

# **Auckland Hospitals Acts Amendment Act 1905**

Local Act    1905 No 40  
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1905 No 40

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**An Act to amend the Auckland Hospital Reserves Acts.**

**Preamble**

WHEREAS part of the lands described in Schedule 1 hereto were, together with certain other lands, charged as a security for the repayment of a loan authorised by a Provincial Ordinance of Auckland intituled The Public Buildings Act 1875, to be raised and applied towards the construction of a new hospital at Auckland: And whereas the amount of such loan was fifty thousand dollars; and, provision having been made for the gradual redemption thereof, a sum of thirty-four thousand six hundred dollars has been repaid, and there now remains due and owing in respect of the said loan the sum of fifteen thousand four hundred dollars: And whereas there still remains owing under the exception set forth in section fifty-seven of The Public Trust Office Consolidation Act 1894, and the Schedule thereto, a sum of one thousand three hundred and sixty-six dollars and fourteen and one-sixth cents, together with accruing interest thereon charged in like manner upon the before-recited lands: And whereas the said lands were by an Act of the General Assembly intituled The Auckland Hospital Reserves Act 1883, placed in the Public Trust Office, and the administration of such lands was directed by the said Act to be under the administration of the Public Trustee: And whereas the remaining parcels of the said lands have since they were so charged as security for the said loan materially increased in value: And whereas it is expedient that the powers hereinafter described shall be given to

the Public Trustee to be exercised in respect of the matters and to the intent hereinafter mentioned:

The expressions “fifty thousand dollars”, “thirty-four thousand six hundred dollars”, “fifteen thousand four hundred dollars” and “one thousand three hundred and sixty-six dollars and fourteen and one-sixth cents” were substituted, as from 10 July 1967, for the expressions “twenty-five thousand pounds”, “seventeen thousand three hundred pounds”, “seven thousand seven hundred pounds” and “six hundred and eighty-three pounds one shilling and fivepence” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

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

**1 Short Title**

The Short Title of this Act is The Auckland Hospitals Acts Amendment Act 1905.

**2 Lands to vest in Public Trustee**

The lands set forth and described in Schedule 1 of this Act not already vested in the Public Trustee shall be vested in the Public Trustee in fee-simple; and, whether vested or not yet vested, the same shall be held by the Public Trustee in trust, to abide the terms of this Act and any future legislation thereon.

**3 Certificates of title to issue**

The District Land Registrar at Auckland, upon being satisfied with the evidence as to the true metes and bounds of the several parcels of land, whether the same shall be already vested or not yet vested in the Public Trustee, by such evidence as he may reasonably require, shall issue certificates of title to the Public Trustee for and in respect of so much and such of the lands as certificates of title do not already exist therefor without any other authority than is hereby given.

**4 Power to lease**

The Public Trustee is hereby empowered, subject to all existing leases and to the provisions of section seven of The Reserves, Endowments, and Crown and Native Lands Exchange, Sale, Disposal, and Enabling Act 1898, to lease the

lands set forth in Schedule 1 hereto for such purposes (building or cultivation), for such terms (not exceeding sixty-three years in possession), at such rentals as can be obtained for the same (either by public auction or private contract, without taking any premium or foregift), and upon such conditions as the Public Trustee may in his discretion deem advantageous in the interests of the District of Auckland Hospital and Charitable Aid Board:

Provided that any person to whom a lease for twenty-one years or more shall have been granted under this section shall be entitled to a right of renewal for a further period of twenty-one years from the expiry of the term thereof, and so from time to time at the expiration of every twenty-one years, on the same terms and conditions as those on which the original lease may have been granted hereunder, but subject nevertheless to a new assessment at the end of such period of sixty-three years of the rent payable on such renewal, and to a new assessment of such rent at the expiration of every twenty-one years thereafter. Every such new assessment shall be made in the manner provided by The Reserves, Endowments, and Crown and Native Lands Exchange, Sale, Disposal, and Enabling Act 1898, section seven, which shall be deemed, so far as the same is applicable, to be incorporated herein.

**5 Leases not sold at auction may be sold by private contract**

A lease of any land which has been offered at auction as aforesaid and not sold may, at any time within twelve months thereafter, be sold by private contract at a rent not less than the reserved rent when it was so offered, or it may at any time, either before or after the expiration of twelve months, be again offered by public auction subject as in this Act provided.

**6 Power to subdivide lands into lots and to lay out roads etc**

And whereas by reason of the growth of population it is and may be expedient from time to time to subdivide some or all of the said parcels of land for the better leasing of such lands or parcels thereof, the Public Trustee is hereby further empowered to have any one or more of the said parcels of land from time to time subdivided into two or more lots, and for such purpose to employ surveyors, and, when considered advanta-

geous, to lay out road-lines in, through, and along any of the said parcels of land, and to do all other acts and to pay all such expenses as the local law may lawfully demand or as may be requisite in draining, channelling, kerbing, metalling, asphalt-ing, concreting, or otherwise completing any such road in such manner that the local rating body will take over the same as a dedicated road and the District Land Registrar will be satisfied to adopt all plans in respect of such subdivision respectively, and to acquire by purchase or otherwise the interest of any person or persons now or hereafter holding leases of the said lands or any part or parts thereof, and to purchase and extinguish any rights of renewal owned by any such person or persons, and to buy up and close or buy up and leave open any roads now or hereafter running through such lands or any part or parts thereof, such buying up of lands, closing and leaving open of roads, to be subject to any statutory provision for the time being affecting the same.

**7 Power to borrow and lend**

It shall be lawful and the Public Trustee is hereby empowered to borrow or lend from time to time, on security of the said lands, such further sum or sums of money, not exceeding fifty thousand dollars in all, in manner and to be secured as is hereinafter enacted, to be applied in or for all or any of the purposes hereinafter mentioned:—

- (a) For erecting buildings for a new hospital or hospitals, or any building ancillary thereto, or any additions to any existing hospital, with all equipment and appliances usual or from time to time necessary for the effective management of such hospital, hospitals, or buildings for hospital purposes, at any place within the Auckland Hospital and Charitable Aid District:
- (b) For erecting an infectious-diseases hospital or hospitals, or any building ancillary thereto, together with the like equipment and appliances, at any place within the said district:
- (c) For effecting alterations to any building now or hereafter erected on any of the lands under the control of

or the property of the Public Trustee or the District of Auckland Hospital and Charitable Aid Board:

- (d) To provide funds to carry out the subdivision of the said lands or any part or parts of them, and for forming and dedicating roads through such lands or any part of them which may be necessary for the purpose of effectually carrying out such subdivision; and to provide funds to do and execute all such acts and things as may be required by any statute now in force or hereafter enacted in respect of the subdivision of land for sale or lease:
- (e) To provide funds out of which the Public Trustee may acquire, by purchase or otherwise, the interest of any persons now or hereafter holding leases or easements or interests in the said lands or any part of them, and out of which the Public Trustee may purchase and extinguish any rights of renewal owned by any such persons, and out of which the Public Trustee may buy up and close or buy up and leave open any roads or rights-of-way now or hereafter running through such lands or any part or parts thereof, when the purchase of such roads may, in the opinion of the Public Trustee, be advisable in connection with such subdivision; such buyings-up, closing, and leaving open to be subject to any statutory provision for the time being affecting the same:
- (f) To provide funds out of which the Public Trustee may acquire lands which in his opinion may be required for the extension or continuance of existing roads through such lands or any part or parts thereof:

Provided that any security given under this section by the Public Trustee shall be given expressly subject to repayment of the said sum of fifteen thousand four hundred dollars, or such balance as shall from time to time remain due and owing in respect of the said loan of fifty thousand dollars, and also to the repayment of the said sum of one thousand three hundred and sixty-six dollars and fourteen and one-sixth cents, and interest thereon, in manner enacted in the Schedule to The Public Trust Office Consolidation Act 1894, as amended by section three of The Public Trust Office Act 1901; and that the security given under this Act shall rank only as security subject to the final repayment of such two loans, but that thereafter the security

intended to be given under the powers embodied in this section shall be and rank as a first security upon such lands:

Provided also that should any moneys payable in respect of interest upon the said intended loan or in respect of the sinking fund hereinafter mentioned be at any time deficient, the deficiency shall be provided by the District of Auckland Hospital and Charitable Aid Board as may be required by the Public Trustee; and the said Board is hereby directed and authorised to set apart from its income annually such an amount as and when the same may be required to meet the next recurring payment of the said interest and sinking fund.

The expressions “fifty thousand dollars”, “fifteen thousand four hundred dollars” and “one thousand three hundred and sixty-six dollars and fourteen and one-sixth cents” were substituted, as from 10 July 1967, for the expressions “twenty-five thousand pounds”, “seven thousand seven hundred pounds” and “six hundred and eighty-three pounds one shilling and fivepence” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

## **8 Power to issue debentures**

For the purpose of securing the moneys to be raised for the purposes of this Act it shall be lawful for the Public Trustee from time to time to issue to any person or persons, body politic or corporate, other than himself, five hundred debentures of two hundred dollars each, or any less number for any sum of money not exceeding in the aggregate the sum of fifty thousand dollars, bearing interest after a rate to be therein fixed, but no money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than five per centum per annum, payable half-yearly, such and so many of them only to be issued as shall represent the amount of money borrowed from or paid by him or them.

The expressions “two hundred dollars” and “fifty thousand dollars” were substituted, as from 10 July 1967, for the expressions “one hundred pounds” and “twenty-five thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Section 8 was amended, as from 1 January 1908, by omitting the words “two hundred and fifty” and inserting in lieu thereof the words “five hundred” pursuant to section 8 Auckland Hospital Acts Amendment Act 1907 (1907 No 1(L)).

## **9 Form of debentures**

Every debenture shall be in the form or to the effect set forth in Schedule 2 to this Act, and shall be signed by the Public

Trustee and sealed with his seal of office, and made payable at some place to be named therein in the City of Auckland.

**10 Debentures to be numbered**

The debentures shall be numbered consecutively, commencing with the number one, and shall have coupons attached thereto for every half-year's interest payable to bearer.

**11 Sale of debentures**

Debentures issued under this Act shall be sold by public tender at a price not being less than a minimum to be from time to time fixed by the Public Trustee.

**12 Debenture-holders to have equal rights**

The holder of any debenture shall not have any preference over any other holder by reason of any priority of date or otherwise, but all debenture-holders shall rank alike and be entitled to equal rights, except as to redemption. The holders shall not have any claim on the general funds of the Public Trust Office.

**13 Power to mortgage debentures**

Prior to the sale of any debenture it shall be lawful for the Public Trustee from time to time to borrow or raise money by the hypothecation or mortgage of such debentures upon such terms and conditions as the Public Trustee may think fit.

**14 How money raised to be disposed of**

The money raised under the authority of this Act shall be expended for the purposes set forth in paragraphs (a) to (f) of clause seven of this Act, and in payment of expenses incidental thereto.

**15 Sinking fund**

For the purpose of providing a sinking fund for the liquidation of the principal there shall, on the first Monday in the month of October in such year as shall be fixed by the Public Trustee, not being later than the first Monday in the month of October next after the final redemption of the now-existing debentures



issued, be set apart out of the rents and profits arising from the lands specified in Schedule 1 of this Act, and after providing for payment of the then-current interest, a sum equal to one dollar per centum on all debentures issued at that time. Such sum shall be applied in taking up so many debentures as the sum so set apart will cover, and the balance (if any) shall be deposited at interest in the common fund of the Public Trust Office and added to the interest to the amount set apart for the same purpose in the next succeeding year.

The expression “one dollar” was substituted, as from 10 July 1967, for the expression “one pound” pursuant to section 7(2) Decimal Currency Act 1964 (1964 No 27).

#### **16 Order of issue of debentures**

The order in which the debentures to be issued under this Act shall be taken up shall be determined by lot in some convenient manner on a day and at a place in the City of Auckland to be from time to time fixed by the Public Trustee. Notice of the drawing shall be advertised in one at least of the public daily newspapers published in the said City of Auckland; but and in the event of the fund hereby provided not reaching the sum of two hundred dollars in any year, the drawing shall be postponed until the year then following.

The expression “two hundred dollars” was substituted, as from 10 July 1967, for the expression “one hundred pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

#### **17 Certain moneys to be applied in taking up debentures**

On the first day (not being a Sunday or holiday) in the month of October in every subsequent year a sum equal to one dollar per centum on the total amount for which debentures have been issued, whether any of the same shall have been paid off or not, with the addition of a sum equal to the interest on all debentures already paid off, shall be applied in taking up so many debentures (to be determined by lot as aforesaid) as such sum with any balance from the preceding year and interest added together will cover, and the balance (if any) shall be deposited at interest in manner aforesaid and added together with the interest thereon to be set apart for the same purpose in the succeeding year.

The expression “one dollar” was substituted, as from 10 July 1967, for the expression “one pound” pursuant to section 7(2) Decimal Currency Act 1964 (1964 No 27).

**18 Interest to be paid on debentures paid off**

When it shall be so decided by lot that any debenture shall be paid off, interest thereon shall be paid up to the first Monday in the month of October following, but no longer; provided that the full amount of the debentures, with interest thereon to that date, be paid on presentation, and such debentures with the coupons belonging thereto and not then due be given up to the Public Trustee.

**19 Issue of debentures to be advertised**

Notice of the numbers of the debentures drawn shall also be advertised as set forth in clause sixteen of this Act.

**20 Debentures to be first charge on land**

The debentures, together with interest and sinking fund, shall, after payment in full of the now-existing debentures, be and become a first charge on the lands specified in Schedule 1 to this Act; and the rents and profits arising therefrom, and the said lands, rents, and profits, are hereby charged therewith.

**21 Power to Public Trustee to lend**

In lieu of the provisions hereinbefore contained respecting the issue of debentures, it shall be lawful for the Public Trustee, if he shall so think fit, in place of borrowing in manner aforesaid, to advance the moneys or balance required from time to time, not exceeding the limit imposed by this Act, such moneys advanced to bear interest at such rate as may be agreed from time to time, not exceeding five dollars per centum per annum; and the said advance, and all interest in respect thereof, shall be a like charge upon the lands described in Schedule 1 hereto; and the payment of any part of the principal sum owing from time to time for such advances shall be postponed until the sinking fund in respect of such debentures (if required) and other moneys secured by this Act shall be fully paid and satisfied.

The expression “five dollars” was substituted, as from 10 July 1967, for the expression “five pounds” pursuant to section 7(2) Decimal Currency Act 1964 (1964 No 27).

## **22 Disposal of profits**

In the event of the Public Trustee advancing all the moneys authorised to be raised under this Act, then and in such case, after payment of the current interest thereon and all charges and expenses incurred in the due administration of the said reserves, the remaining net profits for each year shall, on the said first day of October following, be divided into two parts. One part shall be retained by the Public Trustee and applied to the crediting and discharging of the moneys then remaining owing in respect of the advances made as aforesaid, and the other part shall be paid to the District of Auckland Hospital and Charitable Aid Board in aid of the ordinary revenue of the said Board.

## **23 Proceedings in case of default**

If default shall be made in payment of any coupon for the space of forty days after the same shall become due, or if default shall be made for the space of forty days in the payment of the principal sum due on any debenture when it shall become due or payable by reason of its number having been drawn, it shall be lawful for the holder of the coupon or debenture in respect of which such default is made to apply to the Public Trustee in writing requiring that the lands described in Schedule 1 (less any part that may have been dedicated or appropriated for roading purposes) be sold.

## **24 Power to sell lands**

It shall be the duty of the Public Trustee, and he is hereby required, within sixty days from the time of the receipt of such application for sale, if in the meantime payment in respect of which default has taken place has not been made, to sell the said lands, or so much thereof as shall be sufficient, and, subject to all then-existing leases and rights of renewals then subsisting, to pay off all the debentures charged on the said lands and still unpaid, together with the coupons then due in respect

thereof, and interest on such debentures and coupons to the time of payment; and the exercise of the powers conferred by this section shall *ipso facto* cause all then unredeemed debentures and coupons, and all interest then due thereon, to become due, payable, and redeemable.

**25 Subdivision of lands**

The said lands shall be divided into convenient lots with all reasonable consideration for the holders of the then-existing leases thereof, and shall be sold by auction without reserve, of which not less than thirty days' notice shall be given in the *Government Gazette*, and in at least two of the principal daily newspapers at the time published in the City of Auckland.

**26 Power to execute deeds of transfer**

The Public Trustee shall make and execute all such contracts, deeds, transfers, and assurances as may be necessary to carry into effect the powers hereby conferred, all which contracts, deeds, transfers, and assurances shall be valid and effectual for the several purposes or objects therein set forth. The receipt in writing of the Public Trustee shall be a sufficient discharge to the purchasers for so much money as may be thereby expressed to be received; and no purchaser shall be answerable for the loss, misapplication, or non-application of the produce-money, or obliged to see to the application thereof, or required or concerned to inquire as to the fact of such default or demand as aforesaid.

**27 Proceeds of sale to be applied to separate account**

The money to accrue from such sales shall be forthwith carried by the Public Trustee to a separate account, and shall be applied, first, in payment of the expenses attending the sale or otherwise incurred in the execution of the power of sale hereby given; secondly, in payment of the several debentures then outstanding, and the coupons due in respect of the same, and the interest at the same rate per centum per annum as is stated on such debentures and coupons until payment thereof; and the surplus (if any) shall be appropriated by an Act of the General Assembly of New Zealand and applied accordingly.

**28    Extent of security of debenture-holders**

No debenture-holder shall have any claim whatever in respect of any debenture issued under this Act on the revenue of the Colony of New Zealand or the general funds of the Public Trust Office; but every such debenture shall be chargeable only on the lands hereby charged therewith, and on the rents and profits arising therefrom, and the income of the District of Auckland Hospital and Charitable Aid Board.

**29    Repeal**

Sections three and four of The Auckland Hospital Reserves Act 1883, are hereby repealed; but such repeal shall not affect any leases already granted or under contract to be granted, or any proceedings or things lawfully taken or commenced.

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**Schedule 1**

**CITY OF AUCKLAND**

- |          |   |
|----------|---|
| <b>1</b> | Allotment No 12 of Section 4, containing 1 rood 1 perch.                                |
| <b>2</b> | Allotment No 16 of Section 7, containing 1 rood 37 perches.                             |
| <b>3</b> | Allotment No 8 of Section 15, containing 1 rood 3 perches.                              |
| <b>4</b> | Allotment Nos 7, 8, 9, and 10 of Section 9, containing 1 rood 36 perches.               |
| <b>5</b> | The western portion of Allotment No 17A of Section 4, containing 13 perches.            |
| <b>6</b> | Allotment No 1 of Section 31, containing 2 roods 16 perches, situated in Mechanics Bay. |
| <b>7</b> | Lot No 17A of Section 4, containing 13 perches.   |

**SUBURBS OF AUCKLAND.**

- |           |  |
|-----------|--|
| <b>8</b>  | Allotment No 21A of Section 11, containing 7 acres 1 rood.   |
| <b>9</b>  | Part of Allotment No 13 of Section 12, containing 14 acres and 36 perches.   |
| <b>10</b> | Allotment No 17A of Section 12, containing 27 acres and 23 perches.  |
| <b>11</b> | Allotment No 14A of Section 12, containing 4 acres 1 rood.   |
| <b>12</b> | Allotment No 24 of Section 6, containing 40 acres.   |
| <b>13</b> | Part of Section No 98 and part of Allotment No 1 of Section 99, containing 6 acres 24 perches.   |
| <b>14</b> | Allotment No 41 of Section 3, containing 12 acres, excepting such portion thereof as may be conveyed by law to His Majesty the King for the purposes and subject to the provisions of The Public Domains Act 1860. |
| <b>15</b> | Part of Allotment No 20 of Section 11, containing 1 acre 1 rood 16 perches.  |
| <b>16</b> | Part of Lot No 19 and Lots 20 and 21, being part of Allotment No 22 of Section 11, containing 6 acres and 3.5 perches.   |
| <b>17</b> | Lot No 6A of Section 17, containing 28 acres 1 rood.   |

**PARISH OF TAKAPUNA.**

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|-----------|--|
| <b>18</b> | Allotments Nos 14, 15, 16, 17, and 20, containing 102 acres 1 rood 24 perches. |
|-----------|--|

## Schedule 2

### Form of debenture

The decimal currency references in the Schedule were substituted for the previous references, as from 10 July 1967, pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

AUTHORISED by an Act of the General Assembly of New Zealand, and being the Act No , of , and thereby charged upon the lands specified in Schedule 1 to the above Act, and not on the ordinary or other revenue of the Colony of New Zealand, or on the revenue or moneys of the Public Trust Office.

The principal to be repaid at par by the application to annual drawings of 1 per cent accumulative sinking fund.

The bearer of this debenture will be entitled to receive from the Public Trustee \$200 on the first Monday in the month of October following the day on which this debenture shall have been drawn for payment.

The bearer will further be entitled to receive interest thereon half-yearly at the rate of per centum per annum from the day of inclusive to the day on which the principal shall become due and payable by reason of this debenture being drawn.

The drawings will take place in the month of, on a day to be fixed by the Public Trustee, of which at least twenty-one days' notice will be given, commencing in 190, and will be conducted in the presence of such debenture-holders as may be pleased to attend and of a notary public. The debentures drawn will be paid off at par on the first Monday in October following, together with interest up to that day inclusive, and no longer.

*Note.—*

By “accumulative sinking fund” it is understood that the liability will continue at the rate of 1 per centum per annum on the total amount of debt contracted until the whole shall have been extinguished, and that after paying the interest on the outstanding debentures the balance will be applied to the annual drawings.