

Wellington City Empowering and Amendment Act 1922

Local Act 1922 No 18
Date of assent 28 October 1922

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An Act to amend the Wellington City Trading Departments' Reserve and Renewal Funds Act 1917; to confer Further Power on the Corporation and Council of the City of Wellington in connection with the Control and Maintenance of Private Ways; to confer Further Powers on the Corporation and Council of the City of Wellington in relation to Street-widening; and to provide for certain Payments on account of Interest and Sinking Fund out of certain Loans raised by the Corporation of the City of Wellington.

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

This Act may be cited as the Wellington City Empowering and Amendment Act 1922.

2 Interpretation

In this Act, if not inconsistent with the context,

City means the City of Wellington

Corporation means the Mayor, Councillors, and Citizens of the City of Wellington

Council means the Wellington City Council.

Part 1

**Increase of Trading Departments'
renewal and reserve fund contributions**

**3 Amendment of Wellington City Trading Departments'
Reserve and Renewal Funds Act 1917**

The Wellington City Trading Departments' Reserve and Renewal Funds Act 1917, is hereby amended as follows:—

(a) By omitting from subsection 1 of section three the words “three dollars”, and substituting the words “four dollars”:

(b)

Paragraph (b) was repealed, as from 13 October 1950, by section 2(2) Wellington City Trading Departments' Reserve and Renewal Funds Amendment Act 1950 (1950 No 11(L)).

The expressions “three dollars” and “four dollars” were substituted, as from 10 July 1967, for the expressions “one pound ten shillings” and “two pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Part 2

**Compensation in respect of acquisition
of land affected by by-laws relating to**

**setting-back building-line of streets and
of land taken for street purposes**

4 Subsection (4) of section 189 of Municipal Corporations Act 1920, not to apply to Wellington City

- (1) The provisions of subsection 4 of section one hundred and eighty-nine of the Municipal Corporations Act 1920, shall not apply to the city, and in lieu thereof the following provisions shall be applicable in respect of all by-laws hereafter made by the Council in exercise of the powers vested in it by the provisions of the said section 189.
- (2) Every person having any estate or interest in any land on which the erection, rebuilding, or re-erection, or the substantial rebuilding or re-erection, of buildings is forbidden by the operation of any such by-law shall be entitled to full compensation, to be ascertained by a Compensation Court under the Public Works Act 1908, for his interest in the land so affected if and when the land so restricted in use, being then without any building thereon above the level of the ground, has been by transfer or conveyance dedicated for street purposes to the Corporation for the whole interest of the claimant; and such claim shall be made only by the person lawfully making such dedication.
- (3) If the Corporation at any time takes under the Public Works Act 1908, for street-widening or other purposes any land subject to any restriction imposed by any by-law, every person having any estate or interest in the land so taken shall have a claim in respect of such taking, but shall have no claim under the provisions of this Act.
- (4) In assessing compensation in respect of any claim made in respect of land under the provisions of this section, or in respect of land taken for street-widening or other street purposes, in the city the Compensation Court shall take into consideration the necessity for or advantage of affording greater street space and the betterment accruing to the whole of the adjoining property of the claimant, and any such betterment shall be a set off against the compensation claimed.

Part 3

Private ways

- 5 Subsection (2) of section 185 of Municipal Corporations Act 1920, not to apply**
Subsection 2 of section one hundred and eighty-five of the Municipal Corporations Act 1920, shall not apply to the city.
- 6 Application of term private way in Act**
For the purposes of this Part of this Act **private way** shall extend to and include every private way as defined in section 171 of the Municipal Corporations Act 1920, actually in use in the city at the time of the passing of this Act, even though such private way may not have been consented to by the Council.
- 7 Unauthorized private ways not recognized**
Nothing in this Part of this Act contained shall validate or authorize or recognize any private way unless the Council shall have applied the operation of the provisions of this Part of this Act to such private way.
- 8 Power of Council to form private ways**
- (1) Where any private way or any part of the same is not formed, levelled, drained, paved, flagged, macadamized, or otherwise made good to the satisfaction of the Council, the Council may form, level, drain, pave, flag, macadamize, or otherwise make good the same or any part thereof to its satisfaction; and may either, before or after so doing, recover the cost of so doing from the owners of the premises fronting, adjoining, or abutting upon such part thereof as may require to be formed, levelled, drained, paved, flagged, macadamized, or made good in manner hereinafter appearing.
 - (2) The power to make good any private way shall be deemed to include power to construct therein any bridge or culvert and to plant trees and to erect tree-guards.
- 9 Preparation of plans, specifications, and scheme, and inspection of same**
- (1) The Council shall cause to be prepared—

- (a) Such specifications, maps, plans, sections, and elevations as it may deem necessary.
 - (b) An estimate of the cost, and a scheme of distribution setting forth the names of the persons intended to be made liable, and approximately the sizes of the pieces of land of which they are the owners respectively, and the amounts chargeable to each, and any other particulars which the Council may consider necessary or expedient.
- (2) The same shall be kept at the office of the Council, and shall be open for inspection by any person interested in or affected by the work therein mentioned.

10 Liability of adjoining owners to contribute to cost, and assessment and recovery of cost

- (1) Such of the owners of premises fronting, adjoining, or abutting on any private way as by themselves or their tenants have the right to use or commonly do use the same shall be liable to pay portion of the cost of any works executed by the Council under the powers contained in this Part of this Act with respect to such private way.
- (2) The owner of premises which do not actually front, adjoin, or abut upon any private way shall be liable to contribute to the cost of works executed by the Council with respect to such private way if such owner by himself or his tenants has the right of using or commonly does use such private way as a means of access to or of drainage from such premises and the same is, in the opinion of the Council, for his advantage or benefit.
- (3) The Council shall cause to be served on every such person intended to be made liable notice in writing setting forth—
- (a) That such specifications, maps, plans, sections, and elevations, estimate, scheme, and other particulars have been so prepared and are open for inspection, and the estimated amount of such person's liability:
 - (b) That on a date therein mentioned, and being not less than fourteen days from the service of such notice, the Council will proceed to consider such specifications, maps, plans, sections, and elevations, estimate, scheme,

- and other particulars, and the liability of each person in respect thereof:
- (c) That any person may appear on such date before the Council to raise objections thereto:
 - (d) That, in default of any such person so objecting, the same will be adopted, and all such persons will be considered as having admitted that the Council has complied with all the requirements of this Part of this Act, and also their respective liabilities as appearing by the said scheme, and will be in all respects then finally bound and concluded thereby.
- (4) Any person interested in or affected by the proposed work may appear before the Council on such date or on any date to which the consideration of the matter may be adjourned and object to such specifications, maps, plans, sections, and elevations, estimate, scheme, or other particulars, or any of them; but in no case shall it be necessary for the Council to give notice to any person of any adjournment of such consideration.
- (5)
- (a) Upon the date so fixed or on any date to which the consideration of the matter may be adjourned the Council may,—
 - (i) If no person so objects, adopt the said specifications, maps, plans, sections, and elevations, estimate, scheme, and other particulars:
 - (ii) If any person objects to such specifications, maps, plans, sections, and elevations, estimate, scheme, or other particulars, or any part of them, the Council shall thereupon, or at some future date, inquire into and consider the matter in the presence of such person if he attends, and, after hearing the objections (if any), then, if it appears to the Council expedient so to do, it may adopt the said specifications, maps, plans, sections, and elevations, estimate, scheme, and other particulars, with or without such alterations as the Council thinks fit.
 - (b) If at any time before such adoption the Council considers it necessary to add the name of any other person to

such scheme, or to make any variation in such specifications, maps, plans, sections, and elevations, estimate, scheme, or other particulars, it shall be at liberty to do so; but it shall give to every person affected by such addition or variation a like notice at least fourteen days before such adoption; and every such person shall be in all respects in the same position as if his name had been originally included in such scheme, or as if such variation had been part of the original specifications, maps, plans, sections, and elevations, estimate, scheme, or other particulars.

- (c) Upon such adoption every person upon whom notice has been served and whose name is included in such scheme as adopted shall be considered as having admitted that the Council has complied with all the requirements of this Act, and also his liability to contribute to the work in the proportion adopted by the Council, and be finally bound and concluded by all matters aforesaid.
- (6) Every person so liable as aforesaid shall immediately pay to the Corporation the amount so apportioned to him, and the Corporation may immediately recover such amount by action in any Court of competent jurisdiction.
- (7) In case such amount is not paid or recovered within one month after the completion of the works, the same shall bear interest at the rate of six dollars per centum per annum calculated from the day of such completion to the date of payment thereof.
- (8) The Council may proceed to execute the works described in such specifications, maps, plans, sections, and elevations, or such part thereof as they may deem proper, as soon as conveniently may be after the estimated cost or so much thereof as, in the opinion of the Council, is sufficient to justify them in proceeding has been paid.
- (9) If the works cost less than the estimated amount the Council shall return to each person who has paid and allow in account with any person who has not paid a rateable amount of the sum apportioned to him.
- (10) If the works cost more than the estimated amount the Council shall apportion the excess among the persons liable rateably in the same proportion in which the cost as originally estimated

was apportioned; and upon notice in writing being given to each such person of the amount so apportioned to him he shall immediately pay the same to the Council; and, in default, the Council may recover the amount from any such person by action in any Court of competent jurisdiction; and, in case the sum is not paid or recovered within one month from the day on which such notice is given to such person as aforesaid, the same shall bear interest at the rate of six dollars per centum per annum calculated from the day on which notice is given to such person to pay such excess to the date of payment thereof.

- (11) When any private way or any part thereof has been so formed, levelled, drained, paved, flagged, macadamized, or otherwise made good, the right to use the same for the purposes for which the same has been so formed, levelled, drained, paved, flagged, macadamized, or made good shall be appurtenant to the land of every owner liable to contribute to the cost thereof.
- (12) Any person called upon to pay any money to the Corporation under the foregoing provisions of this Part of this Act who has a written agreement with any other party or parties as to the shares to be paid by them respectively for the formation or maintenance of any private way shall be indemnified by the other party or parties to such agreement to an extent proportionate to the sum he may be called upon to pay to the Corporation in excess of the share he would have been liable to pay under such agreement.

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

Part 4
Special provisions relating to interest
and sinking funds on loans aggregating
\$3,417,832, authorized to be raised by
the Wellington City Council by poll of

**the ratepayers taken on the 15th day of
September, 1920**

11 First year's interest and sinking fund from date of borrowing payable out of each loan

The authority given to the Council by the provisions of section 4 of the Local Bodies Loans Act 1913, to pay out of loan-moneys the first year's interest and sinking fund during the construction of the several works for which loans aggregating three million four hundred and seventeen thousand eight hundred and thirty-two dollars were authorized to be raised by the Council by poll of the ratepayers taken on the fifteenth day of September, nineteen hundred and twenty, shall be in the case of the said loans an authority for the Council to pay out of loan-moneys the interest and sinking fund on each such loan for one year from the respective dates of the first borrowing by the Council of money in respect of each such loan.

The expression "three million four hundred and seventeen thousand eight hundred and thirty-two dollars" was substituted, as from 10 July 1967, for the expression "one million seven hundred and eight thousand nine hundred and sixteen pounds" pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

12 Sinking funds on certain loans to run from date of first borrowing, and percentage contributions to be calculated on moneys from time to time borrowed

- (1) The payments into the sinking fund on each of the said loans shall commence from the respective dates of the first borrowing of money in respect of each such loan; and the percentage rate fixed for the annual contribution to any sinking fund on any such loan shall be calculated on the amount for the time being actually borrowed in respect of the said loan.
- (2) The foregoing provisions of this section shall not apply to the Wellington City Water-supply Loan, nineteen hundred and twenty, of one million one hundred and twenty-three thousand eight hundred and eighty-six dollars, nor to the Wellington City Electric-power Station Construction and Tramways Improvement Loan, nineteen hundred and twenty, of one million three hundred and twenty-nine thousand seven hundred and seventy-four dollars, nor to either of the sinking funds established in respect of the said two loans, nor to any moneys

heretofore borrowed or which may be hereafter borrowed in respect of the said two loans.

The expressions “one million one hundred and twenty-three thousand eight hundred and eighty-six dollars” and “one million three hundred and twenty-nine thousand seven hundred and seventy-four dollars” were substituted, as from 10 July 1967, for the expressions “five hundred and sixty-one thousand nine hundred and forty-three pounds” and “six hundred and sixty-four thousand eight hundred and eighty-seven pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Part 5

Land for erection of building for astronomical purposes

13 Enabling the Wellington City Council to provide certain land for the erection by the New Zealand Institute of a building for astronomical purposes

The Wellington City Council may provide a portion of the land vested in the Corporation of the City by the Wellington Botanic Garden Vesting Act 1891, not exceeding one-quarter of an acre, for the erection thereon by the New Zealand Institute of a building or buildings for astronomical purposes; and may, without any consideration, or for a nominal consideration, do all acts necessary to lease such land to the New Zealand Institute, subject to such conditions and stipulations as it shall deem proper, including provisions for renewal, perpetual or otherwise.