



ROADS AND JETTIES AMENDMENT ACT 1994

No. 69 of 1994

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**ROADS AND JETTIES AMENDMENT ACT 1994**

No. 69 of 1994

AN ACT to amend the *Roads and Jetties Act 1935***[Royal Assent 25 November 1994]**

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:—

Short title

1—This Act may be cited as the *Roads and Jetties Amendment Act 1994*.

Commencement

2—This Act commences on a day to be proclaimed.

Principal Act

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

Application of Act

4—This Act applies to proclamations made before and after its commencement.

Section 52AA inserted

5—Before section 52A of the Principal Act, the following section is inserted in Part IVA:—

Interpretation of Part

52AA—In this Part—

“**licence**” means a licence issued under section 52CB;

“**original owner**” means the owner of land at the time a proclamation affecting that land was made;

“**potential access**” means an access—

(a) that could reasonably be constructed in accordance with any National standards relating to road and access safety; and

(b) the construction of which is not prohibited under any Act;

“**proclamation**” means—

(a) a proclamation under section 52A that is not combined with a proclamation under section 9A; or

(b) the part of a proclamation under section 52A that is combined with a proclamation under section 9A;

“**subsequent owner**” means an owner of land subsequent to the original owner.

* 26 Geo. V No. 82. For this Act, as amended to 1 February 1987, see the continuing Reprint of Statutes. Subsequently amended by No. 44 of 1989, No. 5 of 1990, No. 43 of 1991, Nos. 24 and 86 of 1993 and No. 68 of 1994.

Section 52A amended (Proclamation of limited access)

6—Section 52A of the Principal Act is amended by omitting subsection (5).

Sections 52B and 52C substituted and sections 52CA to 52CH inserted

7—Sections 52B and 52C of the Principal Act are repealed and the following sections are inserted:—

Effect of proclamation

52B—(1) A limited access road is—

- (a) a highway for vehicles and livestock to pass and repass—
 - (i) from end to end; or
 - (ii) from one end to a proclaimed place of access; or
 - (iii) from one proclaimed place of access to another; and
- (b) a general highway for pedestrians.

(2) A person must not cause or permit a vehicle or livestock to cross the side boundary of a limited access road at a place other than a proclaimed place of access unless—

- (a) the person holds a licence in respect of that crossing; and
- (b) the crossing is carried out in accordance with the licence.

Penalty: Fine not exceeding 5 penalty units.

(3) The Minister may erect a fence on the side boundary of a limited access road which is sufficient to prevent a contravention of subsection (2).

(4) The Minister may recover from the owner of land adjacent to any part of the fence the cost of erecting that part.

(5) The owner of land which is adjacent to part of the fence must maintain that part.

Compensation

52C—(1) An owner of land who loses an access or potential access to the land across a common boundary with a road because of a proclamation declaring that road to be a limited access road may apply for compensation.

- (2) An application for compensation is to be—
- (a) in writing; and
 - (b) lodged with the Minister.

(3) An application for compensation is to be made within 12 months after the day on which the owner receives notice under section 52A (7).

(4) The Minister may only pay compensation if satisfied that the person applying has lost an access or potential access to his or her land that existed before the proclamation.

- (5) The amount of compensation is to be—
- (a) as agreed by the Minister and the owner; or
 - (b) if there is no agreement, determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.

(6) If a person is issued with a licence, the amount of compensation payable to that person may be reduced to take into account the fact that the person has gained an access to a limited access road at a place other than a proclaimed place of access.

(7) Compensation is not payable more than once in relation to any particular land.

Application for licence

52CA—(1) An owner of land who loses an access to the land across a common boundary with a road because of a proclamation declaring that road to be a limited access road may apply for a licence referred to in section 52CC.

(2) An owner of land may only apply for a licence in respect of an access if he or she has not received compensation in relation to that access.

- (3) A subsequent owner may only apply for a licence if the original owner was entitled to apply for a licence and the original owner—
- (a) did not apply; or
 - (b) applied for, but was not issued with, a licence; or
 - (c) applied for, and was issued with, a licence of which it is a condition that a subsequent owner may apply for a licence.
- (4) An application is to be—
- (a) in writing; and
 - (b) lodged with the Minister.
- (5) On receipt of an application, the Minister may—
- (a) grant the application with or without conditions; or
 - (b) refuse to grant the application.
- (6) The Minister, by notice in writing, is to notify the owner of—
- (a) the grant of the application; or
 - (b) the refusal to grant the application and any reasons for the refusal.

Issue of licence

52CB—(1) If the Minister grants an application for a licence, the Minister is to issue a licence.

(2) The Minister is to issue a licence to a subsequent owner—

- (a) on the same conditions as the licence issued to the original owner; or
- (b) if no licence was issued to the previous owner, on any of the conditions specified in section 52CD.

(3) The Minister may issue a licence within 60 days after the proclamation is gazetted whether or not the Minister receives an application for the licence.

Authority of licence

52CC—(1) A licence authorizes the owner of, and any person coming to, or leaving, the land in relation to which the licence was granted to access the land from the limited access road at a place other than a proclaimed place of access.

- (2) A licence—
- (a) is to specify—
 - (i) the place of access; and
 - (ii) the land to which it relates; and
 - (b) is to be forwarded to the owner of the land as soon as practicable after it is granted; and
 - (c) is full or partial satisfaction of a claim for compensation according to its value to the land affected.
- (3) A licence remains in force until—
- (a) the owner of the land sells or otherwise disposes of the land; or
 - (b) the Minister revokes the licence; or
 - (c) the owner surrenders the licence.

Conditions of licence

52CD—A licence may be subject to conditions in relation to any or all of the following:—

- (a) the location and width of the access authorized by the licence;
- (b) the duration of the licence;
- (c) the renewal of the licence;
- (d) the application for a new licence by a subsequent owner of the land to which the licence relates;
- (e) the purpose for which the access in relation to which the licence was granted may be used;
- (f) any other matter the Minister considers appropriate.

Variation of conditions of licence by Minister

52CE—(1) The Minister may vary a condition of a licence if of the opinion that the variation will not have an adverse effect on the traffic on the limited access road.

(2) If the Minister varies a condition of a licence, the owner may apply for compensation.

- (3) An application is to be—
 - (a) in writing; and
 - (b) lodged with the Minister.
- (4) On receipt of an application, the Minister may—
 - (a) grant the application; or
 - (b) refuse to grant the application.
- (5) If the Minister grants the application, the Minister must pay the owner compensation at an amount—
 - (a) agreed by the Minister and the owner; or
 - (b) if there is no agreement, determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.
- (6) A person may appeal to a magistrate against the Minister's refusal to grant an application for compensation under this section.

Variation of conditions of licence by licensee

52CF—(1) A licensee may apply to the Minister for a variation of a condition of the licence.

- (2) On receipt of an application for a variation, the Minister—
 - (a) if of the opinion that the variation will not have an adverse effect on the traffic on the limited access road, may vary the licence—
 - (i) as requested in the application; or
 - (ii) as the Minister thinks fit; or
 - (b) may refuse to vary the licence.

Revocation of licence

52CG—(1) The Minister may revoke a licence—

- (a) if the owner fails to comply with, or contravenes, any condition of the licence; or
 - (b) for any other reason.
- (2) Before revoking a licence, the Minister by notice served on the owner is to notify the owner of—
 - (a) the intention to revoke the licence; and
 - (b) the owner's right to make submissions and give evidence in relation to the matter within 30 days of the date of that notice.

(3) If the Minister decides to revoke the licence, the Minister is to serve a notice of revocation on the owner.

(4) The revocation takes effect 30 days after the expiration of the period referred to in subsection (2) (b).

(5) If the Minister revokes a licence under subsection (1) (a), compensation is not payable.

(6) If the Minister revokes a licence under subsection (1) (b), compensation is payable to the licensee at an amount—

- (a) agreed by the Minister and the owner; or
- (b) if there is no agreement, determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.

Surrender of licence

52CH—An owner may surrender a licence by returning the licence to the Minister.

*[Second reading presentation speech made in:—
House of Assembly on 12 October 1994
Legislative Council on 27 October 1994]*