

Lord Howe Island Administration Bill, 1936.

EXPLANATORY NOTE.

THE main objects of this Bill are to constitute a Lord Howe Island Board, to vest Lord Howe Island and certain adjacent islands and coral reefs in that Board, and to confer and impose on that Board certain powers, authorities, duties and functions in relation to that Island and the residents thereof.

[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1936.

A BILL

To make provision for the care, control and management of Lord Howe Island; to constitute a Lord Howe Island Board and to define its powers, authorities, duties and functions; to validate certain matters; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Lord Howe Island Administration Act, 1936." Short title.

2. In this Act, unless the context or subject-matter otherwise indicates or requires— Definitions.

"Board" means the Lord Howe Island Board.

- “ Island ” means the island known as Lord Howe Island and all adjacent islands and coral reefs situate within one marine league measured from low-water mark on the coast of Lord Howe Island.
- “ Member ” means member of the board.
- “ Prescribed ” means prescribed by this Act or by the regulations.
- “ Regulations ” means regulations made under this Act.
- “ Resident of the island ” means a person recognised by the board as a resident of the island.
- “ Tourist ” means a person who visits the island and is not recognised by the board as a resident of the island.

3. (1) There shall be constituted a board which shall carry into effect the objects and purposes of this Act. The board shall administer the affairs of the island and shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on the board by or under this Act.

Lord Howe
Island
Board.

(2) The corporate name of the board shall be the “ Lord Howe Island Board.”

(3) The board shall consist of three members appointed by the Governor, one of whom shall, in and by the instrument by which he is appointed, be appointed as chairman, and one other of whom shall be appointed as executive member.

(4) The provisions of the Public Service Act, 1902, shall not apply to the appointment of members of the board.

(5) The board shall be a body corporate with perpetual succession and a common seal; and shall for the purposes and subject to the provisions of this Act, be capable of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(6) For the purposes of any Act the board shall be deemed to be a statutory body representing the Crown.

(7) The members shall receive such remuneration as may be determined by the Governor.

(8)

(8) The procedure for the calling of meetings of the board, and the conduct of business at such meetings, shall be as determined by the board.

4. A member shall be deemed to have vacated his office if he— Disqualifications.

- (a) becomes bankrupt, compounds with his creditors, or makes an assignment of his estate for their benefit;
- (b) absents himself from three consecutive meetings of the board except upon leave granted by the board;
- (c) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898;
- (d) resigns his office by writing under his hand addressed to the Governor.

5. The board may employ such persons as it thinks necessary for the purposes of this Act. Employment of officers.

6. (1) There is hereby vested in the board for an estate in fee simple freed and discharged from any right, title or interest of any person other than the board the island known as Lord Howe Island, together with all adjacent islands and coral reefs situate within one marine league measured from low-water mark on the coast of Lord Howe Island. Island vested in the board.

(2) Any permit to occupy or permissive occupancy granted by the board of control appointed by the Executive Council by a minute dated the fourth day of February, one thousand nine hundred and thirteen (whether during the tenure of office of the members thereof first appointed or of any members appointed by any later minute of the Executive Council), and in force immediately before the commencement of this Act shall be deemed to be a permit to occupy granted under this Act, and shall, in all respects, be subject to the provisions of section eight of this Act.

7. (1) The board shall be charged with the care, control and management of the island and of the affairs and trade of the island and of the residents of the island. General functions of the board.

It

It may adopt any measures and may examine and explore proposals and devise and initiate schemes for the improvement of the conditions and for the welfare of the island and of the residents thereof.

(2) The board shall arrange or provide for the gathering, collection and sale of *Kentia* palm seed and may arrange or provide for the gathering, collection and sale of any other produce of the island, and shall receive the revenue derived from any such sale, and out of such revenue shall pay all expenses incurred in connection with any such gathering, collection and sale, and the costs of administration of the island.

8. The board may grant permits to occupy any land forming part of the island, either at a rent or free from any payment by way of rent, and upon such terms and conditions (including terms or conditions restricting the user of the land) as to it may seem fit, and may at any time revoke any permit to occupy granted or deemed to have been granted under this Act.

Power to grant permits to occupy land.

Such terms and conditions may, where land the subject of a permit to occupy is used otherwise than for the purposes of a home for the occupant, include a term or condition requiring the payment of rent and/or of a sum based upon either the gross or net income derived by the occupier from the carrying on of any occupation, trade or business on the land.

9. The board may control and regulate tourist traffic to or upon the island; and may grant or withhold permits to tourists to land upon the island.

Tourists.

The board may impose such fees and dues as it may think fit for the granting of a permit to tourists to land or reside upon the island, and may, whether or not any fee or due has been imposed for a permit to land, impose a special fee or due upon tourists who reside upon the island in excess of the period prescribed.

10. The board, if satisfied that the presence of any person on the island is not conducive to the peace, order and good government of the island, may require such person to leave the island within a period which shall be specified.

Right of ejection.

Any

Any person who fails to leave the island within the period specified by the board shall be liable to a penalty not exceeding *fifty* pounds, and to a further penalty not exceeding five pounds for each day during which he remains on the island after the expiration of the period specified by the board.

11. The board may engage in any business undertaking on or in connection with the island.

Power to engage in business undertakings and to restrict.

When the board engages in any such business undertaking the regulation may control, regulate, or curtail any similar business undertaking on the island engaged in by any person other than the board, or may prohibit any person other than the board from engaging in any such similar business.

The regulations may impose a penalty not exceeding *fifty* pounds for any contravention or breach of a regulation relating to any of the matters referred to in this section, and may impose a further penalty not exceeding *five* pounds for each day during which such contravention or breach continues.

12. The board may out of moneys received by it under this Act, or out of any other moneys coming into its hands, make bonus payments to any resident of the island at such times and in such amounts as it may from time to time determine, or as may be prescribed.

Power to make bonus payments.

13. No act, matter or thing done by the board or by any employee of the board, if done bona fide in the exercise of his powers or in the performance of his duties under this Act, shall subject any member or employee of the board to any personal liability in respect thereof.

Protection of members of board and employees.

14. The board shall cause to be kept proper books of account, and shall, as soon as practicable after the thirty-first day of December in each year, prepare and transmit to the Minister a statement of accounts exhibiting a true and correct view of the financial position and transactions of the board.

Accounts.

15. The funds held immediately before the commencement of this Act by the board of control appointed by the Executive Council by a minute dated the fourth day of February, one thousand nine hundred and thirteen, are hereby vested in the board.

Funds.

16.

16. (1) The accounts of the board shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, and Acts amending the same, shall apply to the board and its members and employees in the same manner as it applies to accounting officers of public departments.

Audit.

(2) Towards defraying the cost and expenses of such audit the board shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Colonial Treasurer may decide.

Costs of audit.

17. Every act, matter or thing done by the board of control appointed by the Executive Council by a minute dated the fourth day of February, one thousand nine hundred and thirteen (whether during the tenure of office of the members thereof first appointed, or of any members appointed by any later minute of the Executive Council) bona fide in the exercise or performance or purported exercise or performance of the powers, authorities, duties and functions conferred or imposed upon them by the said minute, including the imposition of a special fee or due upon persons other than residents of the island as defined in this Act who have continued to reside upon the island for a period in excess of three months from the date of landing, is hereby validated.

Validation.

18. Without in any way restricting or curtailing the provisions of subsection three of section nineteen of this Act, the board may impose penalties not exceeding in any case *two* pounds for any contravention or breach of the Act or the regulations.

Right to impose penalties.

Where a penalty is so imposed upon a resident the board may deduct the amount of the same from any payment due at the time or falling due thereafter to such resident and pay the amount so deducted in satisfaction of such penalty.

Where a penalty is so imposed upon a visitor the board may recover the amount of the same, as a debt, in any court of competent jurisdiction.

19.

19. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2) Without prejudice to the generality of the power conferred by subsection one of this section, the Governor may make regulations—

- (a) for or with respect to—
 - (i) any power conferred or duty imposed upon the board by or under this Act;
 - (ii) airways, waterways, wharves and anchorages;
 - (iii) roads, parks, recreation reserves and afforestation;
 - (iv) erection of buildings, public health and sanitation;
 - (v) the introduction into the island and the use and sale thereon of intoxicating liquor;
 - (vi) fisheries, flora, fauna and avi-fauna;
 - (vii) protection from floods and fire;
 - (viii) residential qualifications;
- (b) applying any or all of the provisions of the Dividing Fences Act, 1902, to lands in respect of which a permit to occupy has been granted.

(3) The regulations may prescribe penalties not exceeding in any case *fifty* pounds for any contravention or breach of a regulation, and may confer power on the board, where a resident of the island has been convicted of any such contravention or breach, to deduct the amount of any penalty imposed on such resident from any bonus or other payment due at the date of conviction or falling due thereafter to such resident and to pay the amount so deducted in satisfaction of such penalty.

(4) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c)

(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.
