

ROADS AND JETTIES AMENDMENT ACT 1984

No. 84 of 1984

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ROADS AND JETTIES AMENDMENT ACT 1984

No. 84 of 1984

AN ACT to amend the Roads and Jetties Act 1935.

[Royal Assent 30 November 1984]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Roads and Jetties Amendment Act 1984*. Short title.

2—This Act shall commence on the day on which it receives the royal assent. Commencement.

3—In this Act, the *Roads and Jetties Act 1935** is referred to as the Principal Act. Principal Act.

* 26 Geo. V No. 82. For this Act, as amended to 1st March 1979, see the continuing Reprint of Statutes. Subsequently amended by No. 19 of 1980, No. 67 of 1981, and Nos. 51 and 99 of 1982.

Amendment of section 3 of Principal Act (Interpretation).

4—Section 3 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition after the definition of “country road” :—

“Director” means the Director of Main Roads;

(b) by inserting the following definition after the definition of “maintenance” :—

“Minister for Lands” means the Minister for the time being administering the *Crown Lands Act* 1976;

Insertion in Principal Act of new Part V.

5—The following Part is inserted in the Principal Act after section 52E:—

PART V

CONTROL AND MANAGEMENT OF CERTAIN JETTIES AND MARINE FACILITIES

Interpretation.

53—In this Part, unless the contrary intention appears—

“marine facility” includes a landing stage, slipway, boat launching ramp, breakwater, training wall or work, navigation aid, and navigation light, but does not include a jetty;

“vested facility” means a marine facility the control and management of which are vested in the Minister—

(a) by proclamation under section 54 (1); or

(b) under section 54B (2);

“vested jetty” means a jetty—

(a) the control and management of which were formerly vested in the Transport Commission and the control and management of which were, pursuant to this Act, vested in the Minister on 23rd December 1957; or

(b) the control and management of which are vested in the Minister—

(i) by proclamation under section 54 (1) or 54A (1); or

(ii) under section 54B (2).

54—(1) Subject to subsection (2), the Governor may, by proclamation, vest in the Minister the control and management of—

Power of Governor to vest in Minister control and management of certain jetties and marine facilities on Crown land.

(a) a jetty or marine facility that, on or after 23rd December 1957 and before the commencement of the *Roads and Jetties Amendment Act* 1984, the Minister caused to be constructed on Crown land; or

(b) a jetty or marine facility that, before the commencement of the *Roads and Jetties Amendment Act* 1984, the Minister for the time being administering Part II of the *Fisheries Act* 1959 caused to be constructed on Crown land.

(2) A proclamation under subsection (1) shall contain the name or a description, and particulars of the location, of each jetty or marine facility to which it relates.

54A—(1) Subject to this section, the Governor may, by proclamation, vest in the Minister the control and management of a jetty the control and management of which are vested in the corporation of a municipality pursuant to section 585 of the *Local Government Act* 1962.

Power of Governor to vest in Minister control and management of jetties under municipal control.

(2) A proclamation under subsection (1) with respect to a jetty shall only be made with the consent of the corporation of the municipality in whose municipal district the jetty is situated.

(3) A proclamation under subsection (1) shall contain the name or a description, and particulars of the location, of each jetty to which it relates.

54B—(1) The Minister may, with the approval of the Minister for Lands for the use of Crown land for that purpose, cause to be constructed on Crown land such jetties and marine facilities as he considers are necessary to provide adequate facilities and protection for shipping and the preservation of life and property.

Power of Minister to construct jetties and marine facilities on Crown land.

(2) The management of a jetty or marine facility constructed pursuant to subsection (1) vests in the Minister.

Powers of Minister in respect of vested jetties and vested facilities.

54C—(1) Subject to this section, the Minister may maintain, extend, reconstruct, close, or demolish a vested jetty or vested facility.

(2) A jetty vested in the Minister by proclamation under section 54A (1) may not be extended without the approval of the Minister for Lands for the use of Crown land for that purpose.

(3) The Minister shall, as soon as possible after he closes (otherwise than for a temporary purpose) or demolishes a vested jetty or vested facility, require the Director to give written notice of the closure or demolition to the Director-General of Lands.

Provisions with respect to unused vested jetties and unused vested facilities.

54D—(1) If the Minister is of the opinion that a vested jetty or vested facility is not required for public use, the Governor may, by proclamation, divest the Minister of the control and management of the jetty or facility and vest its control and management in the Minister for Lands.

(2) Where the control and management of a jetty or facility are vested in the Minister for Lands by proclamation under subsection (1), that Minister may, in accordance with the *Crown Lands Act* 1976, grant a lease of that jetty or facility to any person for such term, at such rent, and subject to such conditions, as he thinks fit.

List of vested jetties and vested facilities.

54DA—The Minister may from time to time cause to be published in the *Gazette* a list of the vested jetties and vested facilities existing at the time of the publication of the list.

Amendment of section 55 of Principal Act (Regulations).

6—(1) Section 55 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:—

(2) Without limiting subsection (1), the Governor may, in relation to a jetty or marine facility the control and management of which are vested in the Minister under Part V, make regulations for or with respect to—

- (a) imposing wharfage charges or tolls to be paid in respect of the use of that jetty;
- (b) imposing charges in respect of the use of that facility;
- (c) regulating the use of that jetty or facility;
- (d) regulating the activities that may be carried on in or on that jetty or facility;

- (e) prohibiting the performance or doing of any act or thing on, in, or in relation to that jetty or facility;
- (f) providing for the manner in which any such wharfage charge or toll or other charge shall be collected and the persons or classes of persons by which it shall be paid; and
- (g) providing for the appointment by the Minister, on such terms and conditions as he may determine, of police officers and other persons to control the use of that jetty or facility and the activities that may be carried on in or on that jetty or facility pursuant to those regulations and to exercise such other powers and perform such functions as are prescribed in those regulations in relation to that jetty or facility.

(2) Section 55 (4) of the Principal Act is amended by omitting “The regulations” and substituting “Regulations under this section”.

(3) Section 55 (5) of the Principal Act is amended as follows:—

- (a) by omitting “The regulations” and substituting “Regulations under this section”;
- (b) by omitting “, and may” and substituting “, may”;
- (c) by omitting “permitted.” and substituting “permitted, and may prohibit or regulate and control the tying of vessels to any part of the structure of a bridge.”.

(4) Section 55 of the Principal Act is further amended by inserting after subsection (5) the following subsections:—

(6) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene, or fail to comply with, any of the regulations and may provide in respect of any such offence for the imposition of a penalty not exceeding \$200 and, in the case of a continuing offence, a further penalty not exceeding \$40 for each day during which the offence continues.

(7) Regulations under this section may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(8) A regulation under this section may authorize any matter or thing to be from time to time determined, applied, or regulated by any person or body specified in the regulation.

Validation.

7—(1) Where the Minister—

(a) during the prescribed period; and

(b) with the consent of the municipal corporation in whom the management and control of a jetty were vested pursuant to Division 13 of Part XVI of the *Local Government Act 1962*,

accepted responsibility for the control and management of that jetty, that responsibility shall be deemed to have been lawfully and validly accepted by the Minister and to have been lawfully and validly performed by him as if the control and management of that jetty had been vested in him by a proclamation under section 54A (1) of the Principal Act, as amended by this Act.

(2) In subsection (1), “prescribed period” means the period commencing on 1st January 1964 and ending immediately before the commencement of this Act.

Transitional provision.

8—Any by-laws made by the Minister under section 55 (2) of the Principal Act and in force immediately before the commencement of this Act shall, on and after that commencement, be deemed to be regulations made by the Governor under section 55 (2) of that Act, as amended by this Act.