



ANALYSIS

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1968, No. 140

An Act to establish a New Zealand Ports Authority for the purpose of ensuring the control of harbour development, and to define the functions and powers of the Authority

[18 December 1968]

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 and commencement—(1) This Act may be cited as the New Zealand Ports Authority Act 1968.

(2) This Act shall come into force on a date to be fixed by the Governor-General by Order in Council.

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

“Authority” means the New Zealand Ports Authority constituted under this Act:

“Harbour” or “port”, “harbour board”, “harbour dues”, and “harbour works” have the same meaning as in section 2 of the Harbours Act 1950:

“Minister” means the Minister of Marine.

New Zealand Ports Authority

3. New Zealand Ports Authority—(1) There is hereby established an Authority to be called the New Zealand Ports Authority.

(2) The Authority shall consist of five members who shall be appointed by the Governor-General on the recommendation of the Minister, of whom one shall be appointed as Chairman.

(3) No member shall be appointed to represent, or shall be deemed to represent, any sectional or regional interest.

(4) The functions and powers of the Authority shall not be affected by any vacancy in its membership.

(5) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason only of his being a member of the Authority.

4. Term of office of members—(1) Except as otherwise provided in this Act, every member of the Authority shall be appointed for a term of three years, and any member may from time to time be reappointed.

(2) With respect to the first members of the Authority, other than the Chairman, the following provisions shall apply:

(a) Two of those members shall retire from office at the expiration of two years from the date of their appointment:

(b) The members so to retire shall be determined by agreement between the members to whom this subsection applies, or, failing such agreement, shall be determined by lot.

(3) Notwithstanding anything in this Act, every member, unless he sooner vacates his office under section 5 of this Act, shall continue in office until his successor comes into office.

5. Extraordinary vacancies—(1) Any member of the Authority may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister.

(2) If any member dies or resigns, or is removed from office, the vacancy thereby created shall be deemed to be an extraordinary vacancy.

(3) An extraordinary vacancy shall be filled by the appointment of a person in the same manner as the appointment of the person vacating office.

(4) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term of office of his predecessor.

6. Deputies of members—(1) In any case in which the Minister is satisfied that the Chairman or any other member of the Authority is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for the Chairman or that member during his incapacity.

(2) In the case of the incapacity of the Chairman, his deputy may or may not be one of the other members; and if the deputy of the Chairman is one of the other members some other person may be appointed to act as the deputy of that member.

(3) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Authority, and the deputy of the Chairman shall have all the powers and functions of the Chairman.

(4) No appointment of a deputy and no act done by him as such, and no act done by the Authority while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

7. Meetings and procedure of Authority—(1) The first meeting of the Authority shall be held on a day to be appointed by the Minister.

(2) Subsequent meetings of the Authority shall be held at such times and places as the Authority or the Chairman from time to time appoints.

(3) The Chairman or any three members of the Authority may at any time call a special meeting of the Authority.

(4) At any meeting the Chairman and two members shall form a quorum.

(5) The Chairman shall preside at all meetings at which he is present. In the absence of the Chairman or his deputy from any meeting, the members present shall appoint one of their number to preside as Chairman at that meeting.

(6) All questions arising at any meeting shall be decided by a majority of the valid votes recorded thereon.

(7) At any meeting the Chairman of the meeting shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(8) Subject to the provisions of this Act and of any regulations made thereunder, the Authority may regulate its procedure in such manner as it thinks fit.

8. Authority to be Commission of Inquiry—The Authority shall, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act and of any regulations made thereunder, the provisions of that Act, except sections 2, 11, and 12, shall apply accordingly.

9. Evidence in proceedings before Authority—(1) The Authority may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matter being dealt with, whether or not such evidence would be otherwise admissible in a Court of law.

(2) Subject to the foregoing provisions of this section, the Evidence Act 1908 shall apply to the Authority and its members and to all proceedings before it in the same manner as if the Authority were a Court within the meaning of that Act.

10. Committees—(1) The Authority may from time to time, after consultation with the Minister, appoint a committee or committees, consisting in each case of two or more persons, to advise the Authority on such matters relating to its functions as are referred to them by the Authority.

(2) A person may be appointed to be a member of any committee under this section whether or not he is a member of the Authority.

(3) Subject to the provisions of this Act and of any regulations made thereunder, and to any general or special directions given by the Authority, any such committee may regulate its procedure in such manner as it thinks fit.

(4) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason only of his being a member of any committee appointed under this section.

Functions and Powers of Authority

11. Functions of Authority—(1) The general functions of the Authority shall be—

- (a) To foster an efficient and integrated ports system for New Zealand:
 - (b) For that purpose, to prepare, in accordance with section 12 of this Act, a plan (to be called the national ports plan) for the development of ports and harbours in New Zealand; and from time to time to review that plan.
- (2) Without limiting the foregoing provisions of this section, the Authority shall also have the following functions:
- (a) To foster ways of achieving a quicker turnround of ships, including the conducting or arranging of inquiries and investigations into cargo handling and the best possible use of equipment and plant:
 - (b) To keep acquainted with the development of new methods of cargo handling, of port development, and of the design and use of shipping; and to disseminate information on those matters in such manner as it thinks fit:
 - (c) To promote efficiency in the operation of ports:
 - (d) To encourage the provision of training and education of persons who are or may be engaged in work associated with the loading and unloading of ships, the handling of cargo, or related waterfront work:
 - (e) To encourage the adoption by harbour boards of a uniform system of accounting and uniform methods of keeping statistical records:
 - (f) To promote research into any matters relating to its functions, either by itself or in association with Government departments, harbour boards, producer boards, or other organisations and agencies:
 - (g) To negotiate with harbour boards and other bodies appearing to be directly concerned, or to have a material interest, with a view to securing the implementation of any proposals made by the Authority in the exercise of its functions; and failing agreement to report and make recommendations to the Minister thereon:

(h) To inquire into and report to the Minister on such matters relating to the use and development of ports and harbours in New Zealand, or relating to harbour dues, as may from time to time be referred to it by the Minister:

(i) When requested by the Minister, to consider and report to him on the desirability or otherwise in the public interest of promoting legislation in relation to any of the foregoing matters:

(j) To undertake such other functions as may be required of it by the Minister pursuant to the policy of the Government in respect of ports and harbours, for the purpose of achieving greater port efficiency and economy and a quicker turnround of ships.

(3) The Authority shall have such other functions as are conferred on it by this Act or any other enactment.

(4) In the exercise of its functions the Authority shall have regard to—

(a) Internal transport, ship design, cargo handling, and likely developments in those and related matters:

(b) National, regional, and local economic and transport planning:

(c) The trade of New Zealand and related matters:

(d) Such other considerations as the Authority considers relevant.

12. The national ports plan—(1) Before adopting as part of the national ports plan any proposal that directly affects any port, the Authority shall consult with the harbour board concerned and with Government departments and other bodies or persons appearing to be directly concerned with the proposal.

(2) After consultation as aforesaid, the Authority shall give notice in writing to the harbour board and such Government departments and other bodies or persons as aforesaid of its decision on matters on which agreement has not been reached.

(3) Within two months after the date of such notice the harbour board or any such Government department or body or person as aforesaid, and any other person or body who in the opinion of the Minister is directly concerned or otherwise has a material interest in the Authority's decision, may appeal to the Minister against the decision on the ground that it was not in the national interest.

(4) On any such appeal the Minister shall consider any representations made by the appellant, and by the harbour board or any such Government department or body or person as aforesaid (not being the appellant), and shall, if the appellant or such board, department, body, or person as aforesaid so requests, give him or it an opportunity to be heard.

(5) On any such appeal the Minister's decision shall be final. Before making his decision he may refer the matter back to the Authority for reconsideration.

(6) Subject to the foregoing provisions of this section, on the completion of the national ports plan the Authority shall submit it to the Minister for his approval.

(7) Subject as aforesaid, the Authority may at any time before the completion of the plan submit any part or parts of it to the Minister for his approval.

(8) After approval of the plan or any part of it submitted to him as aforesaid the Minister shall cause the plan or that part of it to be published in such manner as he thinks fit.

(9) After approval of the plan or of any part of it as aforesaid the Authority may from time to time submit to the Minister for his approval any proposal for a variation of the plan or of that part, or for a new plan or part in substitution therefor; and for the purposes of this subsection the foregoing provisions of this section shall apply in all respects as it applies to the original plan or part thereof.

13. Control of capital expenditure by harbour boards—

(1) For the purposes of this section, the expression "prescribed amount" means—

(a) In the case of the Auckland and Wellington Harbour Boards, two hundred and fifty thousand dollars:

(b) In the case of the Northland, Tauranga, Taranaki, Gisborne, Napier, Nelson, Lyttelton, Timaru, Otago, and Southland Harbour Boards, one hundred and fifty thousand dollars:

(c) In the case of any other harbour board, fifty thousand dollars.

(2) This section applies to harbour works, other than works of the nature of routine maintenance or routine repair, used or intended to be used for shipping purposes. For the purposes of this subsection, the expression "shipping purposes" means any purpose that conduces to the safety or convenience of ships (other than yachts, motor launches, speedboats, or other boats used exclusively for recreational purposes), or that facilitates the shipping or unshipping of goods or passengers; and, with-

out limiting the general import of the expression, includes the provision of any building, wherever situated, for use in connection with the handling, packing, or unpacking of goods for shipping or unshipping through any port.

(3) Notwithstanding anything in any enactment, it shall not be lawful for any harbour board, except with the prior consent of the Authority, to expend, out of the proceeds of money borrowed or to be borrowed by the Board, in the undertaking of any harbour works to which this section applies—

- (a) Any sum in excess of the prescribed amount; or
- (b) Any lesser sum, where the works form part of a project, or one of a series of projects, whose total cost will exceed the prescribed amount—

if it appears to the Authority that the expenditure is of a capital nature.

(4) For the purposes of subsection (3) of this section, the expenditure on any harbour works, and the total cost of any project or series of projects, shall be ascertained in each case by reference to the amount of the actual or the estimated expenditure thereon; and in calculating that amount there shall be included a sum, ascertained in the manner prescribed by the Authority, in respect of such other matters as in the opinion of the Authority are incidental to or consequential on the works or project or projects, including, but not in limitation, the value of any land acquired or to be acquired for, or appropriated or to be appropriated to the purpose of, the works or project or projects.

(5) Subject to the provisions of this section, on any application for its consent under this section the Authority may grant or refuse the application, or grant it in part only or subject to conditions, or defer it for a period not exceeding one year.

(6) The Authority may vary any consent granted by it under this section by attaching conditions thereto, or by revoking or varying any conditions previously attached thereto or attaching further conditions.

(7) The Authority shall not grant any consent under this section unless it is of opinion that the proposals for the harbour works are consistent with the approved national ports plan or, if the plan or the relevant part of it has not yet been approved, are consistent with the Authority's views as to what the plan or that part of it should contain.

(8) Where the Authority consents to any such expenditure, and the expenditure is to be made out of the proceeds of any loan to be raised for the purpose by the harbour board, the following provisions shall apply:

- (a) The board shall be deemed to have authority to borrow money in accordance with the terms of the consent, but subject to and in accordance with the provisions of the Local Authorities Loans Act 1956:

Provided that the board shall not be entitled to make any special rate as security for the repayment of the loan, except under the authority of a special Act authorising the board to make the rate:

- (b) The Local Authorities Loans Board, in considering an application for its sanction to the proposal to borrow, shall have regard to any recommendations made by the Authority, in addition to the matters to which it is to have regard under the Local Authorities Loans Act 1956.

(9) Where the Authority refuses to grant its consent to an application under this section, or grants the application in part only or subject to conditions, or defers it, or varies it by attaching or varying any conditions, the board may, within two months after being notified by the Authority of its decision, appeal to the Minister against the decision on the ground that it was not consistent with the approved national ports plan or, if the plan or the relevant part of it was not then approved, was not consistent with its probable contents.

(10) On any appeal under this section the Minister may confirm, reverse, or modify the decision appealed against; and the Minister's decision shall be final. Before making his decision the Minister may refer the matter back to the Authority for further consideration.

(11) The following provisions shall apply for the purposes of this section:

- (a) Every application for consent shall be made in the manner prescribed by regulations under this Act or, in the absence of any such regulations or so far as such regulations do not extend, in such manner as the Authority may require:
- (b) The application shall be supported by such plans, information, and particulars as may be prescribed or as the Authority may require:
- (c) The Authority may seek reports or advice from any Government department or any other source:
- (d) Unless the Authority proposes to grant its consent unconditionally, it shall, if the applicant so requests, give the applicant, by its representatives, an opportunity to be heard:

- (e) On any appeal under subsection (9) of this section the Minister shall consider any representations made by the appellant, and shall, if the appellant so requests, give the appellant, by its representatives, an opportunity to be heard.

(12) Without prejudice to any other remedies available against any harbour board or its members in respect of any contravention of subsection (3) of this section or any failure to comply with any condition to which any consent under this section is for the time being subject, the provisions of the said subsection (3) or of that condition shall be enforceable by civil proceedings by the Attorney-General for an injunction or for any other appropriate relief.

14. Powers of Authority—(1) The Authority shall have such powers as are reasonably necessary to enable it to exercise its functions.

(2) In particular, but not in limitation of the foregoing provisions of this section, the Authority may—

- (a) Consult with, and act in combination or association with, Government departments, harbour boards, and other persons or bodies of persons to such extent as may be necessary or expedient to enable it to exercise any of its functions:
- (b) Keep, collate, and publish such statistical records in relation to any matter within its jurisdiction as it thinks fit.

15. Supply of information to Authority—(1) Subject to the provisions of this section, the Authority may from time to time require any harbour board or any person or body of persons to furnish such returns, statements, statistics, or other information relating to matters coming within the jurisdiction of the Authority as it deems necessary; and require that any such information be verified by statutory declaration; and examine or cause to be examined and make or cause to be made copies of or extracts from any documents or records from which any such information is obtained.

(2) No person who is bound by the provisions of any enactment, other than the State Services Act 1962, to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to the Authority in relation to that matter, or to produce any document or paper or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

(3) No board or person or body shall be required to furnish to or make available for examination by the Authority under this section any particulars, documents, or records relating to the business of any other person or body, except with the consent of that other person or body.

(4) Notwithstanding anything in this Act, the Authority shall not disclose any information furnished to or obtained by it pursuant to this section except—

- (a) With the consent of the board or person or body by whom it was furnished or whose documents or records were so examined; or
- (b) In the form of a summary of the information so furnished by, or obtained from the documents or records of, that board or person or body, being a summary so framed as not to enable particulars relating to the business of any person or body to be ascertained from the summary; or
- (c) For the purposes of proceedings or intended proceedings in respect of an offence against this section.

(5) Every person commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars who, in purported compliance with any requirement under this section,—

- (a) Gives any information or statistics or makes any return or statement which he knows to be false in a material particular; or
- (b) With intent to deceive, produces any document or record which is false in a material particular.

Miscellaneous Provisions

16. Fees and travelling allowances—(1) The Authority is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There may be paid to members of the Authority and of any committee appointed by the Authority, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

17. Members not personally liable—No member of the Authority or of any committee appointed by the Authority shall be personally liable for any act done or default made by

the Authority or committee or by any member of it in good faith in the course of the operations of the Authority or committee.

18. Staff of Authority—There shall from time to time be appointed under the State Services Act 1962 such officers and employees of the Marine Department as may be necessary to enable the Marine Department to provide technical and administrative services to the Authority and to enable the Authority to carry out and exercise its functions, powers, and duties.

19. Annual report of Authority—(1) The Authority shall, in the month of April in each year or as soon thereafter as is practicable, prepare and submit to the Minister a report on its operations and proceedings for the year that ended with the thirty-first day of March then last past.

(2) The report shall be laid before Parliament within twenty-eight days after the date of its receipt by the Minister if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

20. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Regulating the procedure of the Authority and of any committee appointed by it:
- (b) Prescribing the procedure to be followed in respect of applications to the Authority for its consent to expenditure on harbour works under section 13 of this Act:
- (c) Prescribing the procedure to be followed on any appeal to the Minister under this Act:
- (d) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

21. Saving of other Acts—(1) The Harbours Act 1950, and every special Act for the time being in force relating to any harbour board, shall be read subject to the provisions of this Act; but except as provided by this Act the statutory rights, powers, and duties of harbour boards shall not be affected thereby.

(2) Nothing in this Act shall limit or affect the powers of the Minister of Railways or of officers of the New Zealand Government Railways Department pursuant to the Government Railways Act 1949, or of the Air Services Licensing Authority pursuant to the Air Services Licensing Act 1951, or of any Licensing Authority pursuant to the Transport Act 1962.

22. Borrowing powers of harbour boards—(1) The Harbours Act 1950 is hereby amended by repealing section 65, and substituting the following section:

“65. Subject to the provisions of this Act and of the New Zealand Ports Authority Act 1968, a Harbour Board may, subject to the provisions of the Local Authorities Loans Act 1956, borrow money for the purposes of harbour works.”

(2) The Local Authorities Loans Act 1956 is hereby amended—

(a) By inserting at the beginning of section 24, before the words “A local authority”, the words “Subject, in the case of a Harbour Board, to the New Zealand Ports Authority Act 1968,”:

(b) By repealing the proviso to section 24:

(c) By repealing the proviso to section 28:

(d) By repealing the proviso to subsection (1) of section 44:

(e) By inserting at the beginning of paragraph (b) of subsection (1) of section 45, before the words “A special rate”, the words “Subject, in the case of a Harbour Board, to section 47 of this Act,”:

(f) By omitting from subsection (1A) of section 47 (as inserted by section 6 (2) of the Local Authorities Loans Amendment Act 1961) the words “the special Act authorising the Board to raise the loan”, and substituting the words “a special Act authorising the Board to make the rate in respect of the loan”:

(g) By omitting from subsection (1c) of section 47 (as so inserted) the words “in respect of all loans raised under the special Act (including for the purposes of this subsection loans for the repayment or conversion of any previous loan raised under the authority of the special Act)”, and substituting the words “under the special Act (including for the purposes of this subsection rates levied in respect of loans for the repayment or conversion of any previous loan)”.

(3) The following enactments are hereby consequentially repealed:

(a) So much of the Second Schedule to the Local Authorities Loans Act 1956 as relates to section 65 (1) of the Harbours Act 1950:

(b) Subsection (2) of section 6 of the Harbours Amendment Act 1964.

(4) Where before the date of the commencement of this Act power has been given by any special Act to a harbour board to borrow money, then so far as the power has not been fully exercised at that date it may be exercised in accordance with the special Act and section 65 of the Harbours Act 1950, as repealed by subsection (1) of this section, as if this Act had not been passed.

23. Act to bind the Crown in respect of certain harbours— This Act shall bind the Crown in respect of any harbour the control of which is for the time being vested in the Crown.

24. Amendment—Section 10 of the Ministry of Transport Act 1968 is hereby amended by omitting from paragraph (h) of subsection (2) the words “the Transport Commission”, and substituting the words “the New Zealand Ports Authority”.

This Act is administered in the Marine Department.
