

Act No. 67, 1902.

NEWCASTLE PAVING
AND PUBLIC
VEHICLES
REGULATION.
—

An Act to consolidate the enactments for making more effectual provision for paving certain streets of the City of Newcastle and for the licensing and regulation of public vehicles within the said city. [5th September, 1902.]

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 :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Newcastle Paving and Public Vehicles Regulation Act, 1902," and is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1-3.

PART II.—PAVEMENTS—ss. 4-10.

PART III.—PUBLIC VEHICLES—ss. 11-13.

Short title and
division.

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2. (1) The Act thirty-nine Victoria number thirty-six is hereby repealed. Repeal and savings.

(2) All by-laws made under the authority of the Act hereby repealed and in force at the time of the passing of this Act shall continue in force and be deemed to have been made hereunder. By-laws.

(3) Every license granted under the Act hereby repealed or under any by-law made thereunder, and subsisting at the time of the passing of this Act, shall have force and effect as if this Act had been in force at the time it was granted and it had been granted hereunder or under a by-law made hereunder, and this Act shall apply to it accordingly. Licenses.

(4) Every plan and specification prepared by the surveyor of the council under the Act hereby repealed and having any force or effect at the time of the passing of this Act shall have force and effect as if this Act had been in force at the time they were prepared and they had been prepared hereunder, and this Act shall apply to them accordingly. Plans and specifications.

(5) Every notice given under the authority of the Act hereby repealed, and having any force or effect at the time of the passing of this Act, shall have force and effect as if this Act had been in force at the time it was given and it had been given hereunder, and this Act shall apply to it accordingly. Notices.

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

“council” means the municipal council of the borough of Newcastle; 39 Vic. No. 36, ss. 6 and 15.

“council clerk” means the council clerk of the borough of Newcastle;

“mayor” means the mayor of the borough of Newcastle;

“owner” means any person having the immediate beneficial interest in any house or land;

“public vehicles” means any stage-carriage or omnibus, as defined by any by-law under this Act, hackney carriage, coach, car, cabriolet, waggon, cart, van, dray, or other vehicle plying for hire within the borough of Newcastle, and drawn by one or more horses or other animals.

PART II.

PAVEMENTS.

4. (1) The council shall cause a notice in the form or to the effect of the First Schedule hereto, signed by the council clerk and dated the day of its service, to be left at each house in the streets of the borough of Newcastle described in the Second Schedule hereto, along the footway adjoining which— Services of notices requiring footway to be paved. Ibid. s. 1. First Schedule. Second Schedule.

(a) the kerbing has been permanently laid but no notice has been given under the Act hereby repealed; or

(b)

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Method of service.

Copies of notices to be kept and to be open to inspection.

Footway not paved according to plan to be deemed unpaved.
39 Vic. No. 36, s. 4.
If paving not done council to do it.
Ibid. s. 2.

Account of expense of paving to be kept.
Ibid. s. 3.

Third Schedule.

(b) the kerbing is hereafter permanently laid, requiring such footway to be paved with such materials and in such manner as may be mentioned in such notice in every case where such footway is unpaved after such kerbing is so laid.

(2) Such notice shall, in the case of every occupied house, be left with some inmate thereof, and in the case of every unoccupied house, be nailed or posted upon some conspicuous part thereof.

(3) A copy of every such notice shall be kept in the office of the council or of the council clerk, and be open to the inspection of every citizen of the said city free of charge at all times after service thereof as aforesaid.

5. Every footway that is not paved according to the uniform plan and specification prepared as hereinafter mentioned, shall be deemed to be unpaved for the purposes of this Act.

6. (1) If the owner of any house at which such notice as aforesaid has been duly left, does not, within three months thereafter, comply with such notice by paving the footway adjoining the said house as hereinbefore mentioned according to some uniform plan and specification to be previously prepared by the surveyor of the council and kept in the office of the council or of the council clerk, the council shall forthwith cause such paving to be done and keep an exact account of the expense thereof in a book.

(2) The said plan and specification and the said book shall be open to the inspection of every citizen of the said city free of charge.

7. (1) The council shall, within thirty days after any such paving has been completed by them adjoining any house, cause an account of the cost thereof to be left at such house, in the same manner in which the said notices are hereinbefore directed to be left.

(2) If the owner of such house does not, within fourteen days after such account has been so left, pay to the council clerk at his office the amount of such account, the council may, by warrant under the hand of the mayor and in the form or to the effect of the Third Schedule hereto, distrain upon the goods found in such house for the said amount, and dispose of the same in like manner as is now prescribed by law with respect to rates distrained for by order of the council.

(3) If such goods belong to any tenant and not to the owner of such house, such tenant may deduct the amount which he pays on such distress being made from any rents due or to be paid to his immediate landlord, or may sue his immediate landlord or the owner of such house for any damage he sustains by non-payment by such owner of the cost of making such pavement as aforesaid, and the like rights of deduction and suit are hereby given to every intermediate tenant against his immediate landlord or the said owner.

(4) Provided that no such tenant shall be entitled to commence any action against his immediate landlord or the said owner, unless

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unless he has handed over to such landlord or owner respectively the notice and account hereinbefore mentioned as soon as practicable after the receipt of the same.

8. When and so often as any pavement of any footway requires any repairs the council shall forthwith take the like steps and shall exercise the same powers and use the same form of notice and warrants as are hereinbefore directed and given to them with respect to paving in the first instance, and the tenant shall have the like remedies against his immediate landlord or the owner as aforesaid.

Same steps to be taken with respect to repaving pavement as to paving in the first instance.
39 Vic. No. 36, s. 5.

9. When any distress is made for any such sum of money to be levied under the authority of this Act, the distress itself shall not be deemed unlawful, nor shall the party making the same be deemed a trespasser ab initio, on account of any subsequent irregularity committed by the party distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case.

Persons making distress irregularly not to be deemed trespassers ab initio.
Ibid. s. 7.

10. The costs of levying or making any distress under this Act shall be those set forth in the Fourth Schedule hereto, and no other.

Costs of distress.
Ibid. s. 8.
Fourth Schedule.

PART III.

PUBLIC VEHICLES.

11. (1) The council may make by-laws—

By-laws.
Ibid. ss. 9, 10, 11, and 12.

- (a) regulating the mode of licensing and controlling public vehicles and the drivers and conductors thereof within the borough of Newcastle;
- (b) fixing and appointing the hours within which owners, drivers, and conductors of public vehicles respectively shall exercise their calling;
- (c) fixing and appointing the ages at which drivers and conductors of public vehicles may be employed;
- (d) prescribing the badges (if any), clothing, or uniform to be worn by such drivers and conductors respectively;
- (e) prescribing the number, description, equipment, furniture, and gear of public vehicles;
- (f) limiting the number of persons to be carried in public vehicles;
- (g) prescribing the size and dimensions of stage-carriages, omnibuses, and cars;
- (h) fixing and appointing the numbers and positions of public stands for public vehicles;

(i)

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- (i) fixing and appointing the amount to be paid for fares for time or distance for the use of public vehicles;
- (j) providing for the safe custody of any property which may be accidentally or otherwise left in public vehicles;
- (k) prohibiting any misconduct on the part of the owners, drivers, or conductors of public vehicles, or of other persons attending to or managing such vehicles, whether by demanding or receiving more than the authorised fare or for not performing stated journeys in the appointed time, or otherwise;
- (l) prohibiting persons hiring public vehicles from fraudulently evading the payment of the authorised fares; and
- (m) with respect to all other matters and things connected with the good government and regulation of public vehicles.

License fees.

Fifth Schedule.

(2) No license fee shall be imposed by any such by-law exceeding the respective sums specified in the Fifth Schedule hereto.

Penalties in by-laws.

(3) The council may, by such by-laws, impose penalties for any breaches thereof, but no such penalty shall exceed for any one offence the sum of ten pounds.

(4) Such by-laws shall, when confirmed by the Governor and published in the Gazette, have the force of law.

(5) The production of the Gazette with any such by-law contained therein shall in any suit or proceeding whatsoever be evidence of such by-law having been duly made, confirmed, and published as aforesaid.

(6) All such by-laws and all alterations and repeals thereof shall, within fourteen days of the confirmation thereof by the Governor, be laid before both Houses of Parliament, if then in session, and if not, then within the first fourteen days of the next ensuing session thereof.

Recovery of penalties, &c.

39 Vic. No. 36, s. 13.

12. All fines, penalties, and forfeitures incurred under any by-laws made hereunder, may be recovered in a summary manner before any two justices according to the provisions of the Justices Act, 1902, and any Act amending the same, and shall be paid to the council clerk or treasurer of the council.

Appropriation of such penalties.

Ibid. s. 14.

13. All fines, penalties, and forfeitures recovered or received under any by-laws made hereunder, and also all sums of money received for licensing public vehicles, and all other income from whatever source arising shall be paid to the council clerk who shall keep separate accounts of the moneys so received, and such moneys shall be applied by the council in payment of any expenses necessarily incurred in carrying this Act into effect, and for the improvement and benefit of the said borough.

SCHEDULES.

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SCHEDULES.

FIRST SCHEDULE.

Notice.

Section 4.
39 Vic. No. 36,
Sch. A.

To the owner of the house at which this notice has been left, being No. in
street, and (if occupied) now occupied by

You are hereby required within three calendar months from the date hereof to pave the footway adjoining the abovementioned house, according to the plan and specifications now in the office of the council clerk or town surveyor, and open to your inspection and with the material herein mentioned, that is to say, with

and you are further to take notice that unless you cause the said paving to be laid down within the time above specified the same will be executed by the municipal council of Newcastle, and the cost thereof will be levied in pursuance of the provisions in that behalf of the Newcastle Paving and Public Vehicles Regulation Act, 1902.

Dated this day of A.D. 19 .
(Signed) A.B. Council Clerk.

SECOND SCHEDULE.

Section 4.
39 Vic. No. 36,
Sch. C.

All that portion of the city of Newcastle known as Zaara, Telford, Pacific, Watt, Bolton, Scott, Newcomen, Wolfe, Perkin, Hunter, King, Brown, Church, Pit, Sidney, Barker, Ordnance, Darby, Blane, Auckland, Lower Church, Laman, Steel, Union, Brooks, Railway, Bruce, Bull, Dawson, Melville, Parry, Tooke, Kenrick, Dumaresque, Kemp, Patrick, Macquarie, High, Corlette, Tyrrell, McCormack, Market, Charlton, and Council Streets, Parnell-place, Stevenson-place, The Terrace, Reid's-lane, and the Market approaches.

THIRD SCHEDULE.

Warrant to distrain.

Section 7.
39 Vic. No. 36,
Sch. B.

To
WHEREAS on the day of last a notice was duly left at the house No. in street, in the city of Newcastle (*and if occupied* then in the occupation of) requiring the owner thereof within three calendar months from the date of the said notice to pave the footway adjoining the said house according to the plan then in the office of the council clerk (*or Council's Surveyor*). And whereas the said owner did not comply with the said notice, and the municipal council of the said city caused the said paving to be done. And whereas the expense of the said paving amounts to And whereas an account of the said expense was duly left at the said house on the day of and the amount thereof has not yet been paid into the hands of the said council clerk. These are therefore to require and authorise you forthwith to levy the said sum of together with the costs of these presents by distress and sale of the goods found by you in the said house, and you are commanded to certify to me on the day of what you shall do by virtue of this warrant.

Given under my hand at Newcastle this day of A.D. 19 .
(Signed) A.B. Mayor.

Trustees of Schools of Arts Enabling.

Section 10.
39 Vic. No. 36.
Schedule D.

FOURTH SCHEDULE.

	s.	d.
For every warrant of distress	2	0
For every levy	1	0
For man in possession each day or part of a day	5	0
For inventory, sale, commission, and delivery of goods not exceeding 1s. in the £ on the net proceeds of sale.		

Section 11.
39 Vic. No. 36.
Schedule E.

FIFTH SCHEDULE.

Licenses.

Proprietors of	On and after 1st January in each year.	On and after 1st April in each year.	On and after 1st July in each year.	On and after 1st October in each year.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Omnibuses each	6 0 0	4 10 0	3 0 0	1 10 0
Omnibus cars "	5 0 0	3 15 0	2 10 0	1 5 0
Cars "	4 0 0	3 0 0	2 0 0	1 0 0
Hackney carriages "	3 0 0	2 5 0	1 10 0	0 15 0
Cabs "	2 0 0	.....	1 0 0	0 15 0
Drays, carts, and vans "	2 0 0	.....	1 0 0	.....
Drivers Yearly		0 10 0	.....	.....
Conductors "		0 15 0	.....	.....