

Wellington (City) Streets Empowering Act 1909

Local Act 1909 No 25
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An Act to empower the Wellington City Council to take over as Public Streets certain Private Streets and Private Ways in 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) Streets Empowering Act 1909.

2 Interpretation

In this Act, if not inconsistent with the context,—

City means the City of Wellington

City Engineer means the City Engineer for the time being of the Wellington City Council

City Valuer means the City Valuer for the time being of the Wellington City Council

Council means the Wellington City Council

Owner of any property means the person for the time being entitled to receive the rack-rent thereof, or who would be so entitled if the same were let to a tenant at a rack-rent

Town Clerk means the Town Clerk for the time being of the Wellington City Council.

3 City Council may, with approval of Governor in Council, declare certain private streets to be public streets

- (1) Any or all of the private streets and private ways mentioned in the Schedule hereto may, from time to time, by resolution of the Council approved by the Governor in Council, be declared to be streets within the meaning of section 152 of the Municipal Corporations Act 1908, and any such resolution so approved as aforesaid shall take effect according to its tenor notwithstanding anything to the contrary in the said Act or in any other Act.
- (2) The streets included in any such resolution are hereinafter referred to as the said streets.

4 Council empowered to form and construct streets, etc

The Council shall, at such times and in such manner as it thinks fit, construct the said streets; and may in connection therewith provide such footpaths, channels, and kerbs as it thinks necessary.

5 Mode of fixing cost of work

Before the commencement of any such work in any of the said streets the City Engineer shall forward to the Town Clerk a certificate under his hand setting forth the estimated amount of the cost of such work.

6 Council may agree with owners as to payment of portion of estimated cost

The Council may, prior to the commencement of any such work in any street, agree with all the owners of land fronting such street that such owners shall pay to the Council any part of the estimated cost of such work in the proportions set out in section seven hereof.

7 Town Clerk to recover share of cost from frontagers

(1) If the Council is unable to agree with all the owners of lands fronting any such street for payment of a share of the cost of such work as provided in section 6 hereof, the Town Clerk shall, after notice is given as hereinafter provided, recover from the owners of land fronting such streets not more than half the cost thereof as aforesaid, as set out in the said certificate, according to the proportions hereinafter set forth.

(2) The share of cost of the work to be paid by each owner of land fronting any street in which work is to be done pursuant to the provisions of this Act shall be a proportion of not more than the half-cost of such construction, equal to the proportion that the unimproved value of such owner's land bears to the total unimproved value of the land fronting both sides of the said street. Such share shall, with interest at not more than six per centum per annum, be a charge upon the premises in respect of which it is payable, and shall be recoverable as rates in respect of such premises:

Provided that if any premises fronting any of the said streets front any other street or private street, the City Valuer shall decide what proportion of the premises shall be deemed to front exclusively on such said street.

(3) The Town Clerk shall, prior to the commencement of such work, serve on each such owner, either personally or by registered letter, notice in writing stating the amount of the total cost of the work, the total unimproved value of the land affected and his own unimproved value, and the contribution payable by such owner. Such notice shall demand that payment of such contribution be made within thirty days from the date thereof.

- (4) If any such owner fails within such period of thirty days to pay such contribution, the then Council may forthwith sue and recover judgment against such owner for such amount in any Court of competent jurisdiction. In any such action the demands of the Town Clerk shall be conclusive evidence of the fact that the amount stated therein is the amount due.
- (5) While any money other than instalments owing under agreements and not immediately payable is unpaid in respect of any work to be done pursuant to the provisions of this Act, the Council may postpone the performance of such work.

8 Moneys payable by owners to be collectible in instalments as rates

The Council and the owner of any premises may agree in writing that every sum of money payable by any owner under the provisions of this Act shall be divided into instalments extending over three years, with interest at the rate of not more than six per centum per annum added; and each such instalment shall be deemed to be and shall be recoverable in like manner in every respect as if it were a general rate of the city, subject nevertheless to the following conditions:—

- (a.) The owner for the time being of the premises in question shall in all cases be deemed the person primarily liable for payment.
 - (b.) A separate book shall be kept by the Rate-collector to the Council, in which particulars of such instalments, and of the work in respect whereof they are payable, and of the dates for payment thereof, and of the names of persons paying the same, shall be entered; and such book shall be *prima facie* evidence of the correctness of its contents.
 - (c.) Such agreement may contain any incidental provisions, and may provide for the earlier payment of the remaining instalments, or any of them, on terms to be mentioned in the agreement.
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Schedule

Roseneath district.

THAT portion of Grafton Road at its northern end connecting upper and lower ends of the Crescent: Length, 10 chains; width varying (minimum 40 ft).

Kilbirnie District.

Baden Rhode, James Street North.

Brooklyn district.

Sugar-loaf Road, Reuben Avenue, Charlotte Avenue, Bruce Avenue, Laura Avenue, Bond Street, Dorking Road, Holmwood Road, Brighton Terrace, Victoria Terrace.

Island bay district.

Brook Street, Valley Street, Beach Street, Knoll Street.

Wadestown district.

Hooper Street, Leslie Street.