereby declared to be a local authority within the meaning of section twenty of the Finance Act, 1918.

15. (1.) The consent of the Governor-General in Council to the raising of the loan under the 1917 Act shall be presumed to have been duly obtained, and nothing in section twenty-six of the Appropriation Act, 1915, shall invalidate or prejudicially affect anything done in pursuance of the 1917 Act.

(2.) The said section twenty-six of the Appropriation Act, 1915, shall not apply to the re-borrowing by the Board of any moneys in pursuance of this Act.

16. The 1917 Act is hereby amended by substituting for the figure "9" in the second paragraph of the Second Schedule thereto the figure "7"; and by substituting for the figures "1916" in the form of notice set out in the said Second Schedule the figures "1917."

Schedule.

SCHEDULE.

1. ANNEXED to each debenture, whether the same shall be registered as hereinafter provided or not, shall be coupons each providing for the payment of a half-year's interest; and such interest shall be payable only on presentation and on delivery of the coupon referring thereto.

2. A register of debentures shall be kept at the office of the Board, wherein there will be entered the names, addresses, and descriptions of the registered holders and particulars of the debentures held by them respectively; and such register will at all reasonable times during business hours be open to the inspection of the registered holder of any debenture, and his executors or administrators, and any person authorized in writing by him or them.

3. The registered holder for the time being of a debenture when registered, and notwithstanding that the debenture is in the form of a debenture payable to bearer, and the bearer thereof for the time being when not registered, and the bearer of each of the interest-coupons aforesaid, shall be entitled to the principal-money and interest secured by such instruments respectively free from any equities between the Board and the original or any intermediate holder thereof; and all persons may act accordingly; and the receipt of such registered holder or bearer, as the case may be, for such principal-money and interest shall be a good discharge to the Board, which shall not be bound to inquire into the title of such registered holder or bearer, or, except as ordered by some Court of competent jurisdiction or as by statute required, to take notice of any trust or equities affecting the ownership of such instruments or moneys.

4. Except when registered, a debenture shall be transferable by delivery, but the Board will at any time, upon the request in writing of the bearer (whilst unregistered), register him or his nominee in the register as the holder of the debenture, and endorse thereon a note of such registration; and the Board will also at any time, upon the request in writing of the registered holder, or his executors or administrators, cancel the registration and the note thereof endorsed thereon, and the debenture will thereupon again become transferable by delivery. A fee of 2s. 6d. shall be paid to the Board upon every such registration or cancellation, except in the case of the registration of a debenture at the request of the original purchaser thereof at the time of such purchase.

5. Every transfer of a debenture when registered must be in writing under the respective hands of the registered holder, or his executors or administrators, and the transferee. The transfer must be delivered at the office of the Board, accompanied by the debenture intended to be thereby transferred, a fee of 2s. 6d., and such evidence of identity or title as the Board may reasonably require, and thereupon the transfer will be registered, and a note of such registration will be endorsed on the debenture. The Board shall be entitled to retain the transfer. A transfer may include any number of debentures held by the same registered holder.

6. In the case of joint registered holders the principal-moneys and interest thereby secured shall be deemed to be owing to them upon a joint account.

7. In the event of the Board registering a forged transfer of a debenture, or a transfer of a debenture executed under a forged power of attorney, the Board shall, on proof of such forgery, cancel such registration, and reinstate the true owner on the register; but the Board shall not be liable in damages or otherwise to any person claiming under or by virtue of such forged transfer, or under or by virtue of, or acting on, or on the faith, or in consequence of such registration, or any note of registration made by the Board on the debenture or any certificate of registration issued by the Board in consequence of such registration; and the same provisions shall apply, *mutatis mutandis*, in the case of the cancellation by the Board of the registration of a debenture on a forged request for such cancellation, or on such a request executed under a forged power of attorney.

8. Where, owing to a registered debenture being held outside of the Dominion of New Zealand, it may be inconvenient to the holder that, on the registration or cancellation of registration thereof, or on the registration of a transfer thereof, such debenture should be produced at the office of the Board, it shall be competent for, but not obligatory upon, the Board to dispense with such production at the office of the Board, and to make the entry in the register of such registration, or cancellation of registration, or of the registration of such transfer, as the case may be, upon receiving an application for such registration, or cancellation of registration, or such transfer, as the case may be, in due form, and duly and properly executed, and having all legal and proper verification of signatures, and upon being satisfied that the bearer, or, as the case may be, the registered holder, of the debenture has lodged such debenture with some bank appointed by the Board for the purpose, or with the High Commissioner in London of the Dominion of New Zealand, to be held by such bank or High Commissioner, and that the same is so held, for the purpose of such registration, or cancellation of registration, or such registration of transfer, as aforesaid; and the Board may, by writing under the hands of the Chairman and the Secretary or Treasurer of the Board, or of any two members and the Secretary or Treasurer of the Board, delegate to such bank or High Commissioner the duty of making the necessary endorsement on the debenture of such registration, cancellation of registration, or registration of transfer, as aforesaid; and such endorsement, being duly made as aforesaid, shall have the same force and effect as if it has been duly made in the office of the Board. Any such appointment of a bank for the purposes aforesaid may be made by resolution of the Board, or by writing under the hands of the Chairman and the Secretary or Treasurer of the Board, or of any two members and the Secretary or Treasurer of the Board; and any such appointment as aforesaid, and also any such delegation as aforesaid, may be so made as to apply generally to such cases as aforesaid, or particularly to one or more cases therein defined.

9. Any notice which it shall be necessary that the Board should serve, or which the Board may elect to serve, on any registered holder of a debenture shall be properly given if addressed to the registered holder thereof for the time being in the Register of Debentures aforesaid at the address for the time being of such registered holder in the said register, and posted by registered letter in the General Post Office; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post-office.