

New Zealand.



ANALYSIS.

- | | |
|---|--|
| <p>Title.
Preamble.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. Act not to entitle debenture-holders to any claim upon Government or public revenues. 4. Power to appoint Thames Borough Commissioner. 5. Provisions of Act to come into force only if Commissioner appointed. 6. Commissioner to exercise all powers and perform all duties of Council. 7. Appointment of Advisory Committee. 8. Functions of Advisory Committee. 9. Postponement of elections of Mayor and Councillors. | <ol style="list-style-type: none"> 10. Accumulated sinking funds to be applied in reduction of loans. 11. Current year's interest to be capitalized. 12. Outstanding rates to be credited to General Account. 13. Commissioner not to levy consolidated rate. 14. Special rates to be allocated <i>pro rata</i> to sinking funds and in satisfaction of interest. 15. Debentures to be delivered to Commissioner for registration and amendment. 16. All interest to be paid by cheque. 17. Principal and interest recoverable only in accordance with this Act. 18. Remuneration and expenses of Commissioner. |
|---|--|

1932, No. 1.—*Local and Personal.*

AN ACT to make Provision for the Appointment of a Commissioner to have the Temporary Administration of the Borough of Thames, in Accordance with an Agreement made between the Thames Borough Council and the Holders of certain Debentures issued by the said Council, and for Matters incidental thereto. Title.

[10th May, 1932.]

WHEREAS the Thames Borough Council has from time to time raised certain special loans under the Local Bodies' Preamble.

Loans Act, 1926, or former Acts by the issue of debentures or other securities secured upon the rateable property in the borough: And whereas, as a result of the decrease in mining operations in the borough and the general trade and economic depression at present affecting New Zealand, the said Council has found it impossible to collect its rates in full and consequently is not at present and is not likely in the near future to be able to pay in full as they fall due the annual or other charges in respect of such loans: And whereas it has been agreed by the Council and a majority in value of the debenture-holders that it is desirable that provision should be made for the temporary administration of the borough by a Commissioner as hereinafter provided:

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

Short Title.

1. This Act may be cited as the Thames Borough Commissioner Act, 1932.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“Advisory Committee” or “Committee” means the Thames Borough Advisory Committee appointed in accordance with this Act:

“Borough” means the Borough of Thames:

“Commissioner” or “Borough Commissioner” means the Thames Borough Commissioner for the time being in office under this Act:

“Corporation” means the Corporation of the borough:

“Council” means the Council of the borough:

“Debenture” means a debenture or other security issued by the Council in respect of an existing loan, and “debenture-holder” means the holder of any such debenture or security:

“Existing loan” means a loan raised by the Council under the Local Bodies’ Loans Act, 1926, or any former corresponding Act, before the passing of this Act:

“Interest year” means the period of twelve months commencing on the sixteenth day of July in any year:

“Mayor” means the Mayor of the borough for the time being in office:

“Minister” means the Minister of Internal Affairs.

3. (1) Nothing in this Act shall be construed to entitle the holder of any debenture to any claim in respect thereof upon the Government or public revenues of New Zealand.

Act not to entitle debenture-holders to any claim upon Government or public revenues.

(2) Subject to the last preceding subsection, this Act shall bind the Public Trustee, the State Advances Superintendent, the Government Insurance Commissioner, and the State Fire Insurance General Manager, in so far as it affects their respective rights as debenture-holders.

4. (1) The Governor-General in Council, if he is satisfied that the interests of any dissenting debenture-holder will not be prejudicially affected thereby, may, on the recommendation of the debenture-holders or of a majority in value of them, appoint a fit person to be the Thames Borough Commissioner.

Power to appoint Thames Borough Commissioner.

(2) The Commissioner shall continue in office until the Mayor and Councillors of the borough elected at the first general election of such Mayor and Councillors to be held after his appointment come into office.

(3) The Commissioner may be at any time removed from office by the Governor-General in Council for disability, insolvency, neglect of duty, incompetence, or misconduct, or at the request of the debenture-holders or of a majority in value of them; or he may at any time resign his office by writing addressed to the Minister. In any such case, or in the event of the death of the Commissioner, the Governor-General in Council may, on the like recommendation, appoint any other person to be the Commissioner, to hold office for the remainder of the period specified in the last preceding subsection, and pending the making of any such appointment the Town Clerk, or such other person as the Minister appoints, shall act as Commissioner, and while so acting shall be deemed to be the Commissioner.

5. The following provisions of this Act shall come into force if a Commissioner is appointed as aforesaid, but not otherwise.

Provisions of Act to come into force only if Commissioner appointed.

6. (1) Subject to the provisions of this Act, the Commissioner, in the name and on behalf of the Council or the Corporation, as the case may require, may exercise any power, and shall perform all the duties, conferred or imposed upon the Council by the Municipal Corporations Act, 1920, or by any other Act, or by any instrument or otherwise.

Commissioner to exercise all powers and perform all duties of Council.

(2) During the term of office of the Commissioner the Council shall not exercise any power or perform any duty conferred or imposed upon it as aforesaid.

(3) Any power given to the Council to do anything by special order may be exercised by the Commissioner by a special entry in the minute-book of the Council, signed by the Commissioner and confirmed by a similar entry made not sooner than the twenty-eighth day and not later than the forty-second day after the date of such special entry. Public notice of such special entry and of the place and date fixed for its confirmation shall be given once in each full week intervening between the making of the two entries.

(4) All cheques drawn on any bank account of the Council or of the Corporation shall be signed by the Treasurer and countersigned by the Commissioner or by any two of such persons as the Commissioner from time to time authorizes to sign cheques.

Appointment
of Advisory
Committee.

7. (1) As soon as practicable after the appointment of the Commissioner there shall be appointed, in accordance with this section, an advisory body to be called the Thames Borough Advisory Committee.

(2) The Advisory Committee shall consist of the Mayor and four other persons to be appointed by the Governor-General on the recommendation of the Council.

(3) The members of the Advisory Committee shall continue in office throughout the term of office of the Commissioner, save that any such member may be at any time removed from office by the Governor-General, or may resign his office by writing addressed to the Minister.

(4) The Advisory Committee may from time to time appoint standing or special committees to assist it in the exercise of its functions under this Act. A person may be appointed a member of a committee under this subsection, notwithstanding that he may not be a member of the Advisory Committee.

(5) The powers of the Advisory Committee shall not be affected by any vacancy in the membership thereof.

Functions of
Advisory
Committee.

8. (1) The Advisory Committee may advise the Commissioner on any matter relating to the administration of the borough.

(2) The Commissioner shall not be bound to act on any such advice in respect of the making, levying, or recovery of rates. If any dispute arises between the

Commissioner and the Committee as to whether he should act on any advice concurred in by not less than three members of the Committee, in respect of any other matter, such dispute shall be submitted to arbitration under the Arbitration Act, 1908.

9. (1) The first elections of a Mayor and of Councillors of the borough to be held after the appointment of the Commissioner shall be the elections to be held pursuant to the Municipal Corporations Act, 1920, on the first Wednesday in May, nineteen hundred and thirty-five.

Postponement
of elections of
Mayor and
Councillors.

(2) Until such elections are held the Governor-General may, on the recommendation of the Advisory Committee, appoint any qualified person to fill any vacancy in the office of Mayor or in the office of Councillor of the borough, and every person so appointed shall hold office in all respects as if he had been duly elected to fill the vacancy.

(3) The first elections of representatives of the borough on the Thames Harbour Board, the Thames Hospital Board, and the Thames Valley Electric-power Board respectively to be held after the appointment of the Commissioner shall be held at the same time as the first elections of a Mayor and of Councillors of the borough are held pursuant to subsection one of this section.

10. (1) The Commissioners of the sinking fund (if any) of every existing loan shall, as soon as practicable after the appointment of the Borough Commissioner, apply the amount of the accumulated sinking fund, or so much thereof as the Borough Commissioner directs, in the repayment to the extent thereof of such loan by repaying an equal proportion of the principal secured by each debenture issued in respect of such loan.

Accumulated
sinking funds to
be applied in
reduction of
loans.

(2) Every sum paid to the holder of any debenture pursuant to this section shall be accepted by him in reduction of the principal secured by the debenture, notwithstanding that such principal may not have become repayable.

11. (1) The instalments of interest on every existing loan due or becoming due in the interest year current at the passing of this Act shall be capitalized and added to the principal of such loan as from the respective due dates thereof.

Current year's
interest to be
capitalized.

(2) Where any existing loan is repayable by instalments consisting partly of principal and partly of interest, this section and section fourteen hereof shall apply as if so much of each instalment as consists of principal were an instalment of sinking fund and as if the remainder thereof were an instalment of interest.

Outstanding rates to be credited to General Account.

12. All moneys received by the Council or the Commissioner after the thirty-first day of March, nineteen hundred and thirty-two, on account of general, separate, special, or consolidated rates levied before that date shall be credited to the General Account.

Commissioner not to levy consolidated rate.

13. (1) The Commissioner shall not exercise the power conferred by section ninety-five of the Municipal Corporations Act, 1920, of making and levying a consolidated rate, but shall in each financial year make or levy separately the general rate and every special or separate rate. All moneys paid on account of any rate or rates levied by the Commissioner in any financial year shall be deemed to be paid on account of all the individual rates levied in that year in the proportions which such individual rates bear respectively to the total amount of such rates.

(2) The Commissioner shall not, in respect of any existing loan, exercise the powers conferred by section twenty-two of the Local Bodies' Loans Act, 1926, to pay the interest, or interest and sinking fund, on such loan out of the General Account or out of a separate rate in lieu of collecting the special rate made in respect of such loan.

Special rates to be allocated *pro rata* to sinking funds and in satisfaction of interest.

14. (1) Subject to the provisions of subsection one of section eighteen hereof, the proceeds of every special rate levied by the Commissioner in any financial year for the purpose of providing interest and sinking fund on any existing loan (whether such proceeds are collected during the term of office of the Commissioner or thereafter) shall be applied towards the payment of the instalments of such interest and sinking fund that become payable during the interest year commencing in such financial year, in the proportions which such interest and sinking fund respectively bear to the total amount of such instalments.

(2) Where the instalments of interest and sinking fund on any existing loan are payable out of any separate account, and no special rate is levied to provide such

instalments, the same proportion only of such instalments shall be payable as is payable under the last preceding subsection in respect of any instalments falling due on the same dates.

(3) No payment shall be made on account of any instalment of interest or sinking fund before the due date of such instalment; and where one only of two such instalments payable in respect of the same loan in any interest year has become due not more than one-half of the total amount for the time being collected of the net special-rate proceeds to be applied in payment of such instalments shall be payable to the debenture-holders or the sinking fund, as the case may be.

(4) The total amount paid pursuant to this section on account of any instalment of interest shall be deemed to be received in full satisfaction of such instalment.

15. (1) Before any payment is made after the passing of this Act on account of the principal or interest secured by any debenture, such debenture, together with all coupons held by the debenture-holder in respect thereof, shall be delivered to the Commissioner for the purpose of being registered as hereinafter provided.

Debentures to be delivered to Commissioner for registration and amendment.

(2) Upon the delivery as aforesaid of every such debenture and coupons, the Commissioner shall—

(a) Register the debenture by entering in a register to be kept by him for the purpose the full name, address, and description of the holder thereof, the original amount of principal secured thereby, the amount paid in reduction of such principal pursuant to section ten hereof, the amount of the interest capitalized pursuant to section eleven hereof, and such other particulars as he thinks fit:

(b) Amend the debenture to show the amount of principal then secured thereby:

Provided that where two or more debentures issued in respect of the same loan are held by the same person such amendment may be made on any one or more of such debentures, and if necessary one or more of them may be cancelled, so that all such debentures, or such of them as remain uncanceled, shall together show the aggregate amount of principal then secured thereby:

Provided further that where any debentures held by any person are dealt with as provided in the last preceding proviso, none of such debentures shall be returned to such person unless and until the Audit Office, or an officer approved by that Office for the purpose, has certified that the debenture or debentures proposed to be so returned correctly show the aggregate amount of principal then secured thereby, and that all the other such debentures have been cancelled:

(c) Cancel all such coupons:

(d) Print, type, stamp, or write in ink upon the face of the debenture a statement to the effect that the payment of the principal and interest secured thereby, and the rights of the holder thereof as to transfer and otherwise, are subject to the provisions of this Act.

(3) After being dealt with as aforesaid every such debenture shall, unless it has been cancelled under the first proviso to paragraph (b) of the last preceding subsection, be returned to the holder thereof or to his nominee.

(4) No debenture registered as aforesaid shall be transferable by delivery. Any such debenture may be transferred by an endorsement or separate form of transfer as provided in subsection two of section twenty-nine of the Local Bodies' Loans Act, 1926, registered in the register to be kept by the Commissioner as hereinbefore provided.

(5) The person whose name appears in such register for the time being as the holder of any debenture, or the executors or administrators of any such person who is deceased, shall be deemed to be the holder of such debenture.

All interest to be paid by cheque.

16. All payments to be made, whether during the term of office of the Commissioner or thereafter, on account of the interest on any existing loan shall be paid by cheque and not otherwise. Any such cheque shall if the debenture-holder so requires be payable free of exchange at any place at which such interest would have been so payable if this Act had not been passed.

17. During the term of office of the Commissioner no steps shall be taken by any person, whether by way of action, or proceedings for the appointment of a receiver, or otherwise, to enforce payment of the principal or interest of any existing loan, or any part thereof respectively, otherwise than in accordance with the provisions of this Act.

Principal and interest recoverable only in accordance with this Act.

18. (1) The Commissioner shall be paid such remuneration, allowances, and expenses as are fixed from time to time by the Governor-General in Council. All payments under this subsection shall be made out of the General Account, but the Commissioner shall from time to time, in exercise of the power conferred by subsection two of section fifty-eight of the Municipal Corporations Amendment Act, 1928, transfer to the General Account from each separate account a proportionate part of such payments and of office, clerical, legal, and other expenses.

Remuneration and expenses of Commissioner.

(2) The amount of the allowance to be paid to the Mayor under section twenty-nine of the Municipal Corporations Act, 1920, during the term of office of the Commissioner shall be fixed from time to time by the Commissioner on the recommendation of the Advisory Committee.