

Public Roads and Works Act 1845

Public Act 1845 No 6
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FORM OF CLAIM

No. VI.

An Ordinance to empower Owners and Occupiers of Land within certain Districts to repair and maintain Highways and Public Works within the same, and to make and levy Rates for defraying the Expenses thereof.

Preamble.

WHEREAS it is expedient that the owners and occupiers of land in certain districts should be empowered to make and levy rates upon land for the maintenance and repairs of highways and other public works, and that the same should be under the direction and control of a certain number of such owners and occupiers to be elected as a Board of Commissioners for that purpose, with necessary powers:

Be it therefore enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

I.—ELECTION OF DISTRICT COMMISSIONERS

1 Qualification of electors.

Every person who shall have to his own use a freehold estate in lands and tenements within any district to be formed as hereinafter mentioned, which lands and tenements shall not be let for a term of seven years or upwards, and every person duly appointed in writing as the proxy of any such person for the purposes of this Ordinance, and every lessee of lands and tenements within any such district for a term of seven years or upwards, shall, being duly enrolled in manner hereinafter mentioned, be qualified to vote at the election of such Board of Commissioners as aforesaid.

2 Formation of districts.

If the major part of the persons so qualified to become electors as aforesaid within any district shall apply in writing to His Excellency the Governor distinctly setting forth the boundaries of such district and requesting that the same may be declared to be a district within the provisions of this Ordinance, His Excellency may by Proclamation declare the same to be such district, and by such Proclamation shall prescribe a period within which all claims to

the right of voting at the election of the first and every succeeding Board of Commissioners for such district shall be made.

3 Form of claims to vote.

Every such claim shall be in writing according to the form to this Ordinance annexed, and shall be addressed to the Police Magistrate of the district for the time being.

4 List of claimants to be published.

The Police Magistrate shall forthwith upon the receipt of such claims as aforesaid, in that and every succeeding year, cause the names of all persons who shall have proved such claims to him to be arranged in alphabetical order in a written or printed list, and to be posted up in some conspicuous place within the district, and shall add to such list a notice of the place and time of meeting for the purpose of proceeding under the provisions of this Ordinance.

5 Annual meeting to be held.

Business of the meeting.

On the first Tuesday in the month next but one succeeding the time for completion of the List of Electors, and on the same day in every succeeding year, at the time and hour fixed for such meeting in the notice so to be given as aforesaid, the major part of the electors of the district being present, a chairman shall be elected, who shall commence the business of the meeting by proposing for consideration whether any rate shall be levied for the ensuing year under the provisions of this Ordinance, which question shall be determined by a majority of the votes of the electors present at the time when the said question shall be put to the vote.

6 Amount of rate to be fixed.

If it shall be determined that a rate shall be levied for the ensuing year, the meeting shall then proceed to determine in like manner the uniform sum per acre which may be levied and raised in manner hereinafter provided in the ensuing year.

7 And of tolls to be taken.

It shall also be determined by the meeting in like manner whether any tolls shall be imposed upon the passage of wheeled carriages along any road within the district, and also what shall be the amount thereof, and at what place or places such tolls shall be levied: Provided always that the amount of toll to be taken in any one day in respect of any wheeled carriage shall not exceed the whole amount of rate or rates actually levied during the preceding year in respect of any one acre of land, and shall under no circumstances exceed the sum of sixpence on any one day for any one such carriage.

8 Commissioners to be elected.

If the levying of a rate or the taking of tolls shall have been authorized as aforesaid, but not otherwise, the meeting shall proceed to nominate and in like manner to elect seven Commissioners, being electors and willing to act; and such Commissioners or any four of them shall form a Board, to be called the "Highway Commissioners for the District of," as the case may be, with authority to carry into effect the provisions of this Ordinance.

9 To continue in office for a year.

The Commissioners so elected shall continue in office for a year and until the next election of Commissioners: Provided always that any Commissioner so going out of office may be forthwith re-elected if then qualified as herein provided.

*II.—POWERS AND DUTIES OF COMMISSIONERS***10 Commissioners may make and repair roads.**

The Board of Commissioners shall have power within the limits of the district to make and keep in repair roads streets causeways and bridges, and to excavate construct and maintain wells waterworks conduits sewers and the like, and to provide for the setting-up of toll gates or bars, the establishment of markets, and construction of market-places landing-places and other works of public utility.

11 And levy rates upon land.

For the purpose of raising the means for carrying into effect all or any of the powers hereby given to the Board of Commissioners, and for the defraying of all expenses incident thereto, the Board shall have power to make and levy in manner hereinafter provided a rate for the year at a certain sum per acre upon all land within the district, except as hereafter is excepted: Provided that the amount of the rate so levied shall not exceed such rate per acre as shall have been authorized at the annual meeting of electors as aforesaid.

12 Rates to be paid by occupier or owner.

The rate shall be paid by the occupier of such land, or in case there shall be no occupier then by the owner thereof: Provided always that it shall be lawful for any person who shall be liable to the payment of any rate under the provisions hereof to compound for the payment of such rate by the performance of work or labour upon any of the works which may be for the time being undertaken by such Commissioners, according to such scale and valuation and subject to such regulations in all respects as shall from time to time be made by the Commissioners for that purpose.

13 List of ratepayers to be published by Commissioners.

Previously to levying any such rate, the Commissioners shall cause a written or printed statement to be posted up in some conspicuous place or places within the district, setting forth the amount of rate to be levied, with a list of the names of the persons liable for the payment thereof, with the sum payable by each of such persons, and the number of acres in respect whereof the same shall be payable, and to such statement shall subjoin a notice that all objections thereto will be heard and determined by the said Commissioners at a time and place to be in such notice mentioned, such time being not less than one calendar month from the date of such notice, and the said Commissioners shall hear and determine such objections accordingly.

14 Rates how to be levied.

At the expiration of the time appointed for the hearing of such objections, the Commissioners shall appoint fit persons to collect the rate due, which shall on non-payment thereof be recoverable at the suit of any such Collector by summary proceeding before any Justice of the Peace having jurisdiction within the district, and shall be leviable by distress and sale.

15 Land to continue liable for unpaid rates.

In case it shall be impossible to levy the rate due by reason of the property rateable being unoccupied or otherwise, the arrears shall at any subsequent time, within seven years from the date of such rate becoming due, be leviable upon any goods which may be found upon such property.

16 Statement of rates in arrear to be published by Commissioners.

The Commissioners shall once in every year publish and cause to be posted up in some conspicuous place or places within the district a statement of every sum so in arrear, and of the land in respect of which the same shall be due.

17 Tolls how recoverable.

In case of the non-payment of any tolls which may have been so authorized to be taken as hereinbefore provided, it shall be lawful for the Commissioners to levy the same by distress and sale.

18 Market dues may be imposed by Commissioners.

It shall also be lawful for the Commissioners to impose such dues as may be reasonable upon all persons making use of any market-place jetty wharf quay landing-place or other public work established or maintained under the authority hereof, and in case of the non-payment of such dues forthwith to levy the same by distress and sale.

19 Commissioners may appoint agents &c.

It shall also be lawful for the Commissioners to appoint and employ such agents as they shall find necessary for enabling them to carry into execution the provisions of this Ordinance, and to pay agents so to be appointed such remuneration as shall be reasonable.

20 Application of rates tolls and dues.

All moneys raised by any district rate, and all tolls and dues payable under the authority of this Ordinance, shall be applied in defraying the cost and expenses necessarily incurred in the exercise of the powers hereinbefore given to the Board of Commissioners, and of no other costs or expenses whatsoever.

*III.—PROCEEDINGS OF COMMISSIONERS***21 Meetings of Commissioners how to be called.**

No meeting of Commissioners for the purposes of this Ordinance shall be holden unless such meeting shall have been called by two Commissioners at least. Notice of the time and place of every such intended meeting, specifying the business proposed to be transacted thereat and signed by the Commissioners calling the same, to be left at the usual place of abode of every other Commissioner three clear days at least before such meeting.

22 All questions to be decided by a majority.

All questions which shall come before such meeting shall be decided by the majority of the Commissioners who shall be present thereat.

23 Minutes to be kept.

A minute of every Resolution agreed to at any such meeting shall be entered in a book to be kept for that purpose, and shall be signed by the said Commissioners who shall have agreed thereto.

24 Accounts to be kept and audited.

The Commissioners shall in a book to be kept by them for that purpose enter true accounts of all sums of money by them received and paid and of the several matters in respect whereof such sums shall have been received and paid. All such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance sheet thereof, signed by three at least of the Commissioners, shall yearly at such general meeting as aforesaid be submitted to such meeting, and shall (as soon thereafter as conveniently may be) be examined and audited by two or more persons to be appointed for that purpose by such meeting.

25 Copy of balance sheet to be published.

A copy of such abstract or balance sheet shall also be posted up by such Commissioners at or before the commencement of such meeting as aforesaid, upon some conspicuous part of the place in which such meeting shall be held.

26 Moneys books &c. to be handed over to new Commissioners.

All moneys found by the Auditors to be due from the Commissioners under the provisions of this Ordinance, together with all such books of accounts vouchers and papers, shall be forthwith paid and delivered over to the Commissioners for the ensuing year.

27 Crown and native property not to be rated.

Provided always and be it enacted that no land belonging to the Crown or to any of the aboriginal inhabitants of the Colony shall be liable to be rated under the authority of this Ordinance.

28 No district to be included within any borough.

Provided also that in case any portion of any district shall be included within the boundaries of any borough hereafter to be incorporated, the portion so included shall thenceforth cease to form part of such district for any of the purposes of this Ordinance.

29 Interpretation clause.

In the construction of this Ordinance the word "person" shall be taken to include any body corporate or body of Trustees.

FORM OF CLAIM

To Esq., Police Magistrate for the District of .

I hereby give you notice that I claim to have my name enrolled as a voter for the election of the Board of Commissioners for the District of, [as landowner, lessee, *or* proxy for A.B., *as the case may be.*]

Dated the day of [Signed.]

[Place of abode and business of Claimant.]