

CHRISTCHURCH-LYTTTELTON ROAD TUNNEL BILL

EXPLANATORY NOTE

THIS Bill constitutes an Authority for the purpose of constructing and maintaining a road tunnel through the Port Hills between Christchurch and Lyttelton, prescribes the powers and functions of the Authority, and makes provision for the financing of the project.

Part I provides for the constitution and membership of an Authority to be called the Christchurch-Lyttelton Road Tunnel Authority. The Authority will consist of seven members, of whom two will be appointed by the Governor-General, two by the Christchurch City Council, one by the Lyttelton Borough Council, one by a combination of prescribed Borough Councils and Town Councils in Canterbury, and one by a combination of prescribed County Councils in Canterbury.

Of the first members appointed, three will retire at the end of three years and two will retire at the end of four years. All other members, including those appointed to replace the members retiring, will hold office for a term of five years unless a member is appointed to fill an extraordinary vacancy, in which case the appointment will be for the residue of the term of the vacating member. Where a member is to be appointed by a constituent local authority, he will be elected by members of that authority in such manner as the local authority decides for itself. Provision is made for the filling of vacancies in the membership of the Authority, the ouster of office of members in cases of misconduct, the appointment of a Chairman and Deputy Chairman, the payment of fees and travelling allowances to members, the conduct of meetings, the appointment of committees, and the appointment of officers.

Part II authorises the Authority to construct, maintain, manage, and control a road tunnel through the Port Hills. For those purposes the Authority is given the powers of a local authority under the Public Works Act 1928.

The Authority is given power to prepare plans, specifications, and conditions of contract in respect of the project and is directed to submit these to the Minister of Works, the Christchurch City Council, the Lyttelton Borough Council, and the Heathcote County Council. The local authorities mentioned will have the right to approve or disapprove of the plans to the extent that their own localities are affected. The same provisions will apply in respect of any variation in the plans during the construction of the tunnel. No work will commence until the plans, specifications, and conditions of contract are finally approved by the local authorities concerned and by the Minister.

Part III provides for the financing of the proposed tunnel. The Authority is given power to borrow money by way of special loan under the Local Bodies' Loans Act 1926 and also to borrow on overdraft. All loans raised by the Authority will be guaranteed by the Government. In the event of any default by the Authority requiring the Government to make any payment under its guarantee, the Governor-General may appoint a Commissioner to exercise the powers and functions of the Authority.

Provision is made for the preparation by the Authority of an annual estimate of expenditure and revenue and for the submission of a copy of the estimate to the Minister of Finance.

Part IV authorises the Authority to charge tolls in respect of the use of the tunnel. The rates of tolls will be prescribed in bylaws but will require to be approved by the Minister of Finance.

Provision is made for the exemption of certain specified persons, such as constables and postmen on duty, from the payment of tolls.

Part V requires proper books of account to be kept by the Authority and also requires the accounts of the Authority to be audited by the Audit Office, which for that purpose is given the same powers as it has under the Public Revenues Act 1953 in respect of public money and the audit of local authorities' accounts. The Authority is required to prepare an annual balance sheet and statement and forward a copy to the Audit Office and to the Minister of Finance.

Part VI makes provision in respect of bylaws of the Authority. Power is given to make all necessary bylaws in respect of the use and control of the tunnel, and the procedure to be followed in making bylaws will be similar to that prescribed by the Municipal Corporations Act 1954 in relation to bylaws made by municipal corporations. Fines payable in respect of the breach of any bylaw will be paid to the Authority.

Part VII contains miscellaneous provisions and provides for the payment of preliminary expenses of the Crown and the Christchurch-Lyttelton Road Tunnel Committee, the superannuation of employees of the Authority, the making of contracts by the Authority, the payment of unauthorised expenditure by the Authority, the inspection of the tunnel by the Minister of Works, the reference of disputes to arbitration, the penalties for offences against the proposed Act, and the making of regulations.

Clause 62 authorises the Minister of Works to require the Authority to do such work in connection with the tunnel as he considers necessary and, in the event of non-compliance with any requisition, to have the work done himself at the expense of the Authority.

Clause 63 prohibits the interference with Government works by the Authority without the previous written consent of the Minister of Works.

Right Hon. Mr Holland

CHRISTCHURCH-LYTTELTON ROAD TUNNEL BILL

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A BILL INTITULED

An Act to provide for the constitution of the Christchurch-Lyttelton Road Tunnel Authority, to define its powers and functions, and to provide for the construction, maintenance, and control of a tunnel through the Port Hills from Christchurch to Lyttelton 5

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 Christchurch-Lyttelton Road Tunnel Act 1956. 10
 (2) This Act shall come into force on the first day of September, nineteen hundred and fifty-six.

2. Interpretation—In this Act, unless the context otherwise requires,— 15

“Authority” means the Christchurch-Lyttelton Road Tunnel Authority constituted under this Act:

“Constituent Authority” means a local authority which, in accordance with section *four* of this Act, may appoint, or may join with other local authorities in appointing, any one or more members to the Authority: 20

“Minister” means the Minister of Works:

“Secretary” means the Secretary of the Authority; and includes any person for the time being appointed by the Authority to perform the duties of the Secretary:

5 “Toll” means any reward or payment which the authority is authorised to demand and collect under this Act in respect of the passage or repassage through the tunnel of persons, animals, things, or vehicles:

10 “Tunnel” means the tunnel to be constructed under the Port Hills in accordance with this Act; and includes all the necessary approaches, buildings, erections, and other works constructed in accordance with this Act in connection with the tunnel:

15 “Vehicle” means a contrivance that is equipped with wheels or revolving runners upon which it moves or is moved.

PART I

THE CHRISTCHURCH-LYTTELTON ROAD TUNNEL AUTHORITY

20 **3. Constitution of Authority**—(1) There is hereby established an authority to be called the Christchurch-Lyttelton Road Tunnel Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal with power to purchase, take
25 on lease, hold, deal with, and dispose of real and personal property, to sue and be sued in any Court, and to do and suffer all that bodies corporate may lawfully do and suffer.

(3) The Authority shall be deemed to be a local authority for the purposes of the Local Bodies' Finance Act 1921-22,
30 the Local Bodies' Loans Act 1926, the Local Government Loans Board Act 1926, the Local Authorities (Members' Contracts) Act 1954, and the Harbours Act 1950.

(4) The Second Schedule to the Local Authorities (Members' Contracts) Act 1954 is hereby amended by inserting,
35 after the reference to the Christchurch Drainage Board, a reference to the Christchurch-Lyttelton Road Tunnel Authority.

4. Members of Authority—(1) The Authority shall consist of seven members of whom—

40 (a) Two members shall be appointed by the Governor-General on the recommendation of the Minister;

- (b) Two members shall be appointed by the Christchurch City Council;
- (c) One member shall be appointed by the Lyttelton Borough Council;
- (d) One member shall be appointed by the Borough Councils of Akaroa, Ashburton, Kaiapoi, Rangiora, and Riccarton, and by the Town Councils of Leeston, Southbridge, and Tinwald; and 5
- (e) One member shall be appointed by the County Councils of Akaroa, Amuri, Ashburton, Ashley, Cheviot, Ellesmere, Eyre, Halswell, Heathcote, Kowai, Malvern, Mount Herbert, Oxford, Papanui, Rangiora, Selwyn, Springs, Tawera, Waimairi, Waipara, and Wairewa. 10

(2) Any person appointed under this section may or may not be a member of a constituent authority, and no member of any constituent authority shall become disqualified from his membership thereof by being appointed by it or with its concurrence to be a member of the Authority. 15

5. Term of office of members of Authority—(1) Except as otherwise provided in this Act, every member of the Authority shall be appointed for a term of five years from the date of his appointment, but may from time to time be reappointed. 20

(2) Notwithstanding anything to the contrary in this Act, every member of the Authority, unless he sooner vacates his office otherwise than by effluxion of time, shall continue to hold his office until his successor comes into office. 25

(3) With respect to the first members of the Authority, two of them shall retire at the expiration of three years from the date of their appointment, two others shall retire at the end of four years from that date, and the remaining three, including the member who has been elected as Chairman, shall retire at the end of five years from that date. 30

(4) The members to retire at the expiration of three years from the date of their appointment and at the expiration of four years from that date shall be determined by agreement of those of the first members who are then in office, and, failing agreement on either occasion, the members to retire shall be determined by lot. 35

(5) Any vacancy under this section shall be filled by the appointment of some person made in the same manner as the appointment of the vacating member. 40

6. Election of members by constituent authorities—

(1) Members of the Authority to be appointed by constituent authorities shall be elected by members of the constituent authority or authorities by which the appointment is to be made.

(2) Every such election shall be held in such manner as the constituent authorities concerned may decide, and each constituent authority shall make all necessary arrangements for and conduct each such election.

(3) If no decision can be made by any constituent authority or authorities as to the manner in which an election for the appointment of a member of the Authority is to be held, the election shall be held in accordance with regulations made in that behalf under this Act:

Provided that, where no such regulations are in force, the members of the Authority for the time being in office may appoint a person, who shall be a member of the constituent authority or one of the constituent authorities to be represented, in any case where no election has been held within twenty-eight days after the expiration of the term of office of any member or after the date of the occurrence of any vacancy in the membership of the Authority, as the case may be.

(4) Elections for the first members of the Authority to be appointed shall be held before the expiration of two months from the date of the commencement of this Act.

7. Coming into office of members—(1) Every member of the Authority appointed by a constituent authority or authorities shall come into office on the day following that upon which he is appointed.

(2) Every member appointed to fill any extraordinary vacancy occurring on the Authority shall come into office on the day following that on which he is appointed.

8. Vacancies in membership of Authority—(1) Any member of the Authority may resign his office at any time by writing addressed to the Secretary.

(2) If any member of the Authority, other than a member appointed under paragraph (a) of subsection *one* of section *four* of this Act, becomes bankrupt, or is absent without leave from three consecutive ordinary meetings of the Authority, or is guilty of misconduct in his office as a member, he shall be deemed to have become incapable under this Act of holding office as a member of the Authority.

(3) Any member of the Authority appointed under paragraph (a) of subsection *one* of section *four* of this Act may be removed from office by the Governor-General for bankruptcy, disability, or neglect of duty.

(4) If any member of the Authority resigns, or dies, or is removed from office, the vacancy created shall be deemed to be an extraordinary vacancy. 5

(5) In the case of an extraordinary vacancy, the vacancy shall be filled by the appointment of some person made in the same manner as the appointment of the vacating member. 10
The person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed

9. Ouster of office—(1) Upon proof in the first instance, by affidavit or otherwise, that any member of the Authority, 15
other than a member appointed by the Governor-General, is or has become incapable under this Act of holding his office, any Magistrate's Court may grant a summons calling upon the person holding the office to show cause why he should not be adjudged to be ousted of the same. 20

(2) If on the return of any such summons it appears to the Court, on affidavit or oral evidence on oath, that any such person is incapable under this Act of holding the said office, the Court may adjudge that person to be ousted of the same, and that person shall be ousted of the office accordingly. 25

(3) In any such proceedings the Magistrate's Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases, and the procedure of the Court shall, as far as applicable, apply generally to proceedings under this section. 30

(4) No matter in relation to a disputed appointment shall be heard by the Magistrate's Court under this section.

(5) No question which may be tried under this section shall be tried in the Supreme Court; and no proceedings in the Magistrate's Court hereunder shall be removable into 35
the Supreme Court, by certiorari or otherwise.

10. Chairman and Deputy Chairman of Authority—

(1) The Authority shall from time to time appoint from among its members a Chairman and a Deputy Chairman.

(2) The first Chairman shall hold office for a term of five 40
years from the date of his appointment, and every subsequent Chairman shall hold office for a term of three years from the date of his appointment.

(3) If the Chairman dies, or resigns, or vacates his office, his successor shall be appointed for the residue of the term of his predecessor.

5 (4) The Chairman shall preside at every meeting of the Authority at which he is present. In the absence of the Chairman and the Deputy Chairman from any meeting of the Authority, the members present shall select one of their number to be the Chairman for the purposes of that meeting.

10 (5) At every meeting for the appointment of the Chairman, the Secretary shall preside while the Chairman is being chosen, or, if there is no Secretary, then some person appointed by the Authority, not being a member of the Authority, shall so preside, and, in case of an equality of votes, the person presiding shall determine the appointment
15 by lot in such manner as the Authority determines.

11. 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.

20 (2) There shall be paid out of the funds of the Authority to the Chairman and every other member of the Authority remuneration by way of fees, salary, or allowances and travelling allowances or expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

25 **12. First meeting of Authority**—The first meeting of the Authority shall be convened by the Town Clerk of the City of Christchurch and shall be held at such time and place as he may appoint.

30 **13. Committees**—(1) The Authority may from time to time appoint standing or special committees consisting of two or more of its members to advise the Authority on such matters concerning the tunnel as are referred to them by the Authority, and may delegate to any such Committee any of the powers and duties conferred or imposed on the Authority by this Act
35 except the power to borrow money, to make a bylaw, to enter into a contract, or to institute an action.

(2) The Authority may appoint a member of any committee to be the Chairman thereof, or, if no Chairman is appointed by the Authority, the Committee may appoint a
40 Chairman. Any committee may from time to time appoint a Deputy Chairman to act in the absence of the Chairman.

(3) The Authority may at any time, and from time to time, discharge, alter, continue, or reconstitute any committee, or discharge any member of a committee, and, if it thinks fit, appoint another member in his stead.

(4) Every committee shall, unless sooner discharged by the Authority, be deemed to be discharged on the date of the next succeeding annual meeting of the Authority after its appointment. 5

(5) Every such committee shall be subject in all things to the control of the Authority, and shall carry out all directions, general or special, of the Authority given in relation to the committee or its affairs. 10

14. Quorum of Authority and committees—(1) At any meeting of the Authority four members shall form a quorum.

(2) The Authority may fix the quorum of any committee appointed by it, and if no quorum is fixed by the Authority, the committee may fix the quorum. 15

15. Questions to be decided by a majority of votes—

(1) Every question before the Authority or any committee thereof shall be determined by a majority of the votes of the members present at a meeting of the Authority or committee. 20

(2) The Chairman of any meeting of the Authority or of any committee shall have a deliberative vote, and, in case of an equality of votes, shall also have a casting vote.

16. Proceedings not invalidated by irregularities—No act or proceeding of the Authority or of any committee or of any person acting as a member of the Authority shall be invalidated in consequence of there being a vacancy in the membership of the Authority at the time of any such Act or proceeding or of the subsequent discovery that there was some defect in the appointment of any person so acting, or that he was incapable of being a member. 25 30

17. Ordinary and annual meetings—(1) The Authority shall hold ordinary meetings at such times and at such places as it may from time to time appoint. 35

(2) The Chairman or the Secretary shall give notice in writing to each of the members of the time and place appointed for holding ordinary meetings, and the members shall attend any such meetings without further notice of each
5 meeting.

(3) The Authority shall hold annual meetings at such times and at such places as it may appoint:

Provided that the first annual meeting shall be held not later than fifteen months after the commencement of this Act
10 and that no longer period than fifteen months shall elapse between any two consecutive annual meetings.

18. Authority to regulate its own procedure—Except as otherwise provided by this Act, the Authority may regulate its own procedure.

15 **19. Officers of Authority**—(1) The Authority may, by resolution, from time to time appoint a Manager, a Chief Engineer, a Secretary, a Treasurer, and all such other officers and servants as it thinks fit, and on such terms and conditions
20 as it may determine; and may pay out of its funds such salaries and allowances as it thinks reasonable to any of such officers and servants.

(2) One person may be appointed to hold two or more offices under this section.

25 (3) Before any officer entrusted by the Authority with the custody or control of money by virtue of his office enters on the duties of his office, the Authority shall take sufficient security from him for the faithful execution thereof:

30 Provided that, instead of or in addition to taking security from any officer, the Authority may provide against any losses that may arise in the event of his dishonesty or negligence by taking out a guarantee policy and paying the premiums thereon, or by creating a special fund for the purpose, or partly by one method and partly by the other.

20. Acting officers—During the absence from duty of any
35 officer of the Authority by reason of illness, leave of absence, or other cause, the duties and powers of that officer may be performed and exercised by an acting officer appointed by the Authority and any such appointment may be either general or for some occasion only.

PART II

THE CHRISTCHURCH-LYTTTELTON ROAD TUNNEL

21. Authority empowered to construct, maintain, and manage Christchurch-Lyttelton Road Tunnel—(1) Subject to the provisions of this Act, the Authority is hereby authorised and empowered to construct, maintain, manage, and control a tunnel through the Port Hills between Christchurch and Lyttelton and to construct, carry out, manage and maintain all the work necessary for the construction, maintenance, management, and control of the tunnel and its approaches.

(2) All spoil removed in the construction and maintenance of the tunnel and its approaches shall be the property of the Authority and shall be disposed of according to its direction.

22. Powers of Authority under Public Works Act 1928—For the purposes of this Act the Authority shall be deemed to be a local authority within the meaning of the Public Works Act 1928, and shall have all the powers, privileges, duties, and obligations vested in or imposed on local authorities by Parts II, III, and IV of that Act.

23. Plans and specifications of proposed tunnel to be prepared—(1) The Authority shall, as soon as practicable, cause to be prepared plans and specifications of the tunnel, and conditions of contract in respect of the construction of the tunnel.

(2) Any such plans, specifications, and conditions of contract may relate to the complete tunnel or may be prepared in divisions in accordance with this section.

(3) Where the plans, specifications, and conditions of contract are prepared in divisions, each division shall relate to such part of the tunnel and shall be prepared in such order as the Authority thinks fit and the Minister approves in that behalf.

24. Provisions as to plans, specifications, and conditions of contract—(1) Any such plans, specifications, and conditions of contract may make provision for watermains, gas pipes, electric light and telephone wires, electric power cables, and oil fuel pipes to be carried through the tunnel.

(2) The plans, specifications, and conditions of contract shall provide for the erection and completion of such necessary approaches as will provide a continuous roading through the

tunnel from the city of Christchurch to the borough of Lyttelton and for the connection of the approaches to the tunnel with the existing systems of streets and roadways both in Christchurch and in Lyttelton.

5 **25. Copies of plans to be forwarded**—Copies of all such plans, specifications, and conditions of contract shall be prepared and shall be forwarded to the Minister, the Christchurch City Council, the Lyttelton Borough Council, and the Heathcote County Council.

10 **26. Approval of plans**—The local authorities referred to in section *twenty-five* of this Act shall have the right to approve or disapprove of any such plans, specifications, and conditions of contract only to the following extent:

15 (a) As to the Christchurch City Council and the Heathcote County Council; in respect of matters relating to the provision of adequate approaches to the tunnel, the provisions made for the speedy and safe handling of traffic using the tunnel, the provisions made for further connections of streets with the northern end of the tunnel, and the provisions made for the protection of existing works belonging to the local authority concerned:

20 (b) As to the Lyttelton Borough Council; in respect of matters relating to the provision of adequate approaches to the tunnel, the provisions made for the speedy and safe handling of traffic using the tunnel, the provisions made for further connections of streets with the southern end of the tunnel, and the provisions made for the protection of existing works belonging to the Council.

25 **27. Notification of approvals**—Where any local authority referred to in section *twenty-five* of this Act is satisfied with the said plans, specifications, and conditions of contract in accordance with the provisions of this Act, it shall forthwith
35 notify the Authority of its approval.

40 **28. Approval of alterations, etc.**—(1) When the Authority, whether pursuant to a direction of the Minister or otherwise, makes any alteration or variation in any plans, specifications, or conditions of contract approved under section *twenty-seven* of this Act, it shall cause the amended plans, specifications, or

conditions of contract to be submitted to the local authorities by which they were approved, and to the Minister, and the provisions of sections *twenty-five* to *twenty-seven* of this Act shall, with the necessary modifications, apply thereto.

(2) Where the Authority makes any alteration or variation to any plans, specifications, or conditions of contract during the course of the construction of any part of the tunnel to which the alteration or variation relates, no further work in connection with the construction of that part shall, without the consent of the Minister, take place until the alteration or variation has been finally approved in accordance with this section. 5 10

29. No work until plans and specifications finally approved—(1) No work in connection with the construction of the tunnel shall be commenced until the plans, specifications, and conditions of contract relating to that part of the tunnel in respect of which construction is about to commence have been finally approved by the local authorities referred to in section *twenty-five* of this Act, and by the Minister. 15 20

(2) When the plans, specifications, and conditions of contract have been finally approved by all persons whose approvals are required under this Act, a copy of the approved plans, specifications, and conditions of contract, together with the approvals, shall be deposited in the office of the Minister. 20 25

(3) The copy of the approved plans, specifications, and conditions of contract deposited in the office of the Minister shall be conclusive and exclusive evidence for all purposes of their accuracy and their contents, and of the approval of the Minister and of all local authorities whose approval is required under this Act. 25 30

PART III

FINANCIAL PROVISIONS

30. Cost of constructing, maintaining, and operating tunnel to be paid by Authority from loans and revenue—The cost of constructing, maintaining, and operating the tunnel and its approaches, including the amount of all sinking funds, interest, and other debt charges payable in respect of all money borrowed by the Authority, shall be paid by the Authority from money borrowed by it, or from revenues earned by it from tolls charged in respect of the use of the tunnel, from other charges authorised by this Act, or from other receipts. 35 40

31. Borrowing powers—(1) For the purpose of providing funds to enable it to make any payment for any purpose authorised by this Act, the Authority may borrow money by way of special loan under the Local Bodies' Loans Act 1926, by
5 special order, and, notwithstanding anything in section nine of that Act, without the prior consent of the ratepayers of any constituent authority.

(2) It shall be lawful for a trustee unless expressly forbidden by the instrument (if any) expressly creating the trust, to invest
10 any trust funds in his hands in any debentures or other securities issued or created by the Authority.

32. Authority may borrow on overdraft—Notwithstanding anything to the contrary in the Local Bodies' Finance Act 1921–22, and in addition to anything contained in that Act,
15 it shall be lawful for the Authority to borrow money under the authority of section thirty-one of this Act from its bankers by way of overdraft in excess of the limits imposed by section three of the Local Bodies' Finance Act 1921–22, for the purpose of exercising any of its powers or functions, or carrying
20 out any of its obligations under this Act.

33. Government guarantee of loans—The repayment of every amount borrowed by the Authority under section *thirty-one* or section *thirty-two* of this Act, together with interest agreed by the Authority to be paid on any amount so borrowed,
25 is hereby guaranteed by the Government of New Zealand:

Provided that the guarantee referred to in this section shall not apply to the repayment of any amount borrowed by the Authority on overdraft under section three of the Local Bodies' Finance Act 1921–22, or to the repayment of interest on any
30 such amount, in excess of the amount approved in that behalf by the Minister of Finance.

34. Rights of Government in event of default by Authority—(1) If the Authority makes default in any payment due in respect of money borrowed by it under the powers
35 conferred by this Act, and the Government is called upon to make any payment under the guarantee given under section *thirty-three* of this Act, the Governor-General may, by Order in Council, appoint a Commissioner who may, in the name and on behalf of the Authority, exercise any power and
40 perform all the duties conferred or imposed upon the Authority by this Act, or by any instrument, or otherwise.

(2) During the period when any such Commissioner remains in office the Authority shall not exercise any power or perform any duty conferred or imposed on it by this Act.

(3) Any such Commissioner shall have such additional rights, powers, functions, and duties as are prescribed by regulations under this Act. 5

35. Annual estimate of proposed expenditure and receipts—

(1) The Authority shall, within one month after the end of each financial year, cause an estimate to be prepared showing the probable expenditure of the Authority for the current financial year and of its probable revenue in that year, showing separately— 10

(a) The permanent appropriations required for the payment of interest, payments to sinking funds, and the repayment of principal, in respect of any money borrowed by the Authority: 15

(b) The sums intended to be set aside for the establishment of such reserves as the Authority may consider necessary for the efficient discharge of its functions under this Act: 20

(c) The sum or sums that the Authority may require to pay out of its revenue for carrying out, operating, or maintaining in good order, the works authorised by this Act to be constructed and any other works vested in or controlled by the Authority; and all other expenses in connection therewith: 25

(d) Any other expenses likely to be incurred by the Authority in connection with the exercise of its functions:

(e) Any sums already available for the aforesaid purposes: 30

(f) The estimated receipts of the Authority from all sources:

(g) The amount by which the estimated expenditure exceeds the aggregate of the sums available and the estimated receipts as aforesaid or, as the case may be, the amount by which the aggregate of the sums available and the estimated receipts exceeds the estimated expenditure. 35

(2) Any deficiency or surplus in the revenue of the Authority for the preceding financial year shall be included in the estimate under this section. Every such deficiency shall be deemed to form part of the expenditure of the Authority, and every such surplus shall be deemed to form part of the receipts of the Authority, in the year to which the estimate relates. 40

(3) A copy of the estimate of its proposed expenditure and receipts prepared under this section shall be forwarded by the Authority to the Minister of Finance within one month after the preparation of the estimate.

5 PART IV

TOLLS

10 36. Tolls to be collected for use of tunnel—(1) For the purpose of paying costs, charges, and expenses incurred by it under this Act, the Authority shall collect tolls and other charges in accordance with the provisions of this Act in respect of the use of the tunnel.

(2) For the purpose of collecting tolls and other charges the Authority may construct such toll gates, toll houses, and other works as it considers necessary.

15 (3) If the Authority proposes to construct any work under this section on any road or street under the control of a local authority, the Authority shall obtain the approval of the local authority before commencing the work.

20 37. Rates of tolls—Tolls and other charges payable under this Act shall be at such rate or rates, and shall be payable in respect of such persons, vehicles, goods, and animals as may from time to time be prescribed by bylaws under this Act.

25 38. Minister of Finance to approve rates of tolls— (1) Before any bylaw fixing the rate of any toll is made, the Authority shall forward a copy of the proposed bylaw, together with a copy of the last estimate of its proposed expenditure and receipts prepared by the Authority in accordance with section *thirty-five* of this Act, to the Minister of Finance.

30 (2) The Minister of Finance may, if having regard to the financial position of the Authority at any time he thinks fit to do so, direct that any bylaw fixing the rate of any toll be amended, or direct that the levying of tolls in respect of a certain class or of certain classes of traffic be discontinued, and the Authority shall take such steps as may be necessary to give effect to any such direction.

(3) No bylaw fixing the rate of any toll shall be made by the Authority until the rate has been approved in that behalf by the Minister of Finance.

39. Rates of tolls to be published—(1) Any bylaw fixing the rate of any toll shall be published in at least two daily newspapers circulating in the city of Christchurch at least fourteen days before the toll becomes payable. 5

(2) The scale of tolls for the time being in force shall be clearly exhibited in a conspicuous place on or near the place where the toll is payable. 10

40. Persons liable for payment of tolls—Every person who is in charge or control of any animal or vehicle in respect of which a toll is payable shall be liable for the payment of the toll, and if any person refuses or neglects to pay a toll payable under this Act the Authority may refuse to allow that person to pass through or enter into the tunnel, or may recover as a debt from that person the amount of the toll, together with all expenses involved in the collection of the toll. 15

41. Exemption from payment of tolls—(1) No toll shall be payable by or in respect of any of the following persons or in respect of any vehicle engaged solely in carrying any such person, namely: 20

- (a) The Governor-General and every person in attendance on him:
- (b) Every member of any of the armed forces of Her Majesty when on duty or going to or returning from duty and in the uniform of her corps: 25
- (c) Every constable on duty, and every prisoner in his custody:
- (d) Any Minister or any officer or servant of the Crown whilst engaged on business connected with the tunnel or with the administration of this Act: 30
- (e) Servants of the Crown engaged in the distribution of Her Majesty's mail:
- (f) Such other persons as may be prescribed in bylaws made under this Act. 35

(2) Tolls shall not be payable in respect of fire engines and vehicles used for the extinction of fires, or in respect of ambulances, or in respect of the drivers or occupants of any such vehicles. 40

PART V

ACCOUNTS AND AUDIT

42. **Books of account to be kept**—The Authority shall
cause books to be provided and kept and true and accurate
5 accounts to be entered therein of all sums of money received
and paid or receivable or payable under the authority of this
Act and of the several purposes for which sums of money
have been received or paid or are receivable or payable.

43. **Money to be paid into bank**—(1) All money belonging
10 to the Authority shall, on the day when or on the next bank-
ing day after they have come into the hands of the Authority,
be paid into an account of the Authority at such bank as the
Authority from time to time appoints.

(2) Subject to the provisions of this Act, no money may
15 be withdrawn from the bank except as authorised by the
Authority and by cheque signed by the Chairman or one
member and by the Treasurer of the Authority.

44. **Accounts to be audited by and kept in accordance with
requirements of Audit Office**—(1) The Audit Office shall be
20 the auditor of the Authority, and shall have the same duties
and powers in respect of the money and accounts of the
Authority, and of every person dealing therewith, as it has
under the Public Revenues Act 1953 in respect of public
money and the audit of local authorities' accounts.

(2) The Authority shall keep such accounts and keep them
25 in such manner as may be prescribed by the Audit Office,
but so that—

(a) A General Account shall be kept, and credited with
30 all money not required by or under this Act to be
carried to any other account, and debited with ex-
penditure which is not required under this or any
other Act to be charged, or which is not otherwise
properly chargeable, against any other account; and

(b) Separate accounts shall be kept and credited with all
35 money raised or levied for, or appropriated or allo-
cated to, or held in trust or received for, any special
purpose, and debited with expenditure properly
chargeable against any such accounts.

(3) The decision of the Audit Office as to whether or not
40 any expenditure is properly chargeable against any such
account shall be final.

45. Yearly balance sheet and statement—Within one month after the end of each financial year, the Treasurer shall send to the Audit Office and to the Minister of Finance true accounts of all the transactions of the Authority during that year and of the financial state of its affairs at the end of that year. The accounts shall show separately— 5

- (a) All the money received and paid by the Authority during that year;
- (b) The income and expenditure of the Authority for that year; 10
- (c) All the assets and liabilities of the Authority at the end of that year; and
- (d) The loan money owed by the Authority showing the total debt outstanding under the head of each loan raised by the Authority and the amount of any sinking fund by then accumulated for the repayment of each such loan. 15

46. Abstract of accounts—The Treasurer shall forthwith after each audit made out a full abstract of the accounts for the year as audited, and cause a copy of the abstract to be submitted to the Minister of Finance and to each constituent authority. 20

47. Imprest account—(1) The Authority may, pursuant to a resolution in that behalf, establish one or more imprest accounts which shall be kept at such bank and shall be operated on by such person or persons as the Authority from time to time appoints. 25

(2) Any such imprest account may be held jointly in the names of and be operated on by the Treasurer and one other person to be appointed in that behalf by the Authority, or may, with the express approval in writing of the Audit Office but not otherwise, be in the sole name of and be operated on by the Treasurer or other approved officer of the Authority. Where the imprest account is held jointly in the names of the Treasurer and of one other person as aforesaid, the last-mentioned person shall be either a responsible officer of the Authority or a member of the Authority. 30 35

(3) The Authority shall from time to time by resolution fix the maximum amount that may be held at any time in any imprest account, not exceeding seventy-five pounds in any case where the imprest account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in that behalf in any other case. 40

(4) Money in any imprest account shall be available only for the payment of wages and of emergency expenditure. A statement of all payments made from the imprest account shall be submitted to the Authority for approval at its first
5 ordinary meeting after each such payment. The payment of money out of any imprest account for any purpose not hereby authorised shall be deemed to be misappropriation of the funds of the Authority.

PART VI

BYLAWS

10

48. Bylaws of Authority—The Authority may from time to time make such bylaws, not inconsistent with this Act or with any other Act, as it thinks fit for all or any of the following purposes:

- 15 (a) Protecting any property owned or controlled by the Authority from damage or injury:
(b) Conserving public health, safety, and convenience, and preventing and abating nuisances in the tunnel:
20 (c) Regulating the pace, manner, and times at which any vehicle or animals shall enter or be driven, led, or taken through the tunnel:
(d) Prescribing the route by which, and the times when loose horses, cattle, sheep, pigs or other animals may be driven through the tunnel:
25 (e) Regulating and preventing the taking into or through the tunnel of any noxious or dangerous goods:
(f) Regulating the speed of traffic using the tunnel:
(g) Regulating the dimensions of vehicles which may use the tunnel:
30 (h) Fixing the amounts of and levying and collecting tolls in respect of the use of the tunnel:
(i) Regulating the purchase by and the issue of tickets to and the collection of tickets from persons using the tunnel:
35 (j) The preservation of order and public safety in the tunnel:
(k) Generally for regulating the travelling in, the using of, and the proper and efficient control and management of the tunnel.

49. Procedure as to making of bylaws—(1) Bylaws shall be made only in the manner and subject to the following conditions:

(a) They shall be made only by special order:

Provided that in publicly notifying the resolution making any such order it shall not be necessary to set forth the whole of the proposed bylaw if the object or purport of the bylaw is stated, and if a copy of the proposed bylaw is deposited at the office of the Authority and is open to the inspection of the public during office hours for at least seven days immediately before the meeting at which the resolution is to be confirmed:

(b) They may be amended before confirmation of the special order by which they are made:

(c) They shall have the common seal of the authority affixed thereto:

(d) They shall come into force on a day to be fixed at the meeting at which the resolution is to be confirmed, which day shall not be earlier than seven clear days after the date of that meeting.

(2) Any bylaw may at any time and from time to time in like manner be amended or revoked.

(3) The provisions of sections seventy-six to seventy-nine of the Municipal Corporations Act 1954 shall, with the necessary modifications, apply to special orders made under this section.

50. Removal of works executed contrary to bylaw—(1) A bylaw under this Act may authorise the Authority or any officer thereof to pull down, remove, or alter any work, material, or thing erected or being in contravention of any such bylaw, and to recover from the person committing the breach all expenses incurred by the Authority in connection with any such pulling down, removal, or alteration.

(2) The exercise of any authority under this section shall not relieve any such person from liability to any penalty incurred by reason of the breach.

51. Proof of bylaws—The production of any document purporting to be a printed copy of any bylaw made under the authority of this Act, and to be sealed with the common seal of the Authority, shall, until the contrary is shown, be sufficient evidence of the bylaw having been duly made, and that it duly came into force on the day mentioned in that behalf in the copy of the bylaw.

52. Printed copies of bylaws—The Authority shall cause printed copies of all bylaws under this Act to be kept at the office of the Authority, and to be sold at a reasonable charge to every person applying therefor.

5 **53. Penalty for breach of bylaw**—Every person guilty of a
breach of any bylaw made under this Act commits an offence
against this Act and shall be liable on summary conviction to
a fine not exceeding twenty pounds or, where the breach is a
continuing one, to a fine not exceeding five pounds for every
10 day or part of a day during which the breach continues.

**54. Authority may apply for injunction in case of continuing
breach of bylaw**—(1) The Authority may, after the con-
viction of any person for the continuing breach of any bylaw,
apply to the Supreme Court for an injunction to restrain the
15 further continuance of the breach by the person so convicted.
(2) The continued existence of any work or thing in a
state contrary to any bylaw shall be deemed a continuing
offence within the meaning of this section.

55. Fines payable to Authority—(1) All fines paid and
20 recovered for any breach of a bylaw under this Act shall be
paid by the Registrar, or other proper officer of the Court in
which the fines are payable, to the Authority.

(2) The Registrar or other proper officer of the Court in
which any such fines are imposed shall once in every three
25 months furnish the Authority with a written statement,
signed by him, of all such fines, distinguishing therein those
that have from those that have not been paid to the Authority.

(3) When any fines which ought to be paid to the Authority
are by law required or permitted to be paid in stamps, and
30 have been so paid, the Registrar or other proper officer afore-
said shall certify to the Minister of Finance the amount of the
fines, that they have been so paid, and that the Authority is
entitled to receive the fines; and thereupon the said Minister,
without further appropriation than this Act, shall pay the
35 amount of any such fines out of the Consolidated Fund to
the Authority.

(4) This section shall be read subject to the provisions of
section one hundred and nine of the Public Revenues Act
1953.

56. Liability for breach of bylaws not to relieve from other liability—Nothing in this Act or in any bylaw made thereunder shall be deemed to relieve any person from any penalty or action to which he would otherwise be liable in respect of anything done by him in breach of any such bylaw. 5

PART VII

MISCELLANEOUS PROVISIONS

57. Payment of preliminary expenses—Any costs incurred before the commencement of this Act by the Crown or by the Christchurch-Lyttelton Road Tunnel Committee in connection with the preparation of surveys, plans, or reports, or in obtaining expert advice, or in travelling expenses, or in connection with any other matter, in respect of the proposed tunnel may be paid by the Authority out of its funds or out of the proceeds of any loan raised by the Authority. 10 15

58. Superannuation and other benefits for employees—
(1) The Authority shall be deemed to be a local authority for the purposes of section six of the Finance Act (No. 2) 1941, and the National Provident Fund Act 1950.

(2) The Authority may from time to time pay by way of subsidy such sums as it thinks fit to the funds of any sick, death, or funeral benefit society or other like institution established by its employees, or any section of them, the benefits of which are confined to those employees and their dependents. 20 25

59. Contracts of Authority—(1) Any contract which, if made between private persons, must be by deed shall, if made by the Authority, be in writing under the seal of the Authority.

(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith may, if made by the Authority, be in writing signed on behalf of the Authority by some person duly authorised in that behalf. 30

(3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of the Authority. 35

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Authority shall be invalid by reason only that it was not made in the manner provided by this section if it was made pursuant to a resolution of the Authority or to give effect to a resolution of the Authority.

60. Unauthorised expenditure—The Authority may in every financial year expend for purposes not authorised by any Act or law for the time being in force any sum or sums not amounting in the whole to more than one per cent of the gross receipts of the Authority for that year, exclusive of loan moneys, nor, in any case, to more than one thousand pounds or such greater sum as may be approved by the Minister of Finance:

Provided that if the expenditure authorised by the foregoing provisions of this section is less than two hundred and fifty pounds for any year, the Authority may in that year expend as aforesaid a sum or sums not amounting in the whole to more than two hundred and fifty pounds.

61. Inspection of tunnel—The Minister may cause the tunnel to be inspected, and a report to be made upon its condition, at least once in every twelve months at the expense of the Authority. Every such report shall set forth any work or other matter requiring attention.

62. Minister may require work to be done—(1) Upon receipt of a report under section *sixty-one* of this Act, the Minister may, by notice in writing, require the Authority to do such work or attend to such matters within such period as he thinks fit, and the Authority shall, within that period, do any such work or attend to those matters.

(2) The Minister may, if he considers it necessary or desirable so to do, order that the tunnel be closed to traffic, or limited as to traffic until the work has been done or any such matters have received attention.

(3) If the Authority fails or neglects to comply with the requirements of the Minister, he may cause the work to be done, and recover from the Authority as a debt due to the Crown the cost incurred in so doing.

63. Government works not to be interfered with—

(1) Nothing in this Act shall—

(a) Authorise the Authority to interfere with any public work executed or carried on by, or under the control of, the Government without the previous consent and approval of the Minister, or, if the work is being executed or carried on by, or under the control of, some other Minister, of that other Minister; or

(b) Prejudice or affect any power or authority vested in Her Majesty or in the Governor-General, or in any Minister or other person on behalf of Her Majesty or the Governor-General, under any Act authorising the erection, construction, carrying on, or maintenance of any work.

(2) In giving any consent or approval under subsection *one* of this section the Minister or such other Minister as aforesaid, may impose such conditions as he thinks fit for the protection and safety of the public work.

64. Rent to Authority for watermains, etc.—(1) The cost of providing, installing, and maintaining any watermains, gas pipes, oil fuel pipes, electric light or telephone wires, or electric power cables to be carried through the tunnel shall be borne by the person, corporation, or authority by whom or at whose request they are installed; and where any such mains, pipes, wires, or cables are so carried through the tunnel there shall be paid to the Authority for the use of the tunnel for any such purposes such annual amount as may be agreed upon by the Authority and the other person, corporation, or authority concerned.

(2) If no such agreement can be reached, then the question shall be referred to arbitration, and for that purpose this section shall be deemed to be a submission within the meaning of the Arbitration Act 1908, and the reference shall be deemed to be to two arbitrators.

65. Disputes to be referred to arbitration—(1) All disputes arising from time to time between the Authority and any local authority, as to the carrying out and observance of any of the provisions of this Act, shall be referred to arbitration in accordance with the provisions of the Arbitration Act 1908.

(2) This section, for the purposes of any such arbitration, shall be deemed to be a submission within the meaning of the Arbitration Act 1908, and the reference shall be deemed to be to two arbitrators, one to be appointed by the Authority and one by the local authority or local authorities concerned.

66. Offences—(1) Every person commits an offence against this Act who without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulations or bylaws thereunder.

10 (2) Every person who commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit, any offence against this Act or against any regulations or bylaws made under this Act shall be liable on summary conviction, where
15 no specific penalty is elsewhere provided, to a fine not exceeding one hundred pounds.

67. Regulations—(1) The Governor-General from time to time by Order in Council may make regulations for any purpose for which regulations are contemplated or required
20 by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act, and for the due administration thereof.

(2) All regulations under this Act shall be laid before
25 Parliament within twenty-eight days after the date of the making thereof 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.