

**Title.****ANALYSIS**

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1952, No. 15—*Local*

**AN ACT** to confer certain powers on the Western Waiheke Road Board, and in particular power to exempt one Catherine Mitchell from liability for the payment of rates in respect of certain lands settled upon herself, the donor, for life with remainder to the Board for the purposes of a public reserve and recreation ground; and to make provision for payment of an annual allowance to the Chairman of the Board and to increase the maximum penalty for breach of the Board's by-laws. [14 October 1952] **Title.**

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

1. This Act may be cited as the Western Waiheke Road Board Empowering Act 1952. **Short Title.**

**Interpretation.**

**2.** In this Act, unless the context otherwise requires,—

“ Board ” means the Western Waiheke Road Board:

“ Corporation ” means the body corporate under the name of the Inhabitants of the Western Waiheke Road District:

“ District ” means the Western Waiheke Road District.

Exemption of Catherine Mitchell from liability for payment of rates in respect of lands described in Schedule hereto. Cf. 1938 (Private), No. 2

**3.** Whereas Catherine Mitchell, formerly of Kopuarahi and Hamilton, but now of Onetangi, Waiheke Island, retired school-teacher (hereinafter referred to as the settlor), being registered as proprietor of an estate in fee simple in the lands described in the Schedule to this Act, did by certain memorandum of transfer bearing date the seventh day of July, nineteen hundred and fifty-two, transfer and settle unto and upon herself the settlor a freehold estate or interest for life in possession of the said lands, and did also thereby transfer unto the Corporation an estate in fee simple in remainder in the said lands expectant upon the determination of the life estate of the settlor in the said lands, to be held by the Corporation as and for the purposes of a public reserve and recreation ground to the intent that the settlor shall immediately henceforth have and enjoy the said lands for and during her life with remainder to the Corporation as aforesaid: And whereas the said lands are rateable property within the meaning of the Rating Act 1925, and the settlor has heretofore duly paid and discharged all rates charged or levied against her up to and inclusive of the thirty-first day of March, nineteen hundred and fifty-one, in respect of the said lands by the Board, being the local authority within whose district and jurisdiction the said lands are situate: And whereas, having regard to the public purposes for which the said lands are to be transferred to and vested in the Corporation as aforesaid, it is desirable expressly to exempt the settlor from liability for the payment of rates made and levied by the Board in respect of the said lands: And whereas it is desirable that the costs, disbursements, and legal expenses of the settlor as between solicitor and client of and incidental to the preparation, perusal, and execution of the said memorandum of transfer, and the perusal

and approval of this section, and all matters connected with and incidental thereto, should be borne and paid by the Board, but doubts exist as to the power of the Board to pay and discharge such costs: Be it therefore enacted as follows:—

(1) Except as provided in the next succeeding subsection, the settlor and her executors or administrators are hereby exempted from liability for the payment of any rates made and levied by the Board in respect of the lands or any part of the lands described in the Schedule hereto.

(2) This section shall not apply with respect to rates made and levied by the Board on or before the thirty-first day of March, nineteen hundred and fifty-one.

(3) The Board is hereby authorized and empowered to pay and discharge out of its funds all costs, disbursements, and legal expenses properly and reasonably incurred by the settlor as between solicitor and client of and incidental to the preparation, perusal, and execution by the settlor of the said memorandum of transfer, and the perusal and approval on her behalf of the provisions of this section, and all matters connected with and incidental thereto, including the costs of the settlor relating to the promotion of this Act and of investigating matters preparatory or incidental thereto.

4. (1) Notwithstanding anything to the contrary in the Road Boards Act 1908, or in any other Act, the Board is hereby authorized to pay to its Chairman an annual allowance not exceeding two hundred pounds, such annual allowance to commence and be payable as from the first day of April, nineteen hundred and fifty-two, and any such payment made before the passing of this Act is hereby validated.

Provision for payment of an annual allowance to Chairman of the Board.

*Cf.* 1950, No. 79, s. 23

(2) No alteration in the amount of such allowance shall take effect during the term of office of any Chairman.

(3) For the purposes of this section a person re-elected as Chairman shall be considered a new Chairman.

(4) The receipt of an allowance under this section shall not constitute or be deemed to have constituted a cause of disqualification under section thirty of the Road Boards Act 1908.

Provisions increasing penalty for breach of by-laws and creating penalty for and defining continuing offence.

5. (1) Notwithstanding anything to the contrary in the Road Boards Act 1908, or in any other Act, any by-law made by the Board may provide for every breach thereof a fine of an amount in the discretion of the Court inflicting the same, but in no case exceeding fifty pounds, and where the breach is a continuing one a fine may be imposed not exceeding five pounds for every day or part of a day during which the breach continues.

*Cf.* 1933, No. 30, s. 370

(2) The Board may, after the conviction of any person for the continuing breach of any by-law, apply to the Supreme Court for an injunction to restrain the further continuance of such breach by the person so convicted.

(3) The continued existence of any work or thing in a state contrary to any by-law shall be deemed a continuing offence within the meaning of this section.

Removal of works executed contrary to by-laws.

*Cf.* *ibid.*, s. 371

6. (1) A by-law may authorize the Board, or any officer thereof, to pull down, remove, or alter any work, material, or thing erected or being in contravention of any by-law, and to recover from the person committing the breach all expenses incurred by the Board in connection with such pulling-down, removal, or alteration.

(2) The exercise of this authority shall not relieve such person from liability to any penalty incurred by reason of such breach.

Validation of by-laws made in anticipation of this Act.

7. Any such by-laws made before the passing of this Act are hereby validated and declared to have been lawfully made.

**SCHEDULE****Schedule.**  
**Section 3**

FIRSTLY, all that piece or parcel of land containing 3 roods 3·3 perches, more or less, being Lot 82 on a plan deposited in the Land Registry Office at Auckland under No. 13801 (Town of Waiheke Extension No. 21), being part of Allotment 38 of the Parish of Waiheke, and being the whole of the land comprised and described in certificate of title, Volume 697, folio 315, Auckland Registry: Subject to agreement as to fencing contained in Transfer No. 294984.

Secondly, all that piece or parcel of land containing 3 roods 1·9 perches, more or less, being Lot 36 on a plan deposited in the Land Registry Office at Auckland under No. 13801 (Town of Waiheke Extension No. 21), being part of Allotment 38 of the Parish of Waiheke, and being the whole of the land comprised and described in certificate of title, Volume 413, folio 157, Auckland Registry: Subject to agreement as to fencing contained in Transfer No. 189694.

Thirdly, all that piece or parcel of land containing 2 roods 7·4 perches, more or less, being Lot 37 on a plan deposited in the Land Registry Office at Auckland under No. 13801 (Town of Waiheke Extension No. 21), being part of Allotment 38 of the Parish of Waiheke, and being the whole of the land comprised and described in certificate of title, Volume 473, folio 152, Auckland Registry: Subject to agreement as to fencing contained in Transfer No. 220156.

Fourthly, all that piece or parcel of land containing 2 roods 7·4 perches more or less, being Lot 38 on a plan deposited in the Land Registry Office at Auckland under No. 13801 (Town of Waiheke Extension No. 21), being part of Allotment 38 of the Parish of Waiheke, and being the whole of the land comprised and described in certificate of title, Volume 412, folio 131, Auckland Registry: Subject to agreement as to fencing contained in Transfer No. 188963.

Fifthly, all that piece or parcel of land containing 2 roods 37·4 perches, more or less, being Lot 39 on a plan deposited in the Land Registry Office at Auckland under No. 13801 (Town of Waiheke Extension No. 21), being part of Allotment 38 of the Parish of Waiheke, and being the whole of the land comprised and described in certificate of title, Volume 697, folio 314, Auckland Registry: Subject to agreement as to fencing contained in Transfer No. 294983.

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