

New Zealand.



ANALYSIS.

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1924, No. 46.

Title.

AN ACT to amend the Public Works Act, 1908.

[6th November, 1924.]

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

Short Title.

1. This Act may be cited as the Public Works Amendment Act, 1924, and shall be read together with and deemed part of the Public Works Act, 1908 (hereinafter referred to as the principal Act).

2. For the purposes of section one hundred and nine of the principal Act, and of any Warrant issued by the Governor-General for the apportionment of the cost of any road to which that section refers, the maintenance of the road shall be deemed to include its repair and improvement, and the cost of maintenance to be apportioned as provided in the said section shall be determined accordingly.

As to apportionment of cost of repair and improvement of road serving two or more districts.

3. (1.) Where in any Order in Council issued pursuant to subsection two of section one hundred and seventeen of the principal Act the Governor-General has imposed conditions with respect to the building-line in relation to any road or street or specified part thereof, then, notwithstanding anything to the contrary in the said section one hundred and seventeen, the local authority may, with the approval of the Minister, grant permits for the erection of private motor-garages adjacent to the line of the road or street, or to a line intermediate between the line of the road or street and the building-line:

Special permits to build private motor-garages may be granted in cases where building-line fixed under section 117 of principal Act.

Provided that no such permit shall be granted in contravention of any express conditions relative to the grant of such permits that may hereafter be imposed by the Governor-General by any Order in Council issued pursuant to the said section.

(2.) With respect to permits granted under this section the following provisions shall apply:—

(a.) No such permit shall authorize the erection of any motor-garage the inside measurements of which exceed ten feet in width by twenty feet in depth by nine feet in height.

(b.) Every such permit may be at any time cancelled by the local authority, and shall be so cancelled if the Minister so requires. Within one month after the date of such cancellation or within such extended time as the local authority may in any case allow, the owner shall be required to remove the garage, and shall not be entitled to any compensation in respect thereof. If the owner fails to remove the garage within the time specified the local authority may remove it at his expense, and the cost of removal may be recovered in any Court of competent jurisdiction as a debt due by the owner to the local authority.

(c.) The local authority may charge such fee as it thinks fit for the issue of any permit under this section.

4. Any Warrant issued by the Governor-General for the purposes of section one hundred and twenty of the principal Act, whether issued before or after the passing of this Act, may in like manner be revoked or from time to time varied.

Warrant for the apportionment of the cost of any bridge, ferry, or ford may be revoked or varied.

5. (1.) Section one hundred and seventy-seven of the principal Act is hereby amended as follows:—

Removal of trees from river-beds.

(a.) By inserting, before the words “weeds, refuse, and other growth” in subsection one, the words “trees, plants”:

(b.) By omitting from the same subsection the words “and may dispose of the same respectively towards recouping the cost of such removal”:

(c.) By repealing subsection three.

Consequential amendment of section 178 of principal Act.

(2.) Section one hundred and seventy-eight of the principal Act is hereby amended by adding the following subsection :—

“(3.) Nothing in this section shall be deemed to authorize any local authority or River Board to dispose of any timber floated down any river or stream under the provisions of the Timber-floating Act, 1908.”

Extension of definition of term “bed” of river or stream for purposes of principal Act.

6. For the purposes of sections one hundred and seventy-six to one hundred and eighty-three of the principal Act the term “bed,” used in relation to any river, stream, or watercourse, shall, unless the context otherwise requires, be deemed to include all lands within any stop-bank or protective works of any kind erected for the purpose of preventing the overflow on to adjacent land of the waters of such river, stream, or watercourse.

Proclamation defining middle-line of railway, with explanatory maps and plans, to be deposited in Land Registry Office.

7. (1.) The Minister shall cause a copy of every Proclamation defining the middle-line of any railway or part thereof, issued pursuant to section one hundred and eighty-eight of the principal Act, and of every map and plan prepared in connection therewith, to be deposited without fee in the District Land Registry Office for the district in which is situated the land through which the line passes.

(2.) Where the land affected by any such Proclamation is subject to the Land Transfer Act, 1915, the District Land Registrar shall register against the land a memorial of such Proclamation and of the accompanying maps and plans, and in every other case shall cause an entry thereof to be made under the proper head or title in the index-book of the Deeds Registry Office.

Consequential amendment of section 188 of principal Act.

(3.) Section one hundred and eighty-eight of the principal Act is hereby consequentially amended as follows :—

(a.) By omitting from paragraph (b) of subsection one the words “and shall cause a copy of the same to be deposited in the office of the Registrar of the Supreme Court; and such maps and plans shall be referred to in any such Proclamation, and shall form part thereof”:

(b.) By repealing paragraph (c) of subsection one.

(4.) The provisions of subsections one and two hereof shall apply with respect to Proclamations, maps, and plans issued or made for the purposes of section four of the Public Works Amendment Act, 1923.

Supplementary powers conferred on Minister to facilitate carrying-out of hydro-electric schemes.

8. For the purpose of carrying out any works authorized by section two hundred and seventy-two of the principal Act the Minister shall have the right at any time or times to enter upon any road, street, railway, or other land (whether vested in or occupied by the Crown or any other person or body corporate), and there to construct, erect, lay down, maintain, renew, or repair all such cables, wires, and other things as are required for or in connection with any such works.

Minister may appoint person to sell land, stores, &c., by auction without being the holder of an auctioneer's license.

9. The Minister may from time to time appoint any person to conduct the sale by auction of any land or chattels which have been acquired or used for the purposes of any Government work under the principal Act, and which are required to be so sold or for the sale of which lawful authority exists, and it shall not be necessary in any

such case that the person so appointed should be the holder of an auctioneer's license.

10. Section eleven of the Public Works Amendment Act, 1910, is hereby amended by omitting from subsection three the words "The driver of any vehicle, engine, motor, or machine," and substituting the words "Every person."

Extending scope of penal provisions in respect of heavy traffic on roads.

11. Where, pursuant to section six of the Public Works Amendment Act, 1911, any tree or part of a tree is removed on the ground that it causes, or is likely to cause, damage to an electric line, compensation, to be assessed in the manner prescribed by the principal Act, shall be payable therefor if the said tree was growing on the land prior to the erection of the electric line, but not in any other case.

Compensation for removal of trees causing damage to electric lines.

12. (1.) Agreements to which section eight of the Public Works Amendment Act, 1911, relates (being agreements to take water from water-races or water-supply works constructed by the Minister) may from time to time, by further agreement of the parties, be varied, or any such agreement may be at any time cancelled by consent of the parties and a new agreement executed in lieu thereof.

Agreements to take water for irrigation purposes may be varied by parties.

(2.) Any new agreement executed as aforesaid may be registered in the manner prescribed by subsection eight or subsection nine, as the case may be, of the said section.

(3.) On production to the District Land Registrar or the Registrar of Deeds, as the case may be, of particulars of any variation of any such agreement made pursuant to this section, certified as correct by the Minister, the Registrar shall cause a memorial of such variation to be registered, as near as may be in the manner prescribed by the said section eight in respect of the registration of agreements.

(4.) Every such new agreement and every variation registered as aforesaid of any agreement shall run with the land in the same manner in all respects as an original agreement.

13. (1.) No transfer, conveyance, lease, or other alienation of any land subject to an irrigation agreement registered pursuant to section eight of the Public Works Amendment Act, 1911 (whether such agreement has been entered into before or after the passing of this Act), and no memorial of any such transfer, conveyance, lease, or alienation, shall be registered by the District Land Registrar or the Registrar of Deeds, as the case may be, without the production of the written consent thereto of the Minister.

Written consent of Minister required before registration of transfer of land subject to irrigation agreement.

(2.) Where any lease or license from the Crown is subject to any agreement as aforesaid, no assignment or sublease of any such lease or license shall be consented to by the Land Board without the production of the written consent of the Minister to such assignment or sublease.

(3.) The consent of the Minister under this section shall not be withheld in any case unless default has been made in complying with the terms of the irrigation agreement and such default continues.

14. Section four of the Public Works Amendment Act, 1923, is hereby amended as follows:—

Section 4 of Public Works Amendment Act, 1923, amended by omitting references to main highways.

(a.) By omitting from subsection one the words "or where the lines of a main highway as defined under the Main Highways Act, 1922, lie over any land not so acquired or set apart":

- (b.) By omitting from the same subsection the words "or main highway" wherever those words occur :
- (c.) By repealing subsection two :
- (d.) By omitting from subsection three the words "or main highway."

Limitation of power of Governor-General to cancel licenses to use water-power or to erect electric lines.

15. The power conferred on the Governor-General in Council by section eight of the Public Works Amendment Act, 1923, to cancel licenses issued under section five of the Public Works Amendment Act, 1908, or section two of the Public Works Amendment Act, 1911, shall not be exercised unless in any case the licensee has made default in complying with the terms of the license, and unless the terms of the license or the regulations relating thereto provide that the license may be cancelled in the event of default of that nature being made by the licensee.

Definition of term "heavy traffic" extended to include certain classes of motor traffic.

16. (1.) Section one hundred and thirty-nine of the principal Act is hereby amended by inserting, after paragraph (b) of subsection one, the following paragraph:—

"(bb.) The transportation of any motor-vehicle the weight of which with its maximum load exceeds two tons."

(2.) The provisions of subsection two of section one hundred and thirty-nine of the principal Act shall apply with respect to motor-vehicles in the same manner in all respects, with the necessary modifications, as they apply with respect to other classes of vehicles or other classes of heavy traffic.

(3.) With respect to by-laws made under the said section one hundred and thirty-nine the following special provisions shall apply:—

- (a.) All licenses issued under paragraph (h) thereof may be made to terminate on the thirty-first day of March in each year, or on such other date as may in any case be fixed, and where any such license is issued for a period less than one year the annual license fee shall be reduced by one-twelfth part thereof for every complete month by which that period is less than one year.
- (b.) Such by-laws may provide for the issue of marks or devices to denote with respect to any vehicle that it is licensed to be engaged in heavy traffic, or to ply for hire, the number of the license, the issuing authority, and the date of its expiration ; the number of passengers or the weight of the load that the vehicle is authorized to carry ; and any other particulars relevant to the subject-matter of the by-laws.
- (c.) Such by-laws may prohibit absolutely or conditionally any particular class of traffic (whether heavy traffic or not). By-laws under this paragraph may apply generally to all roads under the control of the authority making such by-laws or may apply only to any specified road or roads.
- (d.) Such by-laws may require the drivers of vehicles engaged in heavy traffic to furnish daily, or at other prescribed intervals, full particulars in the prescribed form as to the use of any such vehicle, including distances covered and roads traversed.

17. (1.) Save as provided by this section, it shall not be lawful to use on any road or street in New Zealand any motor-vehicle which is designed to carry more than six tons, exclusive of the weight of the vehicle, or which is so designed that its weight when laden may exceed ten tons :

Prohibition of use of motor-vehicle over specified weight.

Provided that this subsection shall not apply with respect to any motor-vehicle which is in use in New Zealand at the commencement of this Act, or which at the commencement of this Act is in course of transit to New Zealand in fulfilment of a contract of purchase.

(2.) After the passing of this Act it shall not be lawful to use on any road or street in New Zealand any motor-vehicle if the weight of its load exceeds six tons, or if the combined weight of the vehicle and load exceeds ten tons.

(3.) The owner and driver of any motor-vehicle used in contravention of this section shall be severally liable to a fine of ten pounds for every day on which such vehicle is so used.

Penalty.

18. (1.) The Governor-General may from time to time, by Order in Council made on the application of any local authority, direct that any licenses issued by such local authority in respect of heavy traffic or in respect of vehicles plying for hire shall extend and be available within the districts of two or more local authorities, and in any such case the fees payable in respect of such licenses shall be apportioned among the several local authorities within whose districts such licenses are so available :

Extended operation of heavy-traffic licenses and of licenses for vehicles plying for hire.

Provided that a local authority issuing any such license may, for the purpose of covering the cost of issue and incidental expenses, deduct from the license fee an amount not exceeding five per centum thereof.

(2.) Every apportionment made under this section shall be made by agreement among the local authorities concerned, or, in default of agreement, shall be made by order of a Magistrate on the application of any of those local authorities.

(3.) Such agreement or order shall continue in force until terminated by the parties thereto, or until superseded by the order of a Magistrate made after six months' notice has been given by any of the said local authorities of intention to apply for such order.

(4.) For the purposes of this section the term "local authority" includes the Minister in respect of Government roads, and the Main Highways Board in respect of main highways under the Main Highways Act, 1922, and the term "district" includes a highway district established under the last-mentioned Act.

Interpretation.

Special Provisions as to Use of Motor-lorries.

19. (1.) For the purposes of this section the term "motor-vehicle" has the same meaning as in the Motor-vehicles Act, 1924; and the term "motor-lorry" includes every motor-vehicle used for hire or used for commercial purposes in the carriage of passengers and goods, and which with its maximum load exceeds two tons in weight.

Interpretation.

Governor-General
may make
regulations as to
the use of
motor-lorries.

(2.) Notwithstanding anything to the contrary in the principal Act, or in any local governing Act, or in any Act relating to the use of motor-vehicles, the Governor-General may from time to time, by Order in Council, make regulations in relation to the use of motor-lorries as follows:—

- (a.) For the classification of motor-lorries according to their weight and carrying-capacity:
- (b.) For the classification of all roads and streets in New Zealand, with reference to their suitability for use by different classes of motor-lorries:
- (c.) Providing for the issue of heavy-traffic licenses in respect of such vehicles by the local authority or other body or person exercising control thereof:
- (d.) Fixing the license fees payable for heavy-traffic licenses in respect of such vehicles by reference to weight, carrying-capacity, and the kind of tires thereon, but so that the minimum fee in respect of any vehicle shall be not less than five pounds, and the maximum fee shall be not more than seventy-five pounds:
- (e.) Defining the areas within which any such licenses shall operate, and providing for the apportionment of the license fees among the several local authorities within whose districts the licenses operate:
- (f.) Providing for the application by local authorities of all revenues derived from the apportionment of such license fees for the maintenance of the roads and streets under their control:
- (g.) Fixing limits of speed for motor-lorries, with reference to their weight, carrying-capacity, and kind of tires:
- (h.) Prescribing the minimum width and the minimum thickness of tires to be used on any class of motor-lorry:
- (i.) Authorizing any local authority or other body or person exercising control over any road or street to prohibit the use thereon of motor-lorries, or of any class of motor-lorry, during any specified period or periods:
- (j.) Providing for the appointment of persons with authority to require the driver of any motor-lorry to stop, to inspect the load on any such vehicle, to require the vehicle or its load to be weighed or measured, and also to require the removal of any load in excess of the prescribed maximum:
- (k.) Prescribing fines not exceeding twenty pounds in respect of the breach of any such regulation:
- (l.) For any other matter in relation to motor-lorries in respect of which a local authority may make by-laws under section one hundred and thirty-nine of the principal Act.

(3.) Any regulations under this section may apply generally throughout New Zealand or within any specified part or parts thereof, and may from time to time be applied by the Minister, by notice in the *Gazette*, to any part of New Zealand, and any such notice may at any time in like manner be revoked.

(4.) The operation of any regulations published as aforesaid may, if so provided therein, be wholly suspended until they are applied by the Minister by notice in the *Gazette* pursuant to the last preceding subsection.

(5.) Regulations under this section shall not be held to be invalid merely on the ground that any fees imposed thereby are unreasonably high, or that any conditions therein are unreasonably restrictive.

(6.) Any by-laws relative to heavy traffic made by any local authority or other person or body, whether before or after the issue of regulations under this section, shall be read subject to any regulations for the time being in force under this section.
