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Dated 16 October 2019



TASMANIA

LOCAL GOVERNMENT (HIGHWAYS) ACT 1982

No. 57 of 1982

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LOCAL GOVERNMENT (HIGHWAYS) ACT 1982

No. 57 of 1982

An Act to consolidate with amendments certain enactments concerning the functions of the corporations of municipalities with respect to highways and certain other ways and places open to the public

[Royal Assent 23 December 1982]

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:

PART I – PRELIMINARY

1. Short title

This Act may be cited as the *Local Government (Highways) Act 1982*.

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2. Commencement

- (1) This section and section 1 shall commence on the day on which this Act receives the royal assent.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

3. Interpretation

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires –

bridge includes a culvert and includes the abutments and any other part of a bridge, but does not include the approaches, or the causeway, or other works giving access, to a bridge;

by-laws means by-laws made under the *Local Government Act 1993*;

Commissioner means the Commissioner for Town and Country Planning;

corporation and *corporation of a municipality* means a council and, in relation to any land, or a building, structure or other thing on any land, or a highway, means the council of the municipal area in which the land or highway is situated;

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council clerk means a general manager within the meaning of the *Local Government Act 1993*;

country highway has the meaning assigned to that expression by section 4(7);

Crown land means land which is vested in the Crown and which is not contracted to be granted in fee simple, and includes land granted in fee simple which has reverted in the Crown by way of purchase or otherwise;

Director means the Director of Local Government appointed under the *Local Government Act 1993*;

district means a municipal area;

functions includes duties;

highway includes –

- (a) a part of a highway; and
- (b) a mall;

highway rights means rights acquired under section 4 of the *Highways Act 1951*;

highway under local management has the meaning assigned to that expression by section 4(6);

highway works means any works carried out under this Act in, over, or under a highway or in the exercise of the powers

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conferred on a corporation in relation to a highway opened or to be opened;

local highway has the meaning assigned to that expression by section 4(1);

local highway order means a local highway order under Division 2 of Part II;

local newspaper means a newspaper published in the State;

maintain includes improve, widen, alter, and repair;

maintainable by the corporation, in relation to a highway or local highway or to the widening or diversion of a highway, means maintainable at the expense of the corporation;

mall means an area of a highway that has been set aside primarily for pedestrian traffic and recreational purposes;

Minister for Crown Lands means the Minister having power under the *Crown Lands Act 1976* to manage or dispose of Crown land;

Minister for State Highways means the Minister for the time being administering the *Roads and Jetties Act 1935*;

municipal district means a municipal area;

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municipal office means a public office within the meaning of the *Local Government Act 1993*;

municipality means a municipal area;

occupier, in relation to any land, includes a person having the control or management of the land and, if the land is unoccupied, includes the owner of the land;

owner, in relation to a highway, means the owner of any land adjoining or adjacent to the highway or on which the highway is situated;

proclaimed day means the day fixed by proclamation under section 2(2);

the regulations means regulations made by the Governor under this Act;

Secretary means the Secretary of the responsible Department in relation to the *Roads and Jetties Act 1935*;

standard requirements means requirements prescribed in by-laws for the dimensions, configuration or mode of construction of a road or other way;

State highway has the meaning assigned to that expression by section 4(1);

statutory holiday means a statutory holiday as defined in the *Statutory Holidays Act 2000*;

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way includes any land appearing to be intended for use or to be made up for the passage of persons, vehicles, or animals.

- (2) A reference in this Act to the carrying out of works in a highway shall be read as including a reference to the carrying out of works on, under, or over the highway or in, on, or under a bridge, embankment, or other work carrying the highway or necessary for its convenient use.

4. Categories of highways

- (1) In this Act, all State highways and subsidiary roads within the meaning of the *Roads and Jetties Act 1935* are referred to as State highways and all other highways (except highways that, immediately before the proclaimed day, were repairable by State authorities) are referred to as local highways.
- (2) In subsection (1), *State authority* means a person, body, or authority, whether incorporated or unincorporated, constituted by or under an Act, or appointed by the Governor under the authority of an Act, to administer or control a department, office, business, or undertaking on behalf of the State.
- (3) A highway that, immediately before the proclaimed day, was repairable by a corporation becomes on that day a highway maintainable by the corporation.
- (4) Before a State highway ceases to be a State highway and becomes a local highway, it shall

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be put into such proper state of repair as may be agreed on by the Secretary and the corporation or, if they so fail to agree, into such proper state of repair as may be determined by the Minister for State Highways.

- (4A) If a State highway ceases to be a State highway and becomes a local highway, it is maintainable by the corporation if –
- (a) the corporation has agreed to maintain it; or
 - (b) it ceased to be a State highway because a new State highway providing an alternative route has been constructed.
- (5) A local highway may, in accordance with this Act, become a highway maintainable by the corporation and, notwithstanding anything in the foregoing provisions of this section, a local highway may, in accordance with this Act, cease to be maintainable by the corporation.
- (6) A reference in this Act to a highway under local management shall be read as a reference to –
- (a) a local highway maintainable by the corporation; or
 - (b) a highway that, pursuant to section 50, is subject to the care, control, and management of a corporation.
- (7) A reference in this Act to a country highway shall be read as a reference to a local highway situated elsewhere than in a city or town.

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**PART II – CREATION, CLOSURE, AND DIVERSION
OF HIGHWAYS AND OTHER MATTERS AFFECTING
THEIR STATUS**

*Division 1 – Creation of highways, and their status with
respect to maintenance by corporations*

**6. Making, widening, &c., of highways by
corporations**

- (1) The corporation, as it considers necessary, may make and open highways in the municipality and may, in the municipality, widen or extend a local highway maintainable by the corporation.
- (2) A corporation, before it opens a highway, or a widening or extension of a highway, under this Act, shall –
 - (a) satisfy itself that standard requirements, if applicable, have been complied with; and
 - (b) give at least 28 days' written notice to the Transport Commission of its intention to open the highway or, as the case may be, to open the widening or extension.
- (3) A highway, or widening or extension of a highway, that is opened under this section by a corporation is maintainable by the corporation.

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8. Maintenance of highways opened outside cities or towns by private persons

- (1) An owner may, by notice in writing, notify the corporation, in respect of a highway opened or to be opened elsewhere than in a city or town, that he requires the highway to be maintained by the corporation.
- (2) Where the corporation is of the opinion that the highway in respect of which a notice is served under subsection (1) is not, or will not be, useful enough to the inhabitants of its district to justify its being maintained by the corporation, it may, within 3 months of the receipt of the notice, notify the owner accordingly.
- (3) A highway in respect of which a notification is given under subsection (2) by the corporation is not maintainable by the corporation.
- (4) Except where the corporation notifies the owner as mentioned in subsection (2), section 10 applies to a highway in respect of which a notice is served under subsection (1).
- (5) Where by virtue of subsection (4) any works are or may be required to be carried out before the highway becomes maintainable by the corporation and the corporation is of the opinion that those works should be carried out as soon as possible, it may serve notice on the owner requiring him to carry out his obligations under section 10, and that notice accordingly has such effect as is provided for in section 11(10).

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engineer approved, or by another person approved, by the corporation.

- (3) Where standard requirements apply, the corporation shall not approve the plans and specifications for the purposes of subsection (1)(a), unless it is satisfied that they conform with those requirements.
- (4) For the purposes of subsection (1)(b), ***statutory period*** means a period of 6 months beginning on –
- (a) the date on which a certificate of completion referred to in subsection (5) (in this section referred to as “a certificate of completion”) is issued in respect of the road works; or
 - (b) the date determined by the corporation as the date of the opening of the highway –
- whichever is the later.
- (5) A certificate of completion is –
- (a) the certificate of the corporation’s engineer; or
 - (b) where the corporation has no engineer, the certificate of an engineer approved by the corporation –

that the road or other way has been constructed substantially in accordance with the plans and

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11. Enforcement of obligations of landowners opening highways

- (1) The corporation may enter into and carry into effect an agreement with an owner to carry out, at the expense of the owner, any works necessary for the discharge of the obligations of the owner under section 10.
- (2) If, before the expiration of 12 months after the relevant date or within such further time as the corporation may allow, the obligations of an owner under section 10(1)(a) have not been discharged, the corporation may cause such works to be carried out as are necessary for those obligations to be discharged and may recover the cost of those works from the owner.
- (3) For the purposes of subsection (2), *the relevant date* means –
 - (a) in a case to which section 7 applies, the date on which the approval of the corporation was notified to the owner;
 - (b) in a case to which section 8 applies, the date on which the owner is notified by the corporation under subsection (5) of that section that the opening of the highway should be proceeded with; and
 - (c) in a case to which section 9 applies, the date on which the sealed plan takes effect under Part 3 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

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- (b) furnish the corporation's engineer with full particulars of all arrangements made in relation to the works; and
 - (c) allow the corporation's engineer or a person authorized by him in that behalf to inspect and supervise the works.
- (8) If an owner fails to comply with any of the provisions of subsection (7), he is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.
- (9) A person concerned in the carrying out of works to which subsection (7) applies who does not obey the lawful orders of the corporation's engineer given in relation to their carrying out is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.
- (10) Except where works to which subsection (7) applies are carried out under the direct supervision of a civil engineer engaged by the owner and approved by the corporation, the owner shall pay to the corporation a fee for supervision equal to 3 per cent of the cost of the works.
- (11) This section has effect subject to section 86 (5) of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

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section 14 or an application for a local highway order under section 16 or 17, means –

- (a) an owner or occupier affected;
- (b) a person who uses the highway;
- (c) the Commissioner;
- (d) the Transport Commission; or
- (e) any other person who would be aggrieved by the closure or diversion or by the order;

owner or occupier affected, in relation to the proposed closure or diversion of a highway under section 14 or an application for a local highway order under section 16 or 17, means the person who is the owner or occupier of the lands on, or adjacent to which, there is situated the highway proposed to be closed or diverted or to which the application relates.

- (2) Where a notice under section 14(1) or an application for a local highway order under section 16 or 17 applies to, or would affect, Crown land or a local highway situated on Crown land, the Minister for Crown Lands may exercise the rights of an interested person conferred by section 14 or 18.

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highway that may be used only for limited purposes.

- (2) A notice under subsection (1) may apply to 2 or more highways that are connected with one another.
- (3) Subject to subsection (4), a notice under subsection (1) shall contain a map or plan showing the proposed closure or diversion to which it relates.
- (4) A notice under subsection (1) that is required to be published in a newspaper may, instead of containing such a map or plan as is referred to in subsection (3), contain a statement of a place in the municipality in which the highway is situated where the plan may be inspected free of charge at all reasonable hours.
- (5) An interested person may, before the expiration of a notice under subsection (1), give written notice to the corporation of his objection to the proposed closure or diversion.
- (6) The corporation is to refer each objection that it is notified of under subsection (5) to the Magistrates Court (Administrative Appeals Division).
- (7) The Magistrates Court (Administrative Appeals Division) has power to receive and determine the objection as if it were an application to review the decision relating to the proposed closure or diversion and, in addition to its powers under the *Magistrates Court (Administrative Appeals*

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served within 3 months of the making of the order, the compensation for the taking of the land shall be determined as if the highway were continuing.

- (2) Without prejudice to the exercise of powers under any other Act, where a highway over Crown land is closed in accordance with section 14, the land may be dealt with in accordance with the *Crown Lands Act 1976*.
- (3) Where a person is entitled to compensation in respect of the acquisition of land for the purposes of the diversion of a highway made in pursuance of section 14, and the corporation is able and willing to cause to be transferred to him other land that is capable of being occupied and used with land retained by him that adjoined the highway before its diversion, the compensation shall be reduced by the value of the land that may be so transferred, so far as that compensation is attributable to the value of the land acquired.
- (4) The powers of a corporation to acquire land for the purposes of the diversion of a highway include power to acquire land for the purpose of its transference pursuant to subsection (3).

16. Relief from duty to maintain highway

- (1) Where, on an application by the corporation that is made as prescribed in the regulations, a magistrate is satisfied in respect of a country highway –

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thinks it ought to be, in the light of the evidence adduced before him.

18. Procedure on applications for local highway orders under section 16 or 17

- (1) A magistrate shall not make a local highway order under section 16 or 17 unless he is satisfied that, at least 28 days before the making of the application for the order, a notice of the intention to make the application –
 - (a) has been served on each of the owners and occupiers affected and, unless the corporation is the applicant, on the corporation;
 - (b) has been served on the Transport Commission;
 - (c) has been displayed in a prominent position at each end of the highway to which the application relates; and
 - (d) has been published twice in separate issues of a local newspaper circulating in the municipality in which the highway is situated.
- (2) A notice referred to in subsection (1) shall specify the time and place at which the application is to be made and the terms of the order applied for, embodying a map or plan showing its effect.

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- (c) subject to a resolution of the council, grant exclusive licences to occupy part of a local highway so closed for such periods and on such conditions as the corporation thinks fit.
- (2) When practicable, a corporation shall give notice in a local newspaper circulating in the municipality of any action that it proposes to take under this section.
- (3) The forbidding under subsection (1)(b) of the use of a local highway or part of a local highway in a municipality shall be effected by an order—
 - (a) published in a local newspaper circulating in the municipality; or
 - (b) displayed where the public right of passage ceases under the order.
- (4) A licence granted under subsection (1)(c) is to name at least one licensee and may describe other licensees in general terms.
- (5) While part of a local highway is closed or forbidden to be used under subsection (1), that part shall be deemed to be the property of the corporation for the purpose of civil or criminal proceedings against persons who are not authorized to enter that part.

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and on such conditions as it
thinks fit; and

(ii) charge for giving such a
permission;

(c) provide and use or hire stalls, stands,
pens, signs, fences, and other structures;
and

(d) by resolution of the council, empower
officers of the corporation to take any
action required for the purposes of this
section or to control the part so closed.

(2) Anything done by the corporation under
subsection (1) in relation to the part of a local
highway closed by it under that subsection is not
invalidated by reason of the failure of the
corporation to comply with paragraph (a) of that
subsection.

(3) The corporation shall give to frontagers on the
part of a local highway closed under subsection
(1) reasonable means of access to their lands and
those frontagers may use those means of access
for themselves, visitors, and persons doing
anything on those lands and for vehicles and
machinery that the frontagers require to enter or
leave their lands.

(4)

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**PART III – CONSTRUCTION, MAINTENANCE, AND
MANAGEMENT OF LOCAL HIGHWAYS**

Division 1 – General powers and duties of corporations

21. General responsibility of corporations

- (1) Subject to this Act, the corporation of a municipality is charged with the duty of maintaining the local highways in the municipality that are maintainable by the corporation as shown on its municipal map, and, in any particular case, it shall discharge that duty in such manner as, having regard to all the circumstances of the case, it considers practicable and appropriate.
- (2) For the purposes of the discharge of its duties under this section in respect of a highway, a corporation may carry out such works as it considers necessary for the maintenance or renewal of any bridge, embankment, or other work carrying, or otherwise associated with, the highway.
- (3) The local highways in a municipality that are maintainable by the corporation vest in the corporation and, for the purpose of the exercise of its functions in respect of those highways, the corporation has, subject to the *Traffic Act 1925* and the *Vehicle and Traffic Act 1999*, the care, control, and management of those highways.
- (4) Except as otherwise provided in this Act, a corporation is not liable for any injury or loss arising from the condition of a highway unless

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that condition results from the improper carrying out of highway works that are carried out by, or at the direction of, the corporation.

22. Cost of certain works

- (1) The Governor, by proclamation, may declare that the cost of certain works to a highway is to be paid by the State and the corporation in the proportion specified in the proclamation.
- (2) A payment by the State is on such conditions as the Minister for State Highways may determine.
- (3) For the purposes of subsection (1), *certain works to a highway* means work for the purposes of reconstructing or making good the whole or part of the carriageway of a local highway that –
 - (a) is within a city area; and
 - (b) is maintainable by a corporation; and
 - (c) in the absence of a State highway, forms the primary traffic link between State highways.
- (4) This section does not apply to work undertaken on a regular basis to maintain the operational effectiveness of a highway.

23. Special provisions as to bridges

- (1)

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- (2) The Governor may, by order, declare that a bridge carrying a local highway maintainable by the corporation is to be maintained or renewed by the State, and so long as the order remains in force the corporation has no duty to maintain or renew the bridge.

- (3 - 4)

- (5) The Minister for State Highways, in respect of a bridge declared under subsection (2) to be maintained or renewed by the State, has the same powers in relation to the maintenance or renewal of the bridge as the corporation would have if the bridge were maintainable or renewable by it.

24. Highways on boundaries of municipalities

- (1) Subject to this section, where 2 corporations would, apart from this subsection, each be liable to repair one side of a local highway that forms or follows the common boundary of the municipal districts of those corporations, they are jointly liable to repair the whole width of that highway.

- (2) Subject to subsection (3), where a local highway
 -
 - (a) crosses the boundaries between 2 municipalities;

 - (b) meets another road on such a boundary;
or

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(c) is a boundary road for 2 municipalities –

the level of the highway shall not be altered unless the corporations of those municipalities agree on the new level.

- (3) The Minister may settle a question as to the level of a new local highway, including the payment of the expenses incurred in its alteration, and such a settlement is binding on the corporations to which it relates as if it were an agreement to which they were parties.
- (4) Where a local highway is maintainable by more than one corporation and a bridge carrying the highway over a river or stream lies partly in one municipality and partly in another, the Minister may, by order, direct that, for the purposes of this Act, the bridge, together with the approaches to it, and any land that is necessary for the convenient construction and use of the bridge, shall be deemed to be entirely within one of those municipalities, and, in respect of that bridge, those approaches, that land, and the highway, this Act has effect accordingly.

25. General supplementary provisions as to carrying out of highway works

- (1) For the purpose of carrying out highway works in a highway, the corporation may close the highway or close it to particular forms of traffic or may otherwise restrict the exercise of the rights of passage over the highway if the corporation places on or near the highway, in accordance with such instructions as are given to

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it by the Transport Commission, such traffic signs as are issued to it by the Commission.

- (2) Subject to subsection (3), a corporation may leave, stack, or deposit on a local highway vehicles, plant, equipment, or materials required for the carrying out of highway works in that highway.
- (3) In carrying out works in a highway (whether or not those works are highway works within the meaning of this Act), the corporation shall take all proper precautions to avoid damage to property or injury to persons, in particular, precautions by way of shoring up and protecting land and buildings adjacent to the highway, and erecting of barriers and notices on the highway, and guarding or lighting of obstacles and other sources of danger.
- (4) A corporation may sell, or otherwise dispose of, timber or other materials obtained by it in the course of carrying out highway works.

26. Obtaining of materials for highway works

- (1) The powers of the corporation of a municipality to purchase or acquire land shall be deemed to include power to purchase or acquire land for the purpose of obtaining from that land materials required for highway works.
- (2) Subject to subsection (3), the Minister for Crown Lands may, on payment of such fee (if any) as he determines, grant to the corporation a licence under section 40 of the *Crown Lands Act 1976* to

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enter any Crown land and obtain and remove from it such materials or indigenous timber as it may require for highway works.

- (3) A licence referred to in subsection (2) shall be subject to a condition that the holder of the licence shall make compensation for any damage done by it in the exercise of the powers conferred on it by the licence.
- (4) The corporation may, after giving 7 days' written notice to the occupier of any land other than Crown land, enter that land and obtain and remove from it such materials or indigenous timber as it may require for highway works.
- (5) A corporation is not entitled –
 - (a) under a licence referred to in subsection (2); or
 - (b) under subsection (4) –

to obtain timber from cultivated land or to cut down any timber that, in its opinion, is, and is intended to be, reserved and used for the purposes of ornament or shelter.

- (6) The corporation shall make compensation for any materials or timber obtained by it under subsection (4) and any damage done by it in the exercise of the powers conferred by that subsection.

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27. Use of adjoining lands in carrying out highway works

- (1) For the purpose of carrying out highway works in a highway a corporation may enter any land adjoining the highway.
- (2) Where it is necessary or desirable to do so to facilitate the carrying out of highway works in a highway, the corporation may use any uncultivated land as a temporary deviation of the highway and, subject to any directions given by the corporation, the same rights of passage subsist over the deviation while it is kept open as subsist over the highway.
- (3) Where any land is used as a temporary deviation under subsection (2), the corporation shall give the occupier of the land as much protection against trespass, by fencing or otherwise, as he would have had but for the use of the land as a temporary deviation.
- (4) A corporation is not liable to pay compensation in respect of the exercise of its powers under this section but shall, as far and as soon as practicable, make good all damage done by the exercise of those powers.

28. Shifting of apparatus, &c., in roads

- (1) Where in connection with the carrying out of any highway works, the corporation considers it necessary to shift a bridge, wire, or other aerial work, or a pipe, cable, conduit, tank, tunnel, or other underground work or to fill up a cellar or

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excavation, it may, by written notice, require the person to whom the work belongs to cause to be done –

- (a) in the case of the Transport Commission, not less than 30 days after the date on which the notice is given to the Commission; or
- (b) in the case of any other person, within some reasonable period specified in the notice –

the acts specified in the notice.

- (2) Subject to subsections (3) and (4), a person to whom a notice under subsection (1) is given shall comply with the notice.
- (3) Where the corporation requires the Transport Commission, by notice under subsection (1), to cause to be done any acts that, in the opinion of the Commission, would create a traffic hazard or adversely affect the safety of any person, the Commission may, by written notice, request the corporation to take that opinion into account in relation to the doing of those acts.
- (4) The corporation shall, on receipt of a request under subsection (3) from the Transport Commission, take into account the Commission's opinion in relation to the doing of the acts that the Commission is required, by notice under subsection (1), to cause to be done and the corporation may, if it considers it necessary or desirable to do so, revoke that notice under subsection (1) and give to the

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Transport Commission another notice under that subsection in which, in relation to the acts that the Commission is required by that other notice to cause to be done, the corporation has taken into account the Commission's opinion as specified in its request under subsection (3).

- (5) The expenses attending compliance with a notice under subsection (1) and compensation for damage reasonably resulting from that compliance shall be paid by the corporation to the person to whom the notice is given and to other persons injuriously affected by his compliance.
- (6) Subject to subsections (3) and (4), if a person to whom a notice under subsection (1) is given does not comply with it, the corporation may itself do the acts specified in the notice, making compensation to all persons injuriously affected by those acts.
- (7) Nothing in subsection (6) authorizes the corporation to cut a wire, cable, pipe, or conduit carrying electric current, gas, water, oil, or sewage, but, for the purpose of doing the acts referred to in that subsection, the corporation may serve an order on the person given notice under subsection (1) to cut off the electrical current, gas, water, oil, or sewage from the work to be shifted between such times as are specified in the order and that person shall comply with the order.

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29. Compensation for highway works

- (1) Except as otherwise provided in this Act, a corporation is liable to make compensation for any damage resulting from the carrying out of highway works.
- (2) Without prejudice to the generality of the provisions of this section, damage shall be deemed to include stopping up, altering, or making unusable the means of access to any land consequent upon the alteration of the level of the surface of a highway.
- (3) No compensation is payable under this section in respect of any interference with land below the surface of a highway except to the extent that damage is done to a cellar, tunnel, pipe, cable, or other work placed in that land.
- (4) No compensation is payable under this section in respect of any obstruction of the highway or any means of access to it during the carrying out of any highway works if that obstruction is reasonably necessary for the carrying out of the work and cannot reasonably be avoided.

Division 2 – Provisions relating to specific matters

30. Improvement, &c., of highways

- (1) Subject to sections 49 and 59 of the *Traffic Act 1925*, a corporation may, under or on a local highway maintainable by the corporation, carry out such works and do such other things as it considers necessary or desirable for rendering

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the use of the highway safer or more convenient or for improving its appearance.

- (2) The powers of the corporation under this section shall be deemed to include power to provide and maintain in, under, or upon the highway and, if it thinks fit, remove from the highway all or any of the following buildings, structures, works, or other things:
 - (a) buildings, shelters, works, equipment, and devices for the guidance, protection, or convenience of persons using or requiring to use the highway or for the regulation of traffic on the highway, other than traffic signs erected by the Transport Commission;
 - (b) receptacles for litter, refuse, or other abandoned or unwanted matter;
 - (c) trees, shrubs, and other plants, and lawns, gardens, and rockeries;
 - (d) statues, monuments, fountains, and similar works of public benefit or interest;
 - (e) sanitary conveniences for the use of the public.
- (3) The corporation shall not, in the exercise of its powers under the foregoing provisions of this section, create a serious obstruction to traffic.
- (4) In addition to any other power it may have under this section, a corporation may, with the

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approval of the Governor, provide and maintain a plantation in a local highway, but no plantation shall be provided under this section that –

- (a) reduces the portion of the highway available for traffic, excluding the plantation but including any footpaths, to less than 15 metres; or
 - (b) is greater in length than 200 metres.
- (5) For the purposes of subsection (4), *plantation* includes any fences and other structures or devices required for its protection.

31. Obstructions for prohibition or restriction of vehicular traffic

- (1) A corporation may, with the approval of the Transport Commission, construct or place obstructions in a local highway for the purpose of preventing or restricting the movement of vehicular traffic.
- (2) Before making an application under this section for the approval of the Transport Commission, the corporation shall cause a notice to be published twice in separate issues of a local newspaper circulating in the municipality of its intention to make the application, specifying the situation and nature of the obstruction and stating that written representations may be made to the corporation with respect to the matter before such day as is specified in the notice, being a day not earlier than 28 days after its first publication.

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- (3) The Transport Commission shall not give its approval under this section in respect of an obstruction unless there has been submitted to the Commission a copy of the notice published under subsection (2), together with evidence that it has been published as required by that subsection and copies of any representations made to the corporation in accordance with the notice and its comments on those representations.
- (4) This section does not apply to the installation of a road hump within the meaning of section 49A of the *Traffic Act 1925*.

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32. Lighting

- (1) In this section, *apparatus or equipment* includes lamps, posts, cables, and wires.
- (2) The corporation of a municipality may light, or arrange for the lighting of, a local highway within the municipality or a public place in the municipality that is not a local highway.
- (3) In the exercise of its powers under this section, the corporation may on any land carry out, or cause to be carried out, such works as it considers necessary and, without prejudice to the generality of the foregoing provisions of this section, any such works may include –
 - (a) the laying, erection, or installation of apparatus or equipment; and

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- (b) the attachment to a tree, building, or structure of apparatus or equipment.
- (4) In the exercise of its powers under this section the corporation shall do as little damage as possible to land not vested in it.
- (5) Apparatus or equipment used for the purposes of this section does not cease to be the property of the corporation by reason of its being laid in or on, or attached to, any land or any tree, building, or structure.

33. Lighting of private ways and courts

- (1) A corporation may, by written notice served on the owner of a private way or court to which the public ordinarily has access, require him to light it in accordance with the directions contained in the notice.
- (2) Nothing may be required under this section better than exists in the highway giving access to the private way or court to which the requirement relates.
- (3) A person on whom a notice is served under this section who fails to ensure that the requirements of the notice are complied with during all times in the night at which the way or court is left open to the public is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units and, in the case of a continuing offence, to a daily fine not exceeding 0.5 penalty unit for each day during which the offence continues.

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34. Drainage works

- (1) The corporation may make, cleanse, and keep open all drains and watercourses which it considers necessary in and through any land adjoining or near a local highway maintainable by the corporation.
- (2) Before first entering on any land for the purposes of this section the corporation shall, except in an emergency, give the owner and the occupier of that land 14 days' notice in writing of its intention to do so, showing on a plan or sketch in or attached to the notice the works which it proposes to do.
- (3) The corporation shall pay compensation for any damage caused by the exercise of its powers under this section.

35. Crossings over footpaths, table-drains, and gutters

- (1) Where the corporation is of the opinion that works are necessary to be carried out in a highway under local management for the construction or repair of a vehicular crossing over a table-drain, gutter, or footpath at or opposite the entrance to land adjoining the highway, it may serve a written notice on the owner of the land requiring him to carry out those works within the time specified in the notice.
- (2) If the owner of any land does not, within the time specified in a notice served on him under this section, carry out the works to which the

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notice relates, the corporation may itself carry out those works and recover the expenses reasonably incurred in so doing from the owner of the land.

36. Fencing of streets in towns

- (1) Where, in a highway in a city or town, there is a made footpath and between the footpath and the adjoining land there is –
 - (a) no fence and the corporation is satisfied that there should be one and the erection of such a fence would not be contrary to a provision of a planning scheme under the *Land Use Planning and Approvals Act 1993* in respect of the relevant area;
 - (b) no sufficient fence; or
 - (c) a fence that requires repair –

the corporation may serve a written notice on the owner of the land requiring him to carry out, within the time specified in the notice, such work as is specified in the notice, being work that the corporation is satisfied is necessary to ensure that there is a sufficient fence in proper repair along the boundary between the footpath and the land.

- (2) If the owner of any land does not, within the time specified in a notice served on him under this section, carry out the work to which the notice relates, the corporation may itself carry out that work and recover the expenses

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reasonably incurred in so doing from the owner of the land.

37. Alterations, &c., of entrances to highways

- (1) For the purposes of this section, *entrance* includes an opening (whether capable of being closed or not) in a fence or other barrier through which access may be gained to an area of land whether or not the fence or other barrier is situated at the boundary of a highway.
- (2) In this section, a reference to land lying between the entrance and the boundary of a highway shall be read as including a reference to the land lying between that fence or other barrier and that boundary.
- (3) Where the corporation is satisfied that an entrance on land adjoining or adjacent to a local highway maintainable by the corporation is so situated –
 - (a) that excessive damage to the surface of the highway results from the driving of vehicles into or out of the entrances; or
 - (b) as to create, or be likely to create, a hazard to traffic on the highway –

it may carry out such works for the alteration of the situation of the entrance as it considers necessary to prevent or reduce further damage to the highway from the driving of those vehicles or, as the case requires, to prevent or reduce a hazard to that traffic, and may, by order, restrict

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the user of the land lying between the entrance and the boundary of the highway.

- (4) Except by agreement with the owner of the land on which the work is to be carried out, the corporation shall not carry out any work or make an order under subsection (3) unless –
 - (a) at least 28 days previously, it has served a written notice on the owner of its intention to do so, describing the nature of the work or of the order; and
 - (b) it has considered any representations made to it by the owner within such time as is specified in the notice, being not less than 28 days after its service.
- (5) The corporation shall pay compensation for any loss or damage arising from the exercise of its powers under subsection (3).
- (6) Where an order under this section restricts the user of any land, the corporation shall, subject to the terms of the order, take all such steps as are reasonable to keep the land in such a state as not to be a source of danger or annoyance to the owner of the land or persons using the highway, and if, after being required by the owner to take any such steps, it fails to do so, the owner may recover from the corporation the expenses reasonably incurred by the owner in taking those steps.
- (7) Where, contrary to an order under this section, work is carried out on any land, the corporation may remove the work and do such other things

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as it considers necessary to reinstate the land and may recover the expenses reasonably incurred by it in so doing from the owner of the land.

38. Removal of trees near highways

- (1) Subject to subsection (2), the corporation may, for the purpose of ensuring or facilitating the good management of a highway under local management, cut down and remove any indigenous timber growing or standing within 25 metres of the centre of the highway, making good any damage or injury thereby caused to any other thing on the land on which entry was made for the purpose of cutting down or removing the timber.
- (2) The corporation shall not exercise the powers referred to in subsection (1) in relation to Crown land unless it has previously obtained the consent of the Director-General of Lands for the exercise by it of those powers in relation to that land.
- (3) A corporation shall not under this section without the consent of the Director-General of Lands, in the case of Crown land, or the owner of the land, in any other case, cut down any timber reserved or planted for ornament or shelter.
- (4) The corporation shall make good any damage or injury caused by it in cutting down and removing any timber in contravention of this section.

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39. Obligation of occupiers to cut back vegetation, &c.

- (1) In this section, *vegetation* includes any tree, hedge, and shrub.
- (2) Where the corporation is of the opinion that it is necessary to do so to remove or reduce the danger to persons using a local highway arising from the obstruction of their view by any vegetation or structure on any land, it may require the occupier of the land to cut, trim, or reduce the height of the vegetation or structure to the extent or in the manner specified in the notice.
- (3) The corporation may require the occupier of land on which a hedge or live fence is growing to remove seedlings, suckers, or offsets from the hedge or fence that have grown on a local highway.
- (4) Where the roots of a tree interfere with the pavement of, or anything in, a highway in a city or town, the corporation may require the occupier of the land on which the tree is growing to kill or remove the tree or cut off its roots within the boundaries of the land.
- (5) The corporation may require the occupier of any land abutting upon a highway or any other way to remove from the land ferns, weeds, rubbish, scrub, undergrowth, or dry grass.
- (6) The corporation may require the occupier of land on which any vegetation is growing to remove a branch or other part of the vegetation that overhangs a local highway and that is less than –

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- (a) 2.5 metres above a part of the highway that is intended mainly for the use of pedestrians;
 - (b) 4.5 metres above any other part of the highway that is not intended for use as a carriage-way; or
 - (c) 6 metres above a part of the highway that is intended for use as a carriage-way.
- (7) Without prejudice to the exercise of any of its powers under the foregoing provisions of this section, the corporation may require the occupier of the land on which a tree is growing or standing to remove the tree or any specified part of it if the corporation is of the opinion that it is desirable to do so to remove a danger, obstruction, interference, or inconvenience to the use of the highway.
- (8) A requirement under this section shall be made by written notice served on the occupier stating the time within which the requirement is to be complied with, not being less than 14 days from the service of the notice.
- (9) If a requirement made under this section is not complied with, the corporation may carry out the requirement and recover the expenses reasonably incurred from the occupier of the land to which it relates.
- (10) A person who is aggrieved by a requirement made under subsection (7) may apply to the Magistrates Court (Administrative Appeals Division) for a review of the requirement.

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(11)

40. Animal barriers on highways

(1) In this section –

animal barrier means a fence, gate, cattle-guard, or other device designed to prevent the passage of animals or animals of any particular description;

owner, in relation to an animal barrier across a highway at a place, means the owner of the land crossed by, or adjoining, the highway at that place.

(2) With the consent of the corporation an owner may erect an animal barrier across a country highway.

(3) An animal barrier referred to in subsection (2) shall contain a gate of substantial character properly hung and latched and be at least 4 metres wide.

(4) An owner who erects an animal barrier across a country highway without the consent of the corporation or which does not comply with subsection (3) is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

(5) Without prejudice to the generality of the provisions of subsection (2), a consent under that subsection may be given for a rabbit-proof

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barrier, being a barrier designed to prevent the passage of rabbits along the highway.

- (6) In giving a consent under subsection (2) to the erection of an animal barrier (not being a consent expressed to be given for a rabbit-proof barrier), the corporation may determine the conditions on which the consent is granted, including conditions requiring the removal of the barrier or the restoration of its site at a specified time or before the end of a specified period.
- (7) A consent under subsection (2) expressed to be given for the erection of a rabbit-proof barrier shall be deemed to have been given on condition that the barrier is kept in good repair and that, on 3 months' notice in writing being given by the corporation to the owner, it is removed and its site made good.
- (8) The conditions on which a consent is granted under this section are binding on the owner and, if they are not complied with, the corporation may take such steps as it considers necessary for the removal of the barrier and the restoration of its site and may recover from the owner the expenses reasonably incurred in the taking of those steps.
- (9) Where by the direction of a Minister an animal barrier has been erected at a place across a road constructed by the direction of a Minister, the corporation shall, if that road becomes a local highway maintainable by the corporation, take such steps as are necessary to ensure that that animal barrier, or an animal barrier no less

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effective, is maintained across the road at that place and kept in proper repair.

- (10) Where the corporation fails to take any steps that it is required to take under subsection (9) in respect of an animal barrier, the Minister may take those steps and may recover from the corporation the expenses reasonably incurred in the taking of those steps.
- (11) Where an animal barrier that is erected across a highway pursuant to a consent given under subsection (2) or that is required to be maintained under subsection (9) comprises or includes a gate and that gate –
- (a) complies with subsection (3) and is in good repair; and
 - (b) has painted on it the words “Shut this gate”, followed by words indicating the maximum penalty that may be imposed for an offence under this subsection –

a person who fails to shut and fasten the gate after passing through it or who having opened it leaves it open is guilty of an offence.

- (12) A person who is guilty of an offence under subsection (11) is liable on summary conviction to a penalty of an amount not exceeding that indicated on the gate, being an amount not exceeding –
- (a) the sum of 2 penalty units, in the case of a gate erected pursuant to a consent expressed to be given for the erection of

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a rabbit-proof barrier that has distinctly painted on it the words “Rabbit-proof gate”; and

- (b) the sum of 0.5 penalty unit, in any other case.

41. Prohibition of traffic likely to cause damage to highways

- (1) In this section, *authorized officer*, in relation to a consent or report given for the purposes of this section, means an officer of the corporation authorized either generally or in a particular case to give a consent or report under this section.
- (2) Where it appears to the corporation, on a report by its engineer or an authorized officer of the corporation, that traffic or traffic of a particular kind, is likely, during a particular period, to injure seriously a highway under local management, it may, in accordance with this section, prohibit the use of the highway during that period by that traffic without the written consent of the corporation or of an authorized officer of the corporation.
- (3) Where it appears to the corporation, on a report by its engineer or an authorized officer of the corporation, that traffic of a particular kind is likely to injure seriously a highway under local management and that, without using that highway, there is a reasonably convenient alternative route for that traffic, the corporation may, in accordance with this section, prohibit the use of that highway by traffic of that kind

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without the written consent of the corporation or of an authorized officer of the corporation.

- (4) At least 7 days before imposing a prohibition under this section the corporation shall, except in an emergency, publish notice of the prohibition, indicating its effect, in a local newspaper circulating in the locality in which the highway is situated and may otherwise advertise the prohibition in such manner as it thinks fit.
- (5) Where a corporation imposes a prohibition under this section, it shall cause notice of the prohibition to be posted conspicuously on or near to the highway to which it relates.
- (6) A person who uses a highway, or causes a highway to be used, contrary to a prohibition under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.
- (7) It is a defence to a complaint for an offence under subsection (6) that the corporation failed to comply with subsection (5).

42. Closure of dangerous highways

- (1) Where the corporation's engineer or an officer of the corporation who is authorized to give a report as provided in section 41 certifies that a local highway is unsafe to traffic or a particular class of traffic, it may close the highway to that traffic, erecting such barriers and carrying out such other works as are necessary for that purpose.

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- (2) The Governor may give written directions to a corporation for the reopening, either generally or to a particular class of traffic, of a highway in respect of which it has taken action under this section, and the corporation shall take such steps as are necessary to give effect to the directions.
- (3) Where a corporation takes any action under this section, it shall keep posted near the highway a notice of the extent to which the highway has been closed to traffic and the reasons for its closure.
- (4) Notwithstanding subsection (3), a notice posted under that subsection is not required to be kept posted for a period longer than 2 years.
- (5) A corporation is not, as the authority under a duty to maintain the highway, liable for injury occasioned to, or the loss suffered by, a person who uses a highway contrary to the terms of a notice posted under subsection (3) or takes any action that the barriers and other works erected or carried out under this section appear to be designed to prevent.

43. Recovery of cost of repairs caused by excessive weight, &c.

The corporation may recover, in a court of competent jurisdiction, any extraordinary expenses that it has incurred in repairing the damage caused to a highway under local management, whether that damage was caused by an excessive weight passing over the highway or any extraordinary traffic on it or in any other

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way from a person causing that weight or traffic to pass over or on the highway or otherwise causing that damage.

44. Protection of bridges from excessive loading

- (1) The corporation may, on the certificate of its engineer or an officer of the corporation who is authorized to give a report as provided in section 41, and shall, on the certificate of the Secretary, that a certain load or axle load is the greatest that can be sustained by a bridge without risk of damage to the bridge or that a certain speed is the greatest that can be used over a bridge without such risk, put up a notice at each end of the bridge saying “maximum mass, tonnes”, “maximum mass per axle, tonnes”, or “maximum speed, kilometres per hour”, as the case may be, and stating that maximum by a numeral and a unit measurement or a unit measurement or a standard abbreviation or symbol for that maximum.
- (2) A person –
 - (a) who drives a vehicle past a notice under subsection (1) and on to the bridge to which it relates, being a vehicle the total mass of which exceeds the mass shown in the notice or the mass on any one axle of which exceeds the mass per axle shown in the notice; or
 - (b) who drives a vehicle over a bridge to which such a notice relates exceeding at any part the speed shown in the notice –

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is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units as well as for any damage done by his so driving.

- (3) A notice for the purposes of subsection (1) is to be in accordance with a sign referred to in rule 103 of the *Road Rules*.

45. Removal and disposal of abandoned articles

- (1) This section does not apply to a carcass that, pursuant to Division 3 of Part 5 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*, it is the duty of the corporation to remove from the highway.

- (2) In this section –

article includes a vehicle or trailer, a part or component of a vehicle or trailer, and the carcass of an animal;

owner, when used in relation to an article removed from a highway under this section, means a person who, at the time the article was so removed, had any property in the article and the legal personal representative of a person who was the owner of that article.

- (3) Without prejudice to the provisions of subsection (2), where an article removed from a highway under this section is a motor vehicle or trailer within the meaning of the *Vehicle and Traffic Act 1999* or is a part or component of such a

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vehicle or trailer, the person who, within the meaning of that Act, was the registered operator of that motor vehicle or trailer at the time it was so removed, or, if the motor vehicle or trailer of which the article was a part or component had remained in existence, would then have been its registered operator, shall for the purposes of this section be deemed to be an owner of that article.

- (4) Where it appears to the corporation that an article has, without lawful authority, been abandoned on a highway under local management, it may remove the article from the highway.
- (5) Where an article has been removed from a highway under this section, the corporation may, subject to this section, dispose of it in such manner as it thinks fit –
 - (a) if, within one month of its removal from the highway, possession has not been taken of the article under subsection (7); or
 - (b) if the corporation is satisfied that the article is of no value or the amount that might be received from its sale would not be sufficient to defray the cost of its removal from the highway and its storage for the period of one month.
- (6) Notwithstanding anything in subsection (5), if the article is the carcase of an animal or of a perishable nature, the corporation may at any time dispose of it in such manner as it thinks fit.

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- (7) Unless the article has otherwise been disposed of in accordance with this section, the corporation, on a claim made to it by a person who satisfies it that he is an owner of the article, shall allow that person to take possession of the article on the payment by him of the expenses reasonably incurred in the removal of the article from the highway and in its storage until possession of the article is taken by that person.
- (8) If under subsection (5) or (6) an article is sold and the amount recovered from its sale exceeds the cost of its removal from the highway and of its storage until the time it is sold, the corporation shall, on a claim made to it within 6 months of its being so removed, by a person who satisfies the corporation that he is an owner of the article, pay to that person the amount of the excess.
- (9) Where, before payment is made under subsection (8) in respect of any article, two or more separate claims are made under that subsection by persons each of whom the corporation is satisfied is an owner of that article, it shall pay the sum otherwise required to be paid under that subsection to such one of them, or divide that sum between all or some of them in such manner, as is agreed between them or, in default of agreement, as is determined by a justice on the application of any of them.
- (10) Where a claim is made under subsection (8) in respect of an article by a person and it appears to the corporation that there is or may be some other person who is an owner of that article,

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nothing in that subsection requires the corporation to make a payment in pursuance of that claim until the expiration of the period of 6 months referred to in that subsection unless, before the expiration of that period, a claim is made under that subsection in respect of that article by that other person or he notifies the corporation in writing that he does not intend to make such a claim.

- (11) The rights of a person in an article to which this section applies, or in the proceeds of its sale, have effect subject to the powers and duties conferred or imposed on the corporation under this section, and it incurs no liability to that person by reason of the exercise of those powers or the carrying out of those duties or by reason of the loss of, or damage to, an article arising in connection therewith.
- (12) The corporation may recover from a person who is an owner of an article removed from a highway under this section, or from a person who abandoned the article, the cost incurred in its removal, storage, and disposal, less any sums received by the corporation on the sale of the article.
- (13) The expenses incurred by the corporation under this section in respect of an article shall be regarded as expenses incurred by it in the exercise of its duty to maintain the highway from which the article was removed.

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46. Permission to carry out various works in relation to highways

- (1) A corporation may, in accordance with its by-laws, grant a person written permission to do any one or more of the following things on such conditions and for such consideration as the corporation, either generally or in a particular case, determines:
 - (a) open or break up the soil or pavement of a local highway;
 - (b) make a drain leading to a local highway;
 - (c) put or place a pipe or make a drain leading into a sewer or drain or other work of the corporation in or under a local highway;
 - (d) make an excavation, vault or cellar in or under a local highway;
 - (e) install, under a local highway, pipelines, pipe systems or other infrastructure required for the transmission, distribution or supply of natural gas or other gaseous fuels;
 - (f) erect a hoarding or scaffolding for building or any other purpose in or on a local highway.
- (2) Subject to any directions given by the corporation, its powers under subsection (1) to grant a permission may be exercised on its

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behalf by its mayor or by some other person authorized by it for that purpose.

- (2A) The regulations may prescribe standard conditions that are taken to apply to every permission granted under subsection (1)(e) and, if such standard conditions are prescribed, the conditions that the corporation imposes on a permission granted by it under that subsection apply only in so far as they are not inconsistent with those standard conditions.
- (2B) Without limiting the generality of subsection (2A), a standard condition may –
- (a) impose requirements that the gas installer must comply with before, during or after the carrying out of the gas installation work; or
 - (b) require the gas installer to meet all or any part of the cost of the gas installation work; or
 - (c) require the gas installer to meet all or any part of the costs incurred by the corporation by reason of the proposal to carry out the gas installation work or the carrying out of that work; or
 - (d) impose a liability on the gas installer to pay monies to the corporation or any other person in relation to –
 - (i) loss or damage arising from or in connection with the gas installation work; or

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- (ii) costs incurred in making good any deficiency in the gas installation work; or
- (e) impose a liability on the gas installer to meet the cost of repairing any damage to the infrastructure installed by the gas installer resulting from a failure by the gas installer to –
 - (i) record or accurately record the location of the infrastructure; or
 - (ii) inform or accurately inform any person of the location of the infrastructure.
- (2C) Monies that are payable to the corporation or any other person under a standard condition may be recovered in a court of competent jurisdiction as a debt due to the corporation or that person.
- (3) By written notice served on a person to whom a permission under subsection (1) has been granted or the owner of any land in relation to which any work or other thing made, constructed, or placed in pursuance of the permission is being, or capable of being, used, the corporation may revoke the permission and require that the work or other thing be removed or filled up and the highway reinstated.
- (4) If, within the time specified in a notice served under subsection (3), any steps required to be taken in order to comply with the notice have not been taken, the corporation may itself take those steps and recover the expenses reasonably

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incurred in so doing from the person to whom the permission was granted or the owner of the land referred to in subsection (3).

- (5) Permission under this section does not give any right, title, or interest to or in the soil of or under any part of the highway, and does not bind a person other than the corporation and the grantee, except in so far as the act permitted would otherwise be a nuisance.
- (6) A person must not –
- (a) without permission under subsection (1), do any of the things specified in that subsection; or
 - (b) contravene a condition subject to which a permission under subsection (1) is granted; or
 - (c) contravene a standard condition that, by virtue of subsection (2A), is taken to apply to a permission granted under subsection (1)(e).

Penalty: Fine not exceeding 100 penalty units.

- (7) A person may appeal to the Tribunal if –
- (a) the person is aggrieved by the refusal of a corporation to grant the person a permission under subsection (1); or
 - (b) a corporation has granted, or indicated that it is willing to grant, the person a permission under subsection (1)(e) but

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- the person considers that the conditions or consideration applying to the permission are unreasonable; or
- (c) the person's permission under subsection (1)(e) has been revoked and the person is aggrieved by the revocation or the conditions of the revocation.
- (8) Except as provided by subsections (9) and (10), the Tribunal is to hear and determine the appeal in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.
- (9) Notwithstanding section 14(2) of the *Resource Management and Planning Appeal Tribunal Act 1993*, the Tribunal must not, under that section, allow any person other than the person entitled to appeal by virtue of subsection (7) and the relevant corporation to be a party to the appeal.
- (10) For appeals under this section –
- (a) the Tribunal is to include a member whose appointment was on the ground that he or she has, in the opinion of the Governor, expertise or experience in road construction engineering; and
- (b) that member is to be designated as such by the Governor, by instrument in writing, for the purposes of the Tribunal's jurisdiction under this section.
- (11) In this section –

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gas installation work means work carried out pursuant to a permission granted under subsection (1)(e), including any work required by –

- (a) a condition subject to which the permission is granted; or
- (b) a standard condition that, by virtue of subsection (2A), is taken to apply to the permission;

gas installer means a person granted permission under subsection (1) to carry out gas installation work;

Tribunal means the Resource Management and Planning Appeal Tribunal established under the *Resource Management and Planning Appeal Tribunal Act 1993*.

47. Control on discharge of concentrated drainage into highways

The occupier of land adjoining a local highway shall not discharge any concentrated drainage into the highway except pursuant to permission under section 46.

Penalty: Fine not exceeding 5 penalty units.

48.

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***Division 3 – Special provisions with respect to cities, towns,
and other urban areas***

49. Application of Division 3, Part III

- (1) This Division applies to cities and towns.
- (2) This Division also applies to that area of land specified in Schedule 1 to the *Local Government (Highways) Order 1984* (being the Old Beach Changing Building Area).
- (3) The Governor may by order declare that this Division ceases to apply to the area referred to in subsection (2).

50. Management of local highways not maintainable by the corporation

- (1) The corporation has the care, control, and management of the local highways that are not maintainable by it and, if it thinks fit, may carry out in that highway any highway works that it is by this Act authorized to carry out in a local highway maintainable by the corporation.
- (2) Where under this section a corporation carries out any highway works in a highway that is not maintainable by it, the provisions of this Part apply in relation to the exercise of those powers as if it were a highway so maintainable.
- (3) A corporation that carries out under this section any highway works in a highway that is not maintainable by it does not, by reason of

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carrying out those works, incur any liability to maintain the highway.

51. Making good of back roads, lanes, &c., at frontagers' expense

- (1) In this section, *owners affected*, in relation to the works required to be carried out by a notice served under this section, means the owners of the lands the occupiers of which have the right to use, or commonly use, the part of the area in which the works are to be carried out or which will be benefited by the carrying out of the works and the owners of any lands the drainage from which flows into that part of that area.
- (2) Where a road, lane, passage, or yard on private property (in this section referred to as “the area”) is not made up to the satisfaction of the corporation, the corporation may, by notice served on the owners affected, require the carrying out of such works for the making up of the area as is specified in the notice and being sufficient to render the area safe and adequate for use by persons, vehicles, and animals and reasonably passable by them.
- (3) Subsection (2) does not apply to a local highway that the corporation is charged with the duty of maintaining pursuant to section 21(1).
- (4) If a notice served under subsection (2) is not complied with, the corporation may carry out the works specified in the notice and recover the expenses reasonably incurred by it in so doing

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from the owners affected in such proportions as the corporation determines.

- (5) Without prejudice to the provisions of subsection (4), an owner affected who fails to comply with a notice served on him under subsection (2) is guilty of an offence and is liable on summary conviction to a daily fine not exceeding 2 penalty units.
- (6) The works that may be required to be carried out under this section are works for the forming, paving, levelling, draining, or making good of the area.
- (7) Where works are carried out under this section on a highway and the corporation is satisfied that the highway is in substantial conformity with the standard requirements, it shall declare the highway to be a local highway maintainable by the corporation and, on the publication of the declaration in the *Gazette*, that highway becomes such a highway.
- (8) Unless the corporation is satisfied as provided in subsection (7), action by the corporation under this section in relation to a highway does not oblige the corporation to make a declaration under that subsection with respect to that highway.

52. Projections on to highways, &c.

- (1) In this section, *the appropriate date* means 13th December 1934 or the date on which the provisions of this section, or provisions

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corresponding thereto, first applied to the area in which the site of the building is situated, whichever is the later.

- (2) For the purposes of subsection (1), the provisions of sections 22 and 23 of the *Towns Act 1934* shall be deemed to be provisions corresponding with the provisions of this section.
- (3) This section applies to a porch, shed, projecting window, step, cellar, cellar door or window, sign, signpost, sign-iron, show-board, window-shutter, wall, gate, or fence, or any other obstruction or projection erected or placed against or in front of a building that is an obstruction to the safe and convenient passage along a highway and such a thing is referred to as an obstruction to which this section applies.
- (4) At such time as is agreed with the occupier of a building, or after giving at least 30 days' notice of its intention to do so, the corporation may remove or alter an obstruction to which this section applies that has been erected or placed against or in front of the building.
- (5) The corporation shall pay compensation to a person suffering damage by the removal or alteration of an obstruction to which this section applies that has been erected or placed against or in front of a building before the appropriate date.
- (6) Where an obstruction to which this section applies was erected or placed against or in front of a building on or after the appropriate date, the

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corporation may, by notice served on the owner or occupier of the building, require him within 14 days to remove or alter the obstruction in the manner specified in the notice.

- (7) If the requirements of a notice served under subsection (6) are not complied with, the corporation may carry out those requirements and recover the cost reasonably incurred by it in so doing from the occupier of the building.
- (8) If a door, gate, or bar was, before 13th December 1934, hung so as to open outwards on a street, the corporation may alter it so that no part of it, when open, projects over a part of the highway.

53. Low-lying land near highways

- (1) Where it appears to the corporation that the surface of any land (not being a highway) is lower than the level of the nearest highway, or of the highway, sewer, or drain into which the water off the land should in the opinion of the corporation flow, the corporation may, by notice served on the owner, require the carrying out, within the time specified in the notice, of such works for raising the level of the land or draining its soil as are specified in the notice.
- (2) If the requirements contained in a notice served under subsection (1) are not complied with, the corporation may carry out the requirements and recover from the owner of the land the expenses reasonably incurred by it in so doing.

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54. Names of highways, &c.

The corporation may cause to be put up or painted, on some conspicuous part of a building, fence, or wall, or on a post, at or near an end, corner, or entrance of a highway or other public place, the name by which it is known or to be known.

55. Numbering of buildings, &c.

- (1) The corporation may allot to a piece of land one or more distinguishing numbers, and may cause a building on that piece of land to be marked with such a number in such manner as the corporation thinks fit.
- (2) An owner or occupier who fails to comply with a requirement of the corporation made of him for the purposes of this section is guilty of an offence and is liable on summary conviction to a fine not exceeding 2 penalty units.

56. Certain expenses a charge on land

Where, under this Part, the corporation incurs any expenses in carrying out any work, or doing any other thing, in relation to land that are recoverable from the owner of the land, those expenses are a charge on the land.

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Part IV – Acquisition of, and Other Dealings in Relation to, Land

**PART IV – ACQUISITION OF, AND OTHER
DEALINGS IN RELATION TO, LAND**

57. Introductory

- (1) The powers conferred on a corporation under this Part are in addition to any other powers of a corporation to acquire, dispose of, or effect any other dealing in relation to land.
- (2) In relation to the acquisition or holding of land, references in this Part to highway purposes shall be construed as references to the construction, widening, or alteration of a highway or the other purposes of this Act or for which land may be acquired under this Act.
- (3) In respect of the acquisition for highway purposes by a corporation of any land or any rights over land, sections 22 and 23 of the *Land Acquisition Act 1993* have effect not only in respect of the 6 months referred to in those sections but also in respect of the 21 days following the determination of a disputed claim for compensation in respect of the acquisition.
- (4) On the publication in the *Gazette* of a notice that a corporation has reconveyed land under section 23 of the *Land Acquisition Act 1993*, any public rights of passage over that land that were created by the acquisition of the land by the corporation for highway purposes are abolished.

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58. Acquisition of land for future use

- (1) The powers of a corporation to acquire land for highway purposes, or to acquire highway rights over land, may be exercised notwithstanding that the land is not intended immediately to be used for any of those purposes.
- (2) Where highway rights have been acquired by a corporation over any land, no person may claim a right of passage over that land until the corporation opens the land to the public as a highway.
- (3) Nothing in subsection (2) prejudices the operation of section 4 of the *Highways Act 1951*.

59. Development of land in connection with highway improvements

- (1) In this section, *development* includes the erection, construction, alteration, or demolition of a building or work.
- (2) Where a corporation is satisfied that, for promotion of the public interest, it is desirable that certain development in connection with highway improvements should be carried out on land adjacent to, or in the vicinity of, land used or to be used as a local highway, or that that land should be used only for certain purposes, it may make arrangements for the carrying out of that development or for ensuring that the land is used for those purposes or not for other purposes.

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- (3) For the purposes of this section, a corporation may acquire land and may enter into and carry out agreements with the owner of land with respect to the use or development of the land.
- (4) Without prejudice to the generality of the provisions of subsection (2), an agreement under this section may contain –
 - (a) such a covenant as is referred to in section 60;
 - (b) provisions for the dedication of land as a highway; and
 - (c) provisions for the grant of any such estates or interests as are referred to in section 61.

60. Restrictive covenants for benefit of highway

- (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires, *lease* includes an agreement for a lease and *leaseholder* includes a tenant under an agreement for a lease.
- (2) Where an agreement entered into for the purposes of section 59 by a person having an estate in any land contains a covenant, entered into by that person on behalf of himself, his successors in title, and the person deriving title under him or them, restricting the user of that land or any specified part of it, the covenant is enforceable by the corporation against the covenantor or any such person in like manner

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and to the like extent as if the covenant had been entered into by the fee simple owner of the land for the benefit of adjacent land held by the corporation in fee simple that was capable of being benefited by the covenant and as if that adjacent land continued to be so held by the corporation.

- (3) Subject to this section, a corporation may, at any time, by agreement with the person against whom there is enforceable a covenant to which subsection (2) applies (in this section referred to as “a covenant”), discharge the covenant or may agree to a variation of the covenant.
- (4) Subject to subsection (5), where the land subject to a covenant is under the *Land Titles Act 1980*, that Act has effect in relation to the covenant and the instrument creating it as if it were a covenant created under section 102 (7) of that Act for the benefit of land not under that Act and as if the corporation held an estate in fee simple in that land and was entitled wholly to discharge the covenant.
- (5) Where a covenant is entered into by the registered proprietor of a lease under the *Land Titles Act 1980* in respect of which no certificate of title has been issued, the Recorder of Titles shall enter a notification of the instrument on the memorandum of the lease burdened by the covenant.
- (6) Where the land subject to a covenant is not under the *Land Titles Act 1980*, the covenant and a variation or discharge of it shall be under seal

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and shall be deemed to be an instrument affecting that land within the meaning of the *Registration of Deeds Act 1935*.

- (7) Where a covenant is entered into by a leaseholder, it remains in force (unless the instrument creating it contains a provision to the contrary) so long as the covenantor or a person deriving title under him other than a *bona fide* purchaser for value of the legal estate without notice of the covenant remains in possession of the land to which the covenant relates.
- (8) Where the whole or any part of the land that is subject to a covenant is not under the *Land Titles Act 1980*, the Recorder shall, on the application of the covenantor or any of his successors in title, bring under the Act so much of that land as is not under that Act by registering a qualified certificate of title to it in accordance with section 21 of that Act.
- (9) The Recorder is not bound, for the purposes of subsection (8), to investigate the title to any land.
- (10) Where by this section the Recorder is required to bring any land under the *Land Titles Act 1980* and no survey such as he could require under section 162 of that Act is available, the land may be described on the certificate of title by means of a description by metes and bounds instead of by reference to a plan.
- (11) Where, in any certificate of title registered pursuant to this section, land is described by means of a description by metes and bounds –

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- (a) no action shall be brought against the Recorder or the assurance fund continued under the *Land Titles Act 1980* by reason or in respect of a difference between the area of the land or the position or dimensions of the boundaries stated in the certificate of title and the actual area, position, or dimensions as found by admeasurement on the ground;
 - (b) an Australian lawyer who acts for a party taking or proposing to take an estate or interest in the land from the person shown in the certificate of title as the registered proprietor of the land is not under a duty to check the description in the antecedent document of title; and
 - (c) on such evidence of boundaries as he deems sufficient, the Recorder may cancel the certificate of title and replace it by a fresh certificate of title describing the land in accordance with the evidence.
- (12) Section 84C of the *Conveyancing and Law of Property Act 1884* (which enables the Supreme Court or the Recorder of Titles in certain cases to discharge or modify restrictive covenants) does not apply to a covenant.

61. Grant of private rights over lands held for highway purposes

- (1) Where a corporation holds land for highway purposes, it may, as it considers expedient having regard to the purposes for which the land

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is held, create or convey estates and interests in the land, including any part of it through, in, or under which a relevant highway is or is to be carried, or a space or a building or other work that is or will be, in whole or in part, on or above or below its surface.

- (2) In relation to any land, a reference in subsection (1) to a relevant highway shall be read as a reference to the highway to be opened through, over, or under the land and a highway for the widening or alteration of which the land is held.
- (3) The exercise of the rights of passage over a highway is subject to any estates or interests granted under this section and those rights of passage are not to be exercised to the prejudice of the persons holding those estates or interests.
- (4) Where a corporation acquires land for highway purposes from a person who retains land adjacent to or adjoining that taken, the corporation may, by deed poll, undertake to grant to the owner of the land so retained or a specified part of it such an estate or interest as is referred to in subsection (1).
- (5) In assessing the compensation for the acquisition of any land referred to in subsection (4), regard shall be had to the value of the undertaking to the person to whom the compensation is payable.

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62. Special provisions as to acquisition for widening or other alteration

- (1) A corporation may, in accordance with this section, take land for the widening or other alteration of a highway.
- (2) Land shall not be taken under this section, unless –
 - (a) every part of it is within 3 metres of the boundary of an existing highway; and
 - (b) no building specified in subsection (3) is situated wholly or partly on the land or within 3 metres of its boundary –

but the existence of a building that has been substantially pulled down, destroyed, or demolished shall be disregarded for the purposes of this subsection.
- (3) The buildings referred to in subsection (2)(b) are shops, dwellings, offices, warehouses, workshops, garages, and other similar buildings.
- (4) Where the corporation intends to take land under this section, it may serve notice on the owner requiring the dedication of the land as a highway and informing him that in consideration of the dedication compensation is payable by the corporation as provided by this section.
- (5) Where land has not been dedicated as required by a notice served under subsection (4), the corporation may enter and take possession of the land if, at least 30 days previously, it has served

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notice on the owner stating that it intends to do so and specifying the amount of the compensation it considers that he will be entitled to receive.

- (6) Where land has been dedicated under this section, the persons having estates or interests in the land are entitled to compensation determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.
- (7) For the purposes of the determination of the compensation payable under this section in respect of the dedication of any land, the value of the land shall be taken to be a sum of an amount that is 20 per cent greater than an amount that bears to the land value of the block of which it formed part the same proportion as the area of the land bears to the area of the block.
- (8) No compensation is payable under this section in respect of the matters referred to in section 27 (1) (c) and (e) of the *Land Acquisition Act 1993*, but, in the case of land taken for the widening of a highway, the corporation may, if in its opinion the widening will be detrimental to the block from which the land is taken, pay compensation in addition to that which it is otherwise required under this section to pay.
- (9) In respect of the taking of land under this section, the compensation payable under the *Land Acquisition Act 1993* is to include the costs of replacement or construction of any walls, fences, steps, ramps, and other works reasonably

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required as a consequence of the works carried out on the land and to preserve reasonable means of access from the block from which the land is taken to a highway.

63. Letting of highways not presently used

- (1) Where the corporation has acquired highway rights over any land, it may, if the land is not presently required to be opened as a highway, let that land to the owner of any adjoining land.
- (2) Where any land in a city or town forming the site of a highway is not immediately required for use as a highway –
 - (a) the Minister for Crown Lands may, if that land is Crown land, do either or both of the following things:
 - (i) grant leases of that land under the *Crown Lands Act 1976*;
 - (ii) issue licences under that Act authorizing the use of that land for the purposes respectively specified in those licences; or
 - (b) the corporation may, if that land is not Crown land, take possession of that land and do either or both of the following things:
 - (i) grant leases of that land;
 - (ii) issue licences authorizing the use of that land for the purposes

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respectively specified in those licences.

- (3) Before granting a lease or issuing a licence as provided in subsection (2)(a), the Minister for Crown Lands shall cause a notice to be published in a local newspaper circulating in the locality in which the relevant highway is situated stating his intention to grant the lease or to issue the licence and appointing a day, at least 14 days after the date of the publication of the notice, on or before which written representations will be received by that Minister.
- (4) Before granting a lease or issuing a licence under subsection (2)(b), the corporation shall cause a notice to be published in a local newspaper circulating in the locality in which the relevant highway is situated stating its intention to grant the lease or issue the licence and appointing a day, at least 14 days after the date of the publication of the notice, on or before which written representations will be received by the corporation.
- (5) A lease under subsection (2)(b) shall –
 - (a) be for such term, not exceeding 10 years, as the corporation thinks fit; and
 - (b) reserve the best rent which can be reasonably obtained for the land.
- (6) A licence under subsection (2)(b) shall be –
 - (a) for such term, not exceeding 10 years, as the corporation thinks fit; and

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- (b) issued for such fee as the corporation thinks fit.
- (7) During the currency of a lease granted, or of a licence issued, as provided in subsection (2)(a) or (b), the public rights of passage over the land to which the lease or licence relates are suspended.

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**PART V – CONSTRUCTION OF UNMADE STREETS
IN CITIES, TOWNS, AND OTHER URBAN AREAS**

64. Application of Part V

- (1) This Part applies to cities and to towns.
- (2) This Part also applies to that area of land specified in Schedule 1 to the *Local Government (Highways-Construction of Unmade Streets) Order 1987* (being part of the Carnarvon Bay, Safety Cove Changing Building Area).
- (3) The Governor may by order declare that this Part ceases to apply to the area referred to in subsection (2).

65. Interpretation of Part V

- (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires –

frontager, used in respect of a scheme, means the owner of any land liable under a scheme to contribute to the cost of the carrying out of the street works provided for in the scheme;

scheme means a scheme under this Part for the carrying out of street works;

section of a street means –

- (a) the carriage-way;

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(b) the drains and kerbs; or

(c) the footpaths –

of the street;

street means a way the land adjoining the boundaries of which, or adjoining the boundary of which on one side, is continuously, or almost continuously, built up or laid out or intended to be built up or laid out for building;

street works has the meaning assigned to that expression by section 67(1).

- (2) In this Part, except in so far as the context or subject-matter otherwise indicates or requires, a reference to a street includes a reference to a section of a street.

66. Proof that street is subject to Part V

- (1) In this section, “made” refers to the time of making, so that a street that is once well and sufficiently made remains so even if all the work of making is washed away or is otherwise undone.
- (2) For the purposes of this Part, the carriage-way of a street shall be deemed to have been well and sufficiently made only if it was made well enough to be an all-weather road for light or heavy traffic or both according to the standards accepted at the time of its making.

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- (3) The carriage-way of a street that is not surfaced with gravel, crushed stone, or bitumen shall be deemed not to have been well and sufficiently made unless the contrary is proved.
- (4) The corporation –
 - (a) may prepare a copy of all or part of its municipal map showing any or all of the streets in its municipal district that it says have not been well and sufficiently made and also showing the date on which the copy was prepared; and
 - (b) shall, if it prepares such a copy, advertise on at least 3 successive Saturdays when and where the copy is exhibited and the effect of the advertisement and exhibition.
- (5) The copy of the map prepared under subsection (4) shall be on show at the corporation's municipal office at all reasonable times for the period of 3 months after the last advertisement required by that subsection, and thereafter it is conclusive evidence that the streets shown on the copy as not well and sufficiently made have not been so made, unless, before the end of that period, a person concerned has given to the corporation notice of objection to the inclusion of a particular street.
- (6) Where a notice of objection has been given under subsection (5), that subsection does not apply to the street to which the notice relates, but

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the corporation may make an application in accordance with the *Justices Act 1959* that the notice should be cancelled.

- (7) An application under subsection (6) shall be heard by a magistrate sitting alone, who –
 - (a) may order the notice of objection to which the application relates to be cancelled or allow the objection contained in that notice; and
 - (b) may deal with the costs of the application.
- (8) Where, pursuant to subsection (7), a magistrate orders the cancellation of a notice of objection in respect of a street, subsection (5) applies to the street as if the notice had never been given.
- (9) Where more than one notice of objection is given in relation to the same street under subsection (5), all those notices shall be dealt with together as if they were a single joint notice.

67. Street works in streets not previously made up

- (1) In this Part, *street works* means any works for the forming, levelling, draining, paving, flagging, macadamizing, sealing, or otherwise making good of a street and, without prejudice to the generality of the foregoing provisions of this subsection, includes the following works:

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- (a) the construction of bridges or culverts in or under the street;
 - (b) the planting of trees, and the erection of treeguards, in the street;
 - (c) the construction of nature strips or similar areas in the street;
 - (d) the making, at the meeting of the street with any other street or way, of crossings across the footpath, kerb, and drain of that other street or way;
 - (e) the provision of vehicular crossings between the carriage-way of the street and land fronting on the street;
 - (f) the provision of conduits in the street for the more efficient or easy laying, maintenance, or replacing of pipes and other apparatus for the supply of water to land fronting on the street;
 - (g) the provision of drains between the boundary of the street and a drain in the street;
 - (h) works rendered necessary by the altering of the level of the street.
- (2) Where a street has not at any time been well and sufficiently made, the corporation may, in accordance with a scheme under this Part, carry out such street works as it considers necessary to put that street in a proper condition in substantial

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conformity with the standard requirements, recovering the cost of the works in the manner provided in this Part.

- (3) Where a scheme provides for the construction or making good in a length of street of a footpath, kerb, or drain, that scheme shall provide for the construction or making good of a footpath, kerb, or drain along the whole of so much of each side or boundary of the street as is next opposite lands built on or capable of being built on.

68. Scheme of street construction

- (1) Where the corporation intends, in accordance with this Part, to carry out street works in a street, it shall cause to be prepared a scheme for the carrying out of those works.
- (2) One scheme may be prepared for the carrying out of street works in two or more streets.
- (3) A scheme prepared for the purposes of this section shall contain –
 - (a) a description of the works, together with such specifications, maps, plans, sections, and elevations as the corporation thinks necessary;
 - (b) an estimate of the cost of the execution of the scheme;
 - (c) a list of the lands, if any, in respect of which the owners thereof are to be made

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- liable for the cost of the execution of the scheme, with a description of each piece of land sufficient to identify it;
- (d) a statement of the portion, whether the whole or part, of the cost of the execution of the scheme that is to be recovered from the frontagers and its estimated amount, and the respective estimated amounts that are to be recovered from each frontager as his share of the cost of the scheme; and
 - (e) such other particulars as the corporation considers necessary or expedient.
- (4) The corporation shall not include the owner of any land among the owners of land to be made liable for the execution of the scheme unless the first-mentioned land fronts on, adjoins, abuts on, or (although not actually so fronting, adjoining, or abutting) is adjacent or accessible, to the street to which the scheme relates and –
- (a) the owner of the land, by himself or those deriving title under him, has the right to use or commonly does use the street as a means of access to, or drainage from, the land; and
 - (b) the use or right to use is for the advantage or benefit of the land.
- (5) In determining the portion of the cost of the execution of a scheme that is to be recovered from the frontagers –

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- (a) where any land is vested in the Crown, the corporation shall not, unless for reasons set out in the scheme it otherwise determines, include in such portion of the cost any amount of the cost that it considers would have been recoverable from the owner of that land if it were not vested in the Crown;
 - (b) where a carriage-way, drain, kerb, or footpath has previously been constructed and any person, as an owner of land, has under an Act contributed to the expense of the construction, the corporation shall not include any expense incurred in or in connection with the construction, alteration, or replacement of that carriage-way, drain, kerb, or footpath;
 - (c) the corporation shall take into consideration any other matters that, in the opinion of the corporation, are relevant and proper to be considered; and
 - (d) the corporation is not bound to require the frontagers or any of them to pay a greater portion of the cost than it thinks proper.
- (6) In determining the respective amounts to be recovered from frontagers in relation to a scheme, the corporation shall take into consideration the frontage and area of their respective lands, the benefit to be derived by those lands from the carrying out of the street

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works, and any other matters that, in the opinion of the corporation, are relevant and proper to be considered.

69. Inclusion of incidental expenses

The corporation may include in the estimate of the cost of the execution of a scheme –

- (a) the cost (computed according to a usual method of costing) of the provision by the corporation of any materials, plant, and labour, including a reasonable amount for the use and depreciation of any plant so provided; and
- (b) such sum (not exceeding 12·5 per cent of the estimated cost of the works) as the corporation thinks proper in respect of –
 - (i) the making of searches and the preparation of specifications, maps, plans, sections, and elevations in connection with the works;
 - (ii) the preparation of the scheme;
 - (iii) the supervision and inspection of the works during construction; and
 - (iv) printing and posting in connection with the scheme.

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70. Additional works and expenses

- (1) The corporation may include in a scheme any additional works, not being street works within the meaning of this Part, and may include the cost of those works and any other additional expenses in the estimate of the cost of the scheme.
- (2) No part of the cost of additional works or the additional expenses referred to in subsection (1) shall be included in the portion of the costs of the execution of the relevant scheme to be recovered from the frontagers at large or, unless he consents in writing, be charged to any of those frontagers.
- (3) The actual and estimated cost of such additional works and additional expenses as are referred to in subsection (1) shall be deemed to be such respective amounts as the corporation's engineer certifies to be properly referable thereto.
- (4) The additional costs and charges referred to in subsection (1) that a frontager consents to be charged with in respect of his land are a charge on that land.

71. Notice of preparation of scheme

Where a scheme has been prepared, the corporation shall –

- (a) cause a copy of the scheme to be kept at the office open for inspection by a person

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interested in or affected by the scheme until the scheme is finally settled or abandoned; and

- (b) cause to be served on each owner of land intended to be made liable under the scheme a written notice stating –
 - (i) that the scheme has been prepared and may be inspected at the municipal office;
 - (ii) the estimated amount that is to be recovered from him as his share of the cost of the scheme;
 - (iii) that within 14 days from the service of the notice he may, by written notice to the corporation, object to the scheme or any part of it; and
 - (iv) the grounds on which such an objection may be made.

72. Objection by owners

- (1) Within 14 days after the service on an owner of land of a notice under section 71 in relation to a scheme, the owner may, by written notice served on the corporation, object to the scheme on any of the following grounds:
 - (a) that there has been a material informality, defect, or error in respect of the scheme

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- or its preparation or that the scheme is invalid for any reason;
- (b) that the amount of liability apportioned to him is erroneous;
 - (c) that an owner of land intended to be made liable under the scheme should not be made so liable or that an owner of land not intended to be made liable under the scheme should be made so liable;
 - (d) that it is intended to make frontagers or a frontager liable under the scheme for any costs or expenses for which they or he should not be made so liable;
 - (e) that, having regard to the standard requirements, the proposed works or any of them are unnecessary, insufficient, too costly, or unreasonable;
 - (f) that the portion of the cost of the execution of the scheme that is to be recovered from frontagers is excessive or unreasonable; and
 - (g) that the apportionment of liability among frontagers is unfair or that in the circumstances an excessive share of the cost of the scheme is to be recovered from a frontager.
- (2) Where an objection to a scheme has been made under subsection (1), the corporation may, in consideration of the withdrawal of the objection,

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undertake to amend the scheme in such manner as is specified in the undertaking, but, if the amendment would affect a frontager who did not make the objection, the corporation may not give an undertaking under this subsection unless that frontager notifies the corporation in writing that he does not object to the amendment.

- (3) The corporation shall refer to a magistrate an objection made to a scheme under subsection (1) that has not been withdrawn and, on the hearing of the reference, the magistrate –
 - (a) may make an order quashing the scheme or directing that it may be adopted either without amendment or as amended in the manner specified in the order; and
 - (b) may make any further orders, including orders as to costs, as he thinks fit.
- (4) On the hearing of a reference under subsection (3) in respect of an objection to a scheme, the corporation and the owner of the land in respect of which the objection was made are entitled to be heard and, before making an order specifying an amendment to the scheme, the magistrate shall give the owners of land who would be affected by the amendment an opportunity of being heard.

73. Adoption and coming into effect of scheme

- (1) A scheme may be adopted by the corporation –

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- (a) if no objections have been made to the scheme under section 72 or all the objections so made have been withdrawn; or
- (b) if an order is made under section 72 by a magistrate directing that the scheme may be adopted –

but where an objection to the scheme was withdrawn on the giving of an undertaking under that section or the order referred to in paragraph (b) directed that the scheme may be adopted with amendment, the scheme, if it is adopted, shall be adopted as amended in the manner specified in that undertaking or order.

- (2) A scheme comes into effect as adopted under this section and, notwithstanding a defect, error, or apparent invalidity in the scheme or in its preparation, adoption, or approval or in a procedure or matter relating thereto, is valid and shall not be challenged in any court, and every owner of land intended to be made liable under the scheme is liable accordingly.

74. Execution of scheme

- (1) Where a scheme comes into effect, the corporation may carry out, in accordance with the scheme, the street works specified in it.
- (2) In carrying out the street works specified in a scheme, minor variations from the specifications of the scheme are permissible, but no extra

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expense incurred as the result of such a variation, which shall be deemed to be such amount as the council clerk certifies to be properly referable thereto, shall be included in the portion of the cost of the execution of the scheme to be recovered from the frontagers or, unless the clerk consents in writing, be charged to any of them.

- (3) On the completion of the street works specified in a scheme –
 - (a) the corporation's engineer shall submit to the corporation a certificate stating the date of the commencement of the works on the ground and the date of their completion; and
 - (b) the council clerk shall submit to the corporation a certificate stating the actual cost of the execution of the scheme and the actual amount that is to be recovered under the scheme from the frontagers.

75. Taking over of street on completion of works

On the completion of the street works specified in a scheme, the street in which they were constructed becomes a highway maintainable by the corporation.

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76. Payments by frontagers

- (1) When a scheme comes into effect, the corporation shall serve on each frontager written notice stating the sum for which he is liable under the scheme (exclusive of any additional costs and expenses charged to him under the scheme with his consent) and, subject to this section, the owner becomes liable to pay that sum to the corporation.
- (2) If the actual amount, as certified by the council clerk, of the portion of the cost of the execution of a scheme that is to be recovered from the frontagers at large is less than, or more than, the estimated amount as set out in the scheme, the liability of each frontager under the scheme is reduced or increased, as the case may be, so that his total liability bears to that actual amount the same proportion as the liability originally arising under subsection (1) bore to that estimated amount.
- (3) Notwithstanding anything in subsection (2), the liability of a frontager shall not be increased under that subsection by more than 20 per cent.
- (4) The sum payable in respect of land by a frontager under this section is a charge on that land and is payable by instalments in accordance with section 124 of the *Local Government Act 1993* and, if his liability is reduced or increased under subsection (2), the necessary adjustment shall be made by reducing or increasing by equal

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amounts the instalments subsequently becoming payable.

- (5) The corporation may recover a sum that a person is for the time being liable to pay to it under this section, notwithstanding that his liability may subsequently be reduced, but the corporation shall repay a sum paid in excess of that required to discharge the liability as so reduced.

77. State contribution

- (1) Where a corporation has prepared a scheme for the carrying out of street works that comprise or include the construction of a carriage-way, the Minister for State Highways may, on the application of the corporation, undertake to make a contribution to the corporation of an amount equal to one-third of the cost of the construction of the carriage-way.
- (2) A scheme in respect of which an undertaking is given under this section shall contain an estimate of the cost of the carrying out of the construction of the carriage-way to which the undertaking relates, that estimate in the scheme as prepared by the corporation, so far as the Minister for State Highways is satisfied with the estimate, being referred to in this section as the provisional estimate and the estimate in the scheme as it finally has effect, so far as that Minister is satisfied with that estimate, being so referred to as the final estimate.

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- (3) Where a scheme comes into effect in respect of which an undertaking has been given under subsection (1), the Treasurer shall, at the request of the Minister for State Highways, pay to the corporation the contribution to which the undertaking relates, calculated on the basis of the final estimate.
- (4) If the cost of the construction of a carriage-way, as certified by the council clerk, is less than the final estimate, one-third of the difference is a debt due to the Minister for State Highways by the corporation and, if it is more than that estimate, the Treasurer shall, on the application of the corporation, pay to it one-third of the difference, a sum falling due to be paid under this subsection being referred to in this section as a final adjustment.
- (5) If the Minister for State Highways is dissatisfied with a certificate of the council clerk given for the purposes of subsection (4), he may direct an investigation by the Secretary of the cost of the construction of the relevant carriage-way and the Secretary's certificate thereon has effect for the purposes of that subsection as if it were the certificate of the council clerk.
- (6) Sums payable by the Treasurer under this section shall be paid by the Treasurer out of the Public Account, and an amount so payable is accordingly, by virtue of this subsection, appropriated to the extent necessary, and any sums paid under this section to the Minister for

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State Highways shall be paid into the Public Account.

(7) The Minister for State Highways shall not give an undertaking in a financial year under this section if the contribution that is required to be paid in pursuance of the undertaking, calculated on the basis of the provisional estimate, together with –

(a) the amount of the sums that have already fallen due to be paid under subsection (2) in respect of undertakings given in that financial year; and

(b) the amount that will fall due to be paid in respect of the other undertakings given in that financial year (calculated on the basis of the preliminary estimates) –

exceeds \$50 000.

(8) For the purposes of subsection (7), an undertaking given in respect of schemes that have been abandoned under section 80 shall be disregarded.

(9) Where, in the case of an undertaking given under this section, the amount of the sum falling due to be paid by the Treasurer as a final adjustment under subsection (4) exceeds 20 per cent of the amount of the sum payable under subsection (2), the amount of \$50 000 referred to in subsection (7) shall, in respect of the financial year in which that final adjustment becomes payable, be

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deemed to be reduced by the amount of the final adjustment.

- (10) A reduction referred to in subsection (9) shall be deemed not to have been made in a financial year if the effect of making such a reduction would be that no further undertaking could be given under this section in that financial year by reason of the provisions of subsection (7) and, where no further undertaking could be so given, the sum of \$50 000 referred to in subsection (7) shall be deemed to have been reduced by the amount of the final adjustment in respect of the following financial year.

78. Application to boundary streets

- (1) Where the boundary between an area to which this Part applies and an area to which it does not apply lies along a length of street, a scheme may provide for the construction of street works in that length of street that will lie wholly or partly outside an area to which this Part applies, but that scheme shall not provide for the recovery from frontagers of the cost of constructing works outside an area to which this Part applies or for the recovery of a sum from a person in respect of his ownership of land outside that area.
- (2) Subsection (1) does not authorize the construction of works by a corporation outside its municipality except by agreement with the corporation of the municipality in which the works are to be constructed.

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- (3) Where the street works referred to in subsection (1) include or comprise the construction of a carriage-way, section 77 applies in relation to the works as if for the reference in subsection (1) of that section to one-third of the cost of the construction of the carriage-way there were substituted a reference to one-half of that cost.
- (4) Where an undertaking is given by the Minister for State Highways under section 77 in respect of a scheme to which this section applies, subsection (6) of that section does not apply in respect of the sums required to be paid by the Treasurer in pursuance of the undertaking, but those sums shall be paid out of money provided by Parliament for the purpose.
- (5) In relation to the street works referred to in subsection (1), section 67(3) does not require the construction or making good by a council of a footpath, kerb, or drain in the part of the street that is not within the municipality.

79. Urgent works

- (1) If it considers it urgently necessary to do so, a corporation may, without a scheme, carry out in a street any part of the works referred to in section 67, and the cost of carrying out those works may be included in a scheme subsequently made by the corporation in respect of the remainder of those works carried out in that street, and, with any necessary modifications, this Part applies to the scheme as

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if the part of the works previously carried out were part of the works to be authorized by the scheme.

- (2) The corporation shall maintain any works carried out under this section as if those works were part of a local highway maintainable by the corporation.
- (3) A corporation that carries out any works in a street under this section or maintains any of those works does not, by reason of carrying out or maintaining those works, incur any liability to maintain the street.

80. Abandonment of schemes

- (1) The corporation may, by resolution, abandon a scheme, whether or not it has taken effect.
- (2) If, within 3 years after a scheme has taken effect, the street works authorized by it have not been completed, the scheme shall, unless the Minister in writing otherwise directs, be deemed to have been abandoned.
- (3) Where a scheme has been abandoned, all sums paid by a person under the scheme shall be refunded and no further sums are recoverable by the corporation under the scheme.
- (4) Where a scheme is abandoned in respect of which an undertaking has been given under section 77, any money paid to the corporation

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under the undertaking shall be repaid to the Treasurer.

- (5) Notwithstanding that a scheme for the carrying out of street works in a street or a part of a street is abandoned pursuant to this section, the corporation may, subject to this Division, prepare, adopt, and execute another scheme for the carrying out of street works in the street or part of the street.

81. Record of charges

- (1) The corporation of a municipality shall keep such record or register that its officers can, within a reasonable time, inform a person who wishes to know the contributions that have been paid or are required to be paid by a frontager under this Part.
- (2) A corporation that fails to keep a record or register that it is required to keep under subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 2 penalty units.

82. Special provisions arising out of Crown land being made subject to a scheme

Where any land to which a scheme applies is Crown land –

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- (a) a notice required to be served on the Crown under section 71 shall be served on;
- (b) a notice of objection authorized to be served by the Crown under section 72 shall be served on behalf of the Crown by; and
- (c) a reference in section 72(2) to a frontager shall be read as a reference to –

such officer or other person as may be prescribed in the regulations.

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PART VII – CONTROLLED PARKING

94. Interpretation of Part VII

- (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires –

controlled parking means parking authorized by a parking meter or parking voucher or by a virtual meter;

monetary penalty means a monetary penalty within the meaning of the *Monetary Penalties Enforcement Act 2005*;

park, in relation to a vehicle, means stop the vehicle or allow it to remain in a place where the driver or person in charge of the vehicle intends it to remain stationary, otherwise than –

- (a) because the stopping of traffic prevents movement; or
- (b) for so long only as is required to set down or take up passengers or goods without waiting;

parking attendant means a person employed by a corporation to supervise parking in parking spaces;

parking meter means a device installed pursuant to section 95(1), that, on payment of money and by reference to a particular parking space, records the

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length of time for which a vehicle is, or is permitted to be, parked in that space;

parking space has the meaning assigned to that expression by section 95(2);

parking voucher means a document issued by a voucher machine installed by the corporation or the Minister for State Highways pursuant to section 95(1);

prescribed hours, in relation to a parking space, means the hours and days during which, pursuant to section 96, controlled parking operates at the place at which that space is situated;

registered operator means a registered operator within the meaning of the *Traffic Act 1925*;

vehicle means a vehicle within the meaning of the *Vehicle and Traffic Act 1999*;

virtual meter means a piece of software that can be run on a computer, mobile phone or other electronic device and that allows for payment to be made for parking in a parking space;

voucher machine means a device that, on payment of an amount of money, issues a document or documents—

- (a) bearing, with or without other words, words indicating that the holder is entitled to park a vehicle

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in a place specified in the voucher and the name of the corporation for which the document or documents is or are issued; and

- (b) bearing an imprint indicating the date and time of issue.
- (2) In relation to any rights or liabilities arising from the parking of a vehicle, references in this Part to the registered operator of the vehicle shall be read as references to the person who was the registered operator of the vehicle at the time it was parked.

94A. Proceedings in relation to offences under this Part

- (1) This section applies to an offence under this Part.
 - (2) Subject to this section, where an offence to which this section applies occurs in relation to a vehicle, the person who, at the time the offence occurred, was the registered operator of the vehicle is, by virtue of this section, guilty of the offence as if he or she were the person driving or in charge of the vehicle at that time.
- (2A) Subject to this section, where an offence to which this section applies occurs in relation to a thing other than a vehicle, the person who, at the time the offence occurred, was the owner of the thing is, by virtue of this section, guilty of the offence as if he or she were the person in charge of the thing at that time.

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- (3) A person is not guilty of an offence under subsection (2) or subsection (2A) if he or she establishes that he or she was not driving or in charge of the vehicle or thing at the time of the occurrence of the offence.
- (4) If a registered operator or owner who has been served with an infringement notice under section 100 wishes to establish that he or she was not driving or in charge of the vehicle or thing at the time of the occurrence of the offence, he or she must –
- (a) lodge with the corporation a notice of election to have the matter heard in court;
or
 - (b) provide a statutory declaration to the corporation stating that at the time of the offence –
 - (i) the vehicle was being driven by some other person without his or her knowledge or consent; or
 - (ii) the vehicle or thing was in the charge of another person and stating the name of that person;
or
 - (iii) the person had completed as transferor an application for the transfer of the registration and stating the name of the transferee;
or

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- (iv) the person was not the owner of the thing and stating the name of the owner.
- (5) A statutory declaration provided to the corporation under subsection (4) is taken to be an application for withdrawal of an infringement notice under section 24 of the *Monetary Penalties Enforcement Act 2005*.
- (5A) If an infringement notice in relation to an offence is withdrawn on the basis of a statutory declaration provided to the corporation under subsection (4)(b)(ii), (iii) or (iv), this section applies to and in respect of the person named in the statutory declaration as being in charge of the vehicle or thing, as being the transferee of the vehicle or as being the owner of the thing as if he or she were the registered operator of the vehicle or the owner of the thing in relation to which the offence occurred.
- (6) A person is not entitled to rely on a defence as referred to in subsection (3) unless he or she gives, within 21 days of the service on him or her of a complaint and summons relating to the offence, to the clerk of the court specified in the summons, written notice of his or her intention to rely on that defence, together with a statutory declaration in accordance with subsection (4)(b).
- (7) Proceedings must not be heard in relation to an offence to which this section applies unless the defendant referred to in the complaint and summons relating to the offence was, at the time of the service of the complaint and summons on

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him or her, notified in writing of the provisions of this section.

- (8) A complaint and summons to which this section relates is to contain an address at which a notice under subsection (6) may be lodged.
- (9) Where there are 2 registered operators of a vehicle, or 2 owners of a thing –
 - (a) a prosecution for an offence to which this section applies may be brought against one or both of them; and
 - (b) if the court is satisfied that such an offence has been committed and a defence is not established under subsection (3), the defendants, or any one of them who does not establish such a defence, may be found guilty of the offence.
- (10) Where a monetary penalty is imposed on 2 registered operators of a vehicle or 2 or more owners of a thing who have been found guilty, or who have been taken to have been convicted under section 20 of the *Monetary Penalties Enforcement Act 2005*, of an offence to which this section applies, the total of any monetary penalty imposed in respect of that offence is not to exceed the maximum monetary penalty that could have been imposed if only one of them had been found guilty, or taken to have been convicted, of that offence.
- (11) Where –

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- (a) a person on whom a complaint and summons, relating to an offence to which this section applies has been served, gives to the clerk of the court specified in the summons written notice of his or her intention to rely on the defence under subsection (3) together with a statutory declaration stating that the vehicle or thing was in the charge of another person and stating the name of that person; and
 - (b) proceedings in respect of that offence are taken against the person named in the statutory declaration as being in charge of the vehicle or thing –

the statutory declaration is evidence that the person named in the statutory declaration as being in charge of the vehicle or thing was in charge of the vehicle or thing at all relevant times relating to the offence.

- (12) Nothing in this section affects the liability of the actual offender but, where a monetary penalty has been imposed on or recovered from any person in relation to an offence to which this section applies, a further monetary penalty must not be imposed on or recovered from any other person in relation to the offence.

95. Establishment of controlled parking

- (1) On a part of a highway in a city or town on which vehicles without distinction of any kind may be lawfully parked, the corporation or, if the highway is a State highway, the Minister for

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State Highways, may mark out spaces and may install–

- (a) a parking meter that operates in respect of each space so marked out; or
 - (b) a voucher machine for each of those spaces, or for a number of those spaces, as indicated on the machine or on a notice in the vicinity of that machine.
- (2) Subject to subsection (14) and section 99, a place that, in accordance with this section, has been marked and–
- (a) provided with a parking meter; or
 - (b) has a voucher machine available for its sole use or for the use of that place and a number of other places so marked–

constitutes a parking space for the purposes of this Part even if the highway on which the parking space is located changes from a local highway to a State highway, or vice versa.

- (3) The parking meter that operates in respect of a parking space pursuant to subsection (1)(a) may be the only meter on one post or other support or one of a set of meters on one post or other support.
- (4) An indication may be made on a parking meter specifying the parking space for which it is installed but, in the absence of such an indication, a parking meter shall be deemed to have been installed –

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- (a) for the parking space in or above which it has been installed; or
 - (b) if it is not in or above a parking space, for the parking space a point on the boundary of which is nearer to the parking meter than any point on the boundary of any other parking space.
- (5) Where a part of the boundary of a parking space is a straight line or the line of a kerb or the edge of a footway, that part of the boundary shall be deemed to be sufficiently marked for the purposes of this Part if the ends of that space are marked on the surface of the highway.
- (6) Not more than one vehicle shall be parked in a parking space.
- (7) Notwithstanding subsection (6), as many motor cycles as can be parked wholly within a parking space may be parked in that space.
- (8) On a parking meter shall be plainly written –
- (a) the period for which the parking meter should run on the payment of an amount of money; and
 - (b)
 - (c) the maximum time, if any, for which a vehicle may be parked in the parking space for which the parking meter is installed; and

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- (d) the prescribed hours during which controlled parking operates in that parking space.
- (9) There shall be plainly written on a voucher machine or on a notice in the vicinity of a voucher machine –
- (a) an indication of the parking space or parking spaces for which the machine issues parking vouchers;
 - (b) the period for which a parking voucher issued on the payment of an amount of money entitles a vehicle to be parked in such a parking space on the day of issue of the voucher;
 - (c) the maximum time, if any, for which a vehicle may be parked in such a parking space; and
 - (d) the prescribed hours during which controlled parking operates in such a parking space.
- (10)
- (11) Where a person obtains from a voucher machine a parking voucher or parking vouchers, the voucher or vouchers authorize the parking of a vehicle, in a parking space for which the machine issues parking vouchers, on the date shown on the voucher or vouchers –
- (a) where one voucher is obtained, for the period for which the voucher authorizes

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the vehicle to be parked (in this subsection referred to as “the prescribed period”), commencing at the time shown on the voucher as the time of the issue of the voucher; and

- (b) where two or more vouchers are obtained at the same time, for the prescribed period in respect of the first voucher, commencing at the time shown on the vouchers as the time of the issue of the vouchers, together with a further prescribed period in respect of each voucher so obtained in addition to the first.

(12) Where –

- (a) a person obtains from a voucher machine one or more parking vouchers authorizing the parking of a vehicle in a parking space for which the machine issues parking vouchers; and
- (b) before the expiration of the period during which the parking of a vehicle in such a parking space is authorized by that voucher or those vouchers, the person obtains from the machine a further voucher or vouchers –

subsection (11) applies as if the first voucher or vouchers had been obtained at the same time as the voucher or vouchers referred to in paragraph (a) and the time of issue shown on the further voucher or vouchers were the same as the time

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of issue shown on the voucher or vouchers referred to in that paragraph.

- (13) Where, pursuant to subsection (7), more than one motor cycle is parked in a parking space –
- (a) provided with a parking meter, the maximum time for the parking of a vehicle written on the parking meter commences for each of those motor cycles when the first of them is parked in that space; or
 - (b) that has a voucher machine available for its use, the parking of each of those motor cycles in that space shall be authorized by a parking voucher or parking vouchers obtained from the machine and displayed on the cycle as provided in section 97(2).
- (14) Parking spaces may be made not only in places where vehicles without distinction of any kind may lawfully be parked at all times, but also in places where those vehicles may lawfully be parked only during certain periods, but if they are made in the latter places they shall be deemed not to be parking spaces outside those periods.

96. Hours of operation of controlled parking

- (1) Subject to this section, controlled parking operates in respect of –

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- (a) local highways within a municipality only during such hours and days as the corporation may, by public notice, prescribe in respect of those local highways; and
- (b) State highways within a municipality only during such hours and days as the Minister for State Highways may, by public notice, prescribe in respect of those State highways.
- (2) If –
- (a) a corporation or the Minister for State Highways prescribes hours of operation of controlled parking in respect of a highway in accordance with subsection (1); and
- (b) that highway changes from a local highway to a State highway, or vice versa –
- those hours of operation continue to apply until different hours of operation are prescribed in respect of that highway in accordance with subsection (1).
- (3) On a day or part of a day that is a statutory holiday for a city or town, controlled parking operates, but operates only at such places in the city or town during such hours as are prescribed by public notice in relation to that day or part of a day.

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- (4) No hours shall be prescribed under subsection (3) in respect of places in a city or town unless the corporation or the Minister for State Highways is satisfied that most of the shops in that city or town will be open during those hours.
- (5) A notice under subsection (3) may –
 - (a) apply only to a particular statutory holiday; and
 - (b) make different provisions with respect to different statutory holidays.

97. Enforcement of controlled parking

- (1) During prescribed hours, a vehicle shall not remain parked –
 - (a) in a parking space for which there is a parking meter –
 - (i) unless there is time registered on the meter or virtual meter relating to that parking space; or
 - (ii) for a period longer than the maximum period notified on the meter or sign relating to that parking space;
 - (b) in a parking space for which a voucher machine is available –
 - (i) unless the parking of the vehicle is authorized by a parking voucher or parking vouchers

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obtained from the machine and displayed on the vehicle, or there is time registered on a virtual meter relating to that parking space; or

- (ii) for a period longer than the maximum period notified on the voucher machine or sign relating to that parking space;
- (c) in a parking space in which another vehicle, that was parked before the first-mentioned vehicle stopped there, remains parked in it, unless those vehicles are motor cycles that are parked wholly within that parking space; or
- (d) partly inside and partly outside a parking space.

Penalty: In the case of –

- (a) a first or second offence, a fine not less than 0.5 of a penalty unit and not exceeding one penalty unit; or
 - (b) a third or subsequent offence, a fine not less than one penalty unit and not exceeding 2 penalty units.
- (2) For the purposes of subsection (1)(b)(i), a parking voucher shall be deemed to be displayed on a vehicle –

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- (a) not being a motor cycle or trailer, if the voucher is so placed on the dashboard against the interior of a windscreen or window of the vehicle; or
- (b) being a motor cycle or trailer, if the voucher is so attached to the vehicle –

that all writing and imprinted words, figures, and symbols appearing on the side of the voucher bearing the date and time of issue are capable of being clearly read by a person standing beside the vehicle on the side of it that is nearest to the kerb.

(3) Subsection (1) does not apply to –

- (a) bicycles and tricycles moved only by human strength;
- (b) trolleys with only two wheels if those wheels are less than 310 millimetres in diameter;
- (c) vehicles used as ambulances being used on urgent ambulance services; or
- (d) vehicles used by a fire brigade in connection with a fire with which the brigade is then dealing.

(4 - 5)

(6) Without affecting the availability of any other defence, it is a defence in proceedings for an offence against this section–

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- (a) that, in the case of an offence of parking in a parking space for which there is a parking meter—
 - (i) that time could not be registered on the parking meter;
 - (ii) that parking meter, having been set running by or on behalf of the person who parked the vehicle, failed to run for the time notified on it for the amount of money paid;
 - (iii) the vehicle had at the relevant time just been parked and the person who parked the vehicle or another person on his behalf had not had a reasonable opportunity to set that parking meter running; or
 - (iv) by reason of illness or accident or the necessity for treatment as a result of illness or accident, the driver of the vehicle was unable to set that parking meter running;
- (b) that, in the case of an offence of parking in any other parking space—
 - (i) the voucher machine issuing parking vouchers for that space could not be made to operate;
 - (ii) the vehicle had at the relevant time just been parked and the

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person who parked the vehicle or another person on his behalf had not had a reasonable opportunity to obtain a parking voucher or parking vouchers from that voucher machine;

- (iii) the person who parked the vehicle had displayed a parking voucher or parking vouchers in accordance with subsection (1)(b)(i) and had taken reasonable steps to ensure that the voucher or vouchers remained so displayed; or
 - (iv) by reason of illness or accident or the necessity for treatment as a result of illness or accident, the driver of the vehicle was unable to operate that voucher machine;
- (c) that the vehicle was at the relevant time in the parking space in compliance with the directions of a police officer or parking attendant;
- (d)
- (e) that the driver of the vehicle had not parked it at the relevant time; or
- (f) that, by reason of a defect in the vehicle or an accident, it was the duty of, or it was necessary for, the driver to draw off the road, that only a parking space was available, and that the vehicle could not

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since then up to the relevant time be driven on.

- (7) For the purposes of subsection (6)(a)(iii) or (6)(b)(ii), the question whether there was a reasonable opportunity shall be determined on the assumption that the driver had on his or her person sufficient means to set the parking meter running or to operate the voucher machine, as the case may be.
- (8) A defendant who wishes to rely on a defence provided in subsection (6) shall give written notice of his intended defence to the corporation within 7 days of the service of the complaint and summons on him but, if he fails to do so and raises the defence at the hearing, the corporation is entitled to an adjournment to enable it to meet the defence and to such costs of the adjournment as justice requires.
- (9) A summons on a complaint for an offence under this section shall set out subsections (6), (7), and (8).
- (10) If a registered operator proceeded against under this section alleges that another person parked the vehicle at the relevant time, a justice may, on the registered operator's application, issue a summons to that other person to attend the hearing of the complaint against the registered operator at which, if the contravention of subsection (1) is proved, the court may—
- (a) hear and determine whether the other person did so park the vehicle; and

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- (b) if it finds that he did, discharge the registered operator and adjudge the other person to pay the penalty for the contravention.
- (11) On a complaint for an offence under this section—
- (a) all allegations in the complaint are, unless denied by the defendant, sufficient evidence of the facts alleged in the complaint;
 - (b) a certificate signed by the Registrar of Motor Vehicles stating that a person named or referred to in the certificate was, as at a specified date, the registered operator, within the meaning of the *Vehicle and Traffic Act 1999*, of a vehicle with a specified registration number is admissible as evidence that the person named or referred to in the certificate was the registered operator of the vehicle on the date specified in the certificate;
 - (c) the production of a document purporting to be signed by the officer in charge of the records of the registration of motor vehicles and trailers in a State of the Commonwealth other than this State or a Territory of the Commonwealth that a person referred to or named in the document was the registered operator of a motor vehicle referred to in the document by its registered number on a

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date mentioned in the document is admissible and is evidence that that person was the registered operator of that motor vehicle on that date, and any such document may refer to or name any number of persons and vehicles; and

- (d) in the case of a contravention with a vehicle operating a hire and drive passenger service within the meaning of the *Passenger Transport Services Act 2011*, evidence by a person that he has inspected the records of the registered operator of the vehicle and that they show that, at the relevant time, the vehicle was let for hire to the defendant is admissible and is evidence that it was so let for hire.

98. Obstruction of use of parking spaces

- (1) A person must not place or leave—
- (a) a bicycle or tricycle of a kind referred to in section 97(3)(a);
 - (b) a trolley of a kind referred to in section 97(3)(b); or
 - (c) any other vehicle or thing (other than a vehicle of a kind referred to in section 97(3)(c) or (d))—

so as to obstruct the use of a parking space for the parking of a vehicle.

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Penalty: In the case of –

- (a) a first or second offence, a fine not less than 0.5 of a penalty unit and not exceeding one penalty unit; or
 - (b) a third or subsequent offence, a fine not less than one penalty unit and not exceeding 2 penalty units.
- (2)
- (3) Without affecting the availability of any other defence, it is defence to a complaint for an offence under this section–
- (a)
 - (b) that the defendant had not placed or left the vehicle or other thing at the relevant time; or
 - (c) that, in the case of a vehicle, by reason of a defect in the vehicle or an accident, it was the duty of, or it was necessary for, the defendant to draw off the road and, in doing so or attempting to do so, the defendant had placed the vehicle so as to obstruct the use of a parking space for the parking of another vehicle.
- (4) A defendant who wishes to rely on a defence provided in subsection (3) shall give written notice of his intended defence to the corporation within 7 days of the service of the complaint and

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summons on him but, if he fails to do so and raises the defence at the hearing, the corporation is entitled to an adjournment to enable it to meet the defence and to such costs of the adjournment as justice requires.

- (5) A summons on a complaint for an offence under this section shall set out subsections (3) and (4).
- (6) If a person proceeded against under this section (in this subsection referred to as “the defendant”) alleges that another person placed or left the vehicle or other thing at the relevant time, a justice may, on the defendant’s application, issue a summons to that other person to attend the hearing of the complaint against the defendant at which, if the contravention of subsection (1) is proved, the court may—
 - (a) hear and determine whether the other person did so place or leave the vehicle or other thing; and
 - (b) if it finds that he did, discharge the defendant and adjudge the other person to pay the penalty for the contravention.
- (7) All allegations in a complaint for an offence under this section are, unless denied by the defendant, sufficient evidence of the facts alleged in the complaint.

99. Closure of parking spaces in certain cases

- (1) An authorized officer may in or by a parking space or on the parking meter for it, if the space

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is provided with a parking meter, place a notice bearing –

- (a) the words “no parking”, “no standing”, or other words indicating that the space may not be used for the parking of vehicles; or
 - (b) the words “no parking without a municipal permit”.
- (2) A notice under subsection (1) has the effect of making the parking space to which it relates subject to the *Traffic Act 1925*.
- (3) For the purposes of subsection (1), ***an authorized officer*** means –
- (a) a police officer;
 - (b) an officer of the Transport Commission; or
 - (c) a person authorized by the corporation for the purposes of that subsection.
- (4) For the purposes of this section, the corporation may issue permits authorizing persons, on such terms and subject to such conditions or in such circumstances or for such purposes as may be specified in the permit, to park vehicles or allow vehicles to stand in a parking space that is subject to such a notice as is referred to in subsection (1)(b).
- (5) For the purposes of the foregoing provisions of this section, a vehicle parked or allowed to stand

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in a parking space in accordance with a permit issued under subsection (4) shall be deemed to be parked there with a municipal permit.

- (6) The terms on which a permit is issued under subsection (4) may be terms requiring the payment of fees prescribed by public notice.
- (7) Subject to any directions given by the corporation, the powers of the corporation under subsection (4) may be exercised on its behalf by its council clerk or by another officer of the corporation authorized by it for that purpose.
- (8) Section 97(1)(a) or (b) does not apply to a vehicle while it is parked or standing in a parking space in accordance with a permit issued under this section in respect of the vehicle.
- (9) Notwithstanding subsection (2), a person must not park a vehicle or allow it to remain parked or standing in a parking space contrary to the directions contained in a notice placed under subsection (1).

Penalty: A fine not less than 0.5 penalty units and not exceeding one penalty unit.

- (10)
- (11) Without affecting the availability of any other defence, it is a defence to a complaint for an offence under this section—
 - (a)

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- (b) that the driver of the vehicle had not parked it or left it standing at the relevant time; or
 - (c) that, by reason of a defect in the vehicle or an accident, it was the duty of, or it was necessary for, the driver to draw off the road and, in doing so or attempting to do so, the driver had parked the vehicle, or left it standing, in a parking space that was subject to such a notice as is referred to in subsection (1).
- (12) A defendant who wishes to rely on a defence provided in subsection (11) shall give written notice of his intended defence to the corporation within 7 days of the service of the complaint and summons on him but, if he fails to do so and raises the defence at the hearing, the corporation is entitled to an adjournment to enable it to meet the defence and to such costs of the adjournment as justice requires.
- (13) A summons on a complaint under this section shall set out subsections (11) and (12).
- (14) If a person proceeded against under this section (in this section referred to as “the defendant”) alleges that another person parked the vehicle or left it standing at the relevant time, a justice may, on the defendant’s application, issue a summons to that other person to attend the hearing of the complaint against the defendant at which, if the contravention of subsection (9) is proved, the court may—

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- (a) hear and determine whether the other person did so park the vehicle or leave it standing; and
 - (b) if it finds that he did, discharge the defendant and adjudge the other person to pay the penalty for the contravention.
- (15) All allegations in a complaint under this section are, unless denied by the defendant, sufficient evidence of the facts alleged in the complaint.

100. Infringement notices

- (1) A parking attendant may serve an infringement notice on the registered operator of a vehicle or on the owner of another thing if of the opinion that the vehicle or thing has been used in the commission of an offence under section 97, 98 or 99.
- (1A) A parking attendant or a council clerk may serve an infringement notice on a person referred to in section 94A(5A) in respect of an offence relating to a vehicle or other thing if of the opinion that the vehicle or other thing has been used in the commission of an offence under section 97, 98 or 99.
- (2) An infringement notice under subsection (1) may be served by affixing it to the vehicle or other thing in respect of which the offence occurred.
- (3) An infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.

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- (4) The prescribed penalty for an infringement notice issued for an offence under section 97, 98 or 99 is the sum specified in by-laws of the corporation of the municipal area in which the relevant parking space is situated.
- (5) Different sums may be specified for the purposes of subsection (4) according to the nature of the offence and whether payment is made within a specified time.
- (6) A person issued with an infringement notice under subsection (1) who wishes to rely on a defence under section 97, 98 or 99 may either elect to have the matter heard in court within the time allowed or provide a statutory declaration to the corporation within 28 days of the issue of the infringement notice setting out the details of the defence on which the person wishes to rely.
- (7) A statutory declaration provided to the corporation under subsection (6) is deemed to be an application for withdrawal of an infringement notice under section 23 of the *Monetary Penalties Enforcement Act 2005*.
- (8) A person who removes a notice affixed to a vehicle or other thing under subsection (1) so that its contents do not become known to the person in charge of the vehicle is guilty of an offence and is liable on summary conviction to a fine not exceeding one penalty unit.

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102. Removal of vehicles in certain cases from parking spaces

(1) Where—

- (a) a motor vehicle not registered under the *Vehicle and Traffic Act 1999* is parked in contravention of section 97(1);
- (b) a vehicle, being parked in a parking space in contravention of section 97(1), has remained parked in that parking space for more than 24 consecutive hours;
- (c) a vehicle is parked in contravention of section 97(1)(d);
- (d) a vehicle or other thing is placed or left in contravention of section 98(1); or
- (e) a vehicle is parked contrary to the directions contained in a notice placed under section 99(1)—

a prescribed authority may remove the vehicle or other thing to a place of safety and keep it there until the monetary penalty has been paid in accordance with this Part for the contravention and there has been paid to the corporation such fee as it may, by public notice, have prescribed in respect of the removal and detention of a vehicle or other thing under this section.

(2) In subsection (1), *prescribed authority* means —

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- (a) the corporation, in the case of a contravention referred to in paragraph (a), (b), (c), or (d) of that subsection; or
 - (b) the corporation or a police officer, in the case of a contravention referred to in paragraph (e) of that subsection.
- (3) In an action against the corporation or its servants or agents in respect of the removal of a vehicle under subsection (1) in which the defendant justifies the removal under paragraph (b) of that subsection, an averment by the defendant that the vehicle remained parked in a parking space for a specified period shall, in the absence of evidence to the contrary, be presumed to be true.

103. Recovery of parking fines from persons in default

- (1) Where, as a consequence of a vehicle being parked in a parking space, a parking fine has been paid by the registered operator of the vehicle, that person, unless he was the person who actually parked the vehicle, may recover a sum of an equivalent amount from a person who had control of the vehicle at the time it was parked or who actually parked the vehicle.
- (2) For the purposes of this section, each of the following sums shall be deemed to constitute a parking fine:
 - (a) a fine imposed by a court for an offence under section 97, 98 or 99;

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- (b) a monetary penalty payable in respect of an infringement notice issued for an offence under section 97, 98 or 99;
- (c - d)
- (e) a fee paid under section 102 for the removal or detention of a vehicle;
- (f) a sum recovered under this section;
- (g) a sum paid by way of costs incurred in connection with the payment of any of the sums mentioned in the foregoing provisions of this subsection.

104. Permits for use of parking spaces without operation of meters or use of parking vouchers

- (1) The corporation may issue a permit in respect of a vehicle that –
 - (a) is used for carrying goods, equipment, or materials in the course of trade, business, or an undertaking involving similar use of vehicles;
 - (b) is used necessarily by a professional or business man to carry on his profession or business;
 - (c) is used by a person suffering from a disability; or
 - (d) is used by the occupier of residential premises situated on part of a highway in which there are parking spaces who

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satisfies the corporation that there are no parking facilities in those premises –

entitling the vehicle when so used to be parked, subject to compliance with any conditions that may be specified in the permit, in a parking space without the operation of the parking meter for it or, as the case may be, without the use of parking vouchers, for not longer, at any one time, than the period specified in the permit.

- (2) The corporation may charge fees prescribed by it by public notice for the issue of permits under this section and may require payments to be made to the corporation in respect of the parking in parking spaces of the vehicle to which the permit relates.
- (3) Section 97(1)(a) or (b) does not apply to a vehicle while it is parked in a parking space in accordance with a permit issued under this section in respect of the vehicle.

105. Improper operation of parking meters and voucher machines

A person who –

- (a) operates a parking meter or voucher machine otherwise than in accordance with the instructions (if any) affixed to, or appearing on, the meter or machine;
- (b) inserts, or causes to be inserted, in a parking meter or voucher machine anything other than a coin, note or card

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issued by an authorised deposit-taking institution or other means of payment specified on the meter or machine;

- (c) operates, or causes to be operated, a parking meter or voucher machine otherwise than by a coin, note or card issued by an authorised deposit-taking institution or by any other means of payment specified on the meter or machine;
- (d) inserts, or causes to be inserted, a bent or damaged coin in a parking meter or voucher machine;
- (e) except with the authority of the corporation or the Minister for State Highways, damages, defaces, paints, writes on, obscures, or otherwise interferes with a parking meter, device for covering a parking meter, or voucher machine; or
- (f) except with the authority of the corporation or the Minister for State Highways, attaches or affixes anything to, places anything on, or stands anything against a parking meter, device for covering a parking meter, or voucher machine—

is guilty of an offence and is liable on summary conviction to a fine not exceeding 1 penalty unit.

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106. Offences in relation to parking vouchers

- (1) A person shall not interfere with, or remove, a parking voucher that is in or on a vehicle parked in a parking space, unless –
 - (a) he is the registered operator of the vehicle;
 - (b) he obtained the voucher;
 - (c) the voucher was obtained on his behalf;
or
 - (d) he is acting with the authority of the registered operator of the vehicle or the person by whom, or on whose behalf, the voucher was obtained.

Penalty: Fine not exceeding 1 penalty unit.

- (2) A person who, during prescribed hours, displays or causes to be displayed on a vehicle parked in a parking space a document resembling, or purporting to be, a parking voucher and calculated to deceive is guilty of an offence and liable on summary conviction to a fine not exceeding 2 penalty units.

107. Powers, &c., of parking attendants

- (1) A parking attendant shall be provided with a certificate of his employment by the corporation by which he is employed.

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- (2) A parking attendant, on production of his certificate of employment as such, may, at any reasonable time –
- (a) enter and remain in any premises at which, or at which he reasonably suspects, a person is carrying on the business of letting motor vehicles for hire;
 - (b) request any person found in or on the premises to –
 - (i) produce any records in the person's possession or control about the letting of vehicles for hire; and
 - (ii) answer questions about those records; and
 - (c) inspect, or take copies of, or make notes in respect of, any record referred to in paragraph (b) or any part of any such record.
- (3) Any person who –
- (a) prevents or attempts to prevent a parking attendant from exercising any power conferred on him by subsection (2);
 - (b) hinders or obstructs a parking attendant in the exercise of any such power; or

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- (c) fails to comply with a request of a parking attendant under subsection (2)(b)
-

is guilty of an offence and is liable on summary conviction to a fine not exceeding 3 penalty units or to imprisonment for a term not exceeding 1 month, or both, and, in the case of an offence under paragraph (c), to an additional fine not exceeding 0.5 penalty unit for every day during which the offence continues.

- (4) A person is not guilty of an offence under subsection (3)(c) by reason of his failure to answer any question referred to in subsection (2)(b)(ii) if he proves to the satisfaction of the court before which he is prosecuted for the offence that he did not know, and could not with reasonable diligence have ascertained, the answer to the question.
- (5) A person is not excused from answering any question if required to do so under subsection (2)(b) on the ground that the answer might tend to incriminate him or make him liable to a penalty, but the information provided by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (3) or (6).
- (6) Subject to subsection (7), a person who makes an answer to a question put to him pursuant to subsection (2)(b)(ii) by a parking attendant that is false or misleading in a material particular is guilty of an offence and is liable on summary

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conviction to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 3 months, or both.

- (7) It is a defence to a charge under subsection (6) if it is proved that, at the time the answer was made, the defendant believed on reasonable grounds that it was neither false nor misleading.
- (8) Where an answer to a question referred to in subsection (2)(b)(ii) or any information whatever is given to a parking attendant by an officer of a corporation within the meaning of the Corporations Act that is carrying on or has carried on the business of letting motor vehicles for hire, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this section, binding on and admissible in evidence against the corporation, unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation.
- (9) The provisions of subsection (8) are in addition to any rule of law relating to the binding effect and admissibility in evidence of statements made by any officer or employee of a corporation within the meaning of the Corporations Act.

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**PART VIII – MISCELLANEOUS AND
SUPPLEMENTAL**

Division 1 – Miscellaneous

109. Lighting of certain State highways: Contributions by corporations to lighting of certain State highways

- (1) A corporation may light, or arrange for the lighting of, a State highway within a city, town, or village in the municipality where there is a footpath on one side or on both sides of that State highway.
- (2) A corporation may pay contributions towards the cost of providing lighting for a State highway in the municipality other than a State highway to which subsection (1) applies.

110. Powers and duties of corporations in relation to State highways

- (1) A corporation may, with the consent of the Minister for State Highways and in accordance with such conditions as the Minister may impose, exercise the powers conferred by section 30 in respect of a State highway in the municipality and, in relation to the exercise of those powers in respect of that highway, this Act has effect as if it were a local highway maintainable by the corporation.
- (2) Where in a city, town, or village in a municipality there is a footpath on one side or on

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both sides of a State highway, the corporation is required to maintain such part of that highway as is provided in section 11 of the *Roads and Jetties Act 1935*.

- (3) For the purposes of facilitating work on land adjoining a State highway, a corporation, with the consent of the Minister for State Highways and in accordance with such conditions as the Minister may impose, may exercise the powers conferred by section 19 in respect of a State highway in the municipality and, in relation to the exercise of those powers in respect of that highway, this Act has effect as if the State highway were a local highway maintainable by the corporation.

- (4)

111. Powers of Minister for State Highways to open, alter, &c., local highways

- (1) Where a corporation has power to carry out highway works, not being works the cost of the carrying out of which is wholly or partly recoverable from the owner or occupier of any land, the Minister for State Highways may, after consulting the corporation, carry out those works.

- (2) The Minister for State Highways may acquire land for the purpose of carrying out works under this section.

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112. Liability of corporation to maintain road works carried out by the Crown

- (1) In this section, *authorized road works* means any of the following kinds of works which the Minister for State Highways carries out or, pursuant to section 5 of the *Roads and Jetties Act 1935*, makes funds available to a corporation to carry out:
 - (a) the laying out and clearing of a local highway;
 - (b) the forming and draining of a local highway;
 - (c) the paving of a local highway.
- (2) Where the Minister for State Highways has served on the corporation a notice signed by him declaring that authorized road works have been carried out, the corporation is liable in respect of the relevant local highway to the obligation specified in subsection (3) that is applicable to the particular works so carried out if that Minister has, before the commencement of those works, consulted the council about them.
- (3) On and after the receipt by it of a notice under subsection (2), the corporation shall, at its own expense, as the case requires –
 - (a) keep the local highway that has been laid out and cleared clear of timber and scrub;
 - (b) maintain the formation of the local highway that has been formed and keep

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clear and in good order all drains and, subject to section 111, all culverts on that highway; or

- (c) maintain and keep in good repair the local highway that has been paved.
- (4) If the corporation does not perform an obligation under subsection (3) in relation to authorized road works or fails to perform such an obligation to the satisfaction of the Minister for State Highways, that Minister may serve on the corporation a notice signed by him requiring the corporation to carry out, within the time specified in the notice, the maintenance or other work that it has failed to do or to carry out to that Minister's satisfaction.
- (5) If the corporation fails to comply with a notice under subsection (4) within the time specified in the notice, the Minister for State Highways may carry out the maintenance or other work to which the notice relates and the cost of that work, as certified by that Minister, is a debt due and payable by the corporation to the Crown and is recoverable accordingly.

113. Recovery of subscriptions towards making or maintenance of a highway

- (1) Any subscribers to a written agreement to pay any money for or towards the making or maintaining of a highway vested in or under the control of a council shall pay the sums of money so agreed to be paid within such time and in such proportions as may be expressed in the

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agreement, and where no time is, or proportions are, so expressed, then at such time and in such proportions as the council directs.

- (2) Money payable under subsection (1) shall be demanded by and paid to the treasurer or collector of the corporation and is a charge on the land owned by each subscriber to the relevant agreement.

114. Right of private persons opening new streets to obtain contributions

- (1) On the written application of an owner about to lay out or construct a new street in a city or town, the corporation may consider whether the proposed street will benefit the owners of adjoining or adjacent lands and may, on the request of the owner, by notice published in the *Gazette*, define a special district that shall be liable to contribute to the cost of constructing the street to comply with the standard requirements.
- (2) The amount of the contribution to be made by each owner of land within a special district defined by notice under subsection (1) shall be fixed by the corporation and published with a list of the lands affected, either with the notice defining the district or in some subsequent issue of the *Gazette*.
- (3) The corporation shall serve written notice of his contribution on each owner of land defined by notice under subsection (1).

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- (4) An owner of land who is served with a notice under subsection (3) may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision to fix the amount of the contribution.
- (5) Every other owner of land within the special district is entitled to be made a party to the proceedings relating to the review of the decision to fix the amount of the contribution.
- (6) On publication under subsection (2) and subject to the determination of a review in relation to the amount of the contribution, the published contributions—
 - (a) are a charge on the lands of each respective owner;
 - (b) are payable when and as fixed by the corporation; and
 - (c) are recoverable in the same manner as contributions by frontagers under Part V.
- (7) The amount of all such contributions when received by the corporation shall, after the deduction of any commission or other expenses of collection, be paid to the owner constructing the new street.
- (8) Whenever the corporation considers that a proposed new street will contribute to the accommodation of, and be a convenience to, the inhabitants of the city or town sufficiently to justify the making of a contribution out of the rates towards the cost of its construction, the

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corporation may pass a special resolution for making a contribution accordingly, but no such contribution shall exceed one-third of the cost.

115. Retention of petrol-pumps in highways

(1) In this section –

owner, in relation to a petrol-pump, includes the holder, or the last holder, of the permit issued in respect of the pump;

permit means a permit issued under section 620 of the *Local Government Act 1962*;

prescribed conditions, in relation to an existing pump, means the conditions on which the permit was issued in respect of the pump or, if those conditions have subsequently been varied, those conditions as so varied.

(2) This section applies to a petrol-pump in a highway that was erected before the commencement of this Act and the apparatus, appliances, pipes, and conduits laid down or erected in the highway for the purpose of its operation for the sale and supply of petrol.

(3) A petrol-pump, apparatus, appliance, pipe, or conduit referred to in subsection (2) is in this section referred to as an existing pump.

(4) A permit that was in force immediately before the commencement of this Act in respect of an existing pump continues in force so as to

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authorize, subject to compliance with the prescribed conditions –

- (a) the continuance of the pump in the highway and the carrying out in the highway of such works as are necessary for its maintenance or operation; and
 - (b) the sale and supply of petrol from the pump, but, if the permit was issued only for a specified term, only during the remainder of that term and such further term as the corporation may from time to time allow.
- (5) Where the corporation allows a further term for the purposes of subsection (4), it may vary or alter the prescribed conditions and may make a charge in consideration of its allowing the further term.
- (6) In respect of a pump in a State highway, the corporation shall not allow a further term for the purposes of subsection (4).
- (7) The corporation may, by written notice served on the owner of an existing pump, require the removal of the pump if –
- (a) its continuance in the highway is not authorized by a permit;
 - (b) there has been a breach of, or failure to observe, the prescribed conditions;

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- (c) the corporation is of the opinion that the pump is, or is likely to become, a danger or obstruction to traffic; or
 - (d) the pump is no longer used.
- (8) A notice in relation to an existing pump served under subsection (7) shall specify the time within which the pump is required to be removed and may require steps to be taken for the reinstatement of the highway consequent on the removal of the pump.
- (9) If the requirements of a notice served under subsection (7) are not complied with, the corporation may itself carry out those requirements and recover the reasonable cost of so doing from the owner.
- (10) Where a charge was made for the issue of a permit in respect of a specified term or in respect of such a term as is referred to in subsection (5) and, in pursuance of a requirement made under subsection (7), the petrol-pump to which the permit relates is removed within that term, the corporation shall pay or allow to the holder of the permit a proportionate part of the fee paid in respect of the unexpired portion, if any, of that term.
- (11) A corporation does not incur any liability by reason of the issue of a permit, or in respect of anything done or omitted to be done by the holder of it, or of any injury, damage, or loss occasioned to a person in consequence of the issue of the permit.

116. Tramways along or across highways

The Governor may, by proclamation, on the recommendation of the corporation, authorize the laying down, construction, and maintenance of a tramway or railway along or across a local highway, subject to such terms and conditions as may be recommended by the corporation.

Division 2 – Supplemental

117. Rights and liabilities of occupiers

- (1) Where by notice under this Act a person, as an occupier of land, has been required to carry out any work or do any other thing and he is not entitled under the conditions of his occupancy to carry out that work or do that other thing, he shall nevertheless be deemed to be entitled –
 - (a) to do anything necessary to comply with the requirements of the notice; and
 - (b) to recover from the owner any expenses reasonably incurred by him in complying with any of those requirements and any sums recovered from him by the corporation arising from a failure to comply with any of those requirements.
- (2) Where under this section an occupier of land is entitled to recover any sums from the owner of the land, he may deduct those sums from any rent payable by him in respect of the land.

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118. Occupier preventing owner from complying with Act

- (1) If the occupier of any land prevents the owner of it from complying with a requirement imposed by or under this Act, a justice to whom application is made for that purpose shall, by written order, require that occupier to permit the carrying out of such works as the justice is satisfied should be carried out in order to comply with the requirement.
- (2) If, after the expiration of 48 hours from the service on him of an order under subsection (1), an occupier fails to comply with its requirements, he is guilty of an offence and is liable on summary conviction to a daily fine not exceeding 2 penalty units.
- (3) Where an owner is prevented from complying with a requirement referred to in subsection (1), he is not subject to a penalty for failing to comply.

119. Determination of compensation

Where a corporation or other person is entitled to be paid compensation under this Act, that compensation shall, unless provision is otherwise made for its determination, be determined by agreement between the parties or, in default of agreement, by action in a court of competent jurisdiction.

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120. Power of Minister to exempt corporation from obtaining Ministerial approval or confirmation

- (1) Where a corporation may exercise any of its powers or perform any of its functions under a provision of this Act only with the approval of, or subject to confirmation by, a Minister, that Minister may, on application by the corporation, make a written order exempting it, either generally or in any particular case, from obtaining his approval or confirmation under that provision.
- (2) An order by a Minister under this section may be subject to the observance by the relevant corporation of such conditions as the Minister determines and as are specified in the order.
- (3)

121. Applications or references to magistrate, &c.

- (1) An application, or reference that may be made to a magistrate or a justice under this Act shall be made by giving written notice of the application, or reference to a clerk of petty sessions, and such a notice shall specify—
 - (a) the matter to which the application, or reference relates; and
 - (b) the grounds on which it is made.
- (2) At the hearing of an application, or reference under this Act, the magistrate or justice may receive and consider any evidence he considers

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relevant, whether that evidence would be admissible in a court or not.

122. Reporting of offences and arrest of offenders

- (1) In this section, *authorized officer* means an officer of the Transport Commission who is authorized, in writing, by the Commission to perform the duties referred to in subsection (2).
- (2) A police officer or an authorized officer who finds a person committing an offence under this Act in a municipality shall demand from that person his name and the address of his place of residence and shall, as soon as practicable, report the offence to the council clerk with such particulars for the identification of the person by whom the offence was committed as the police officer or authorized officer may have.
- (3) A person who fails or refuses to comply with a demand made of him under subsection (2) or, in response to such a demand, gives a name or address that is false is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.
- (4) A police officer may arrest without warrant a person who the officer has reason to believe has committed an offence under subsection (3).

123. Appropriation of penalties, &c.

Penalties imposed on convictions for contraventions of, and failures to comply with,

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this Act made on the complaint of a corporation or a person authorized by the corporation and the costs or expenses incurred in or in connection with the prosecution of, and conviction for, those contraventions and failures to comply, shall be applied to the use of the corporation, shall be paid to the treasurer of the corporation, and shall be paid by him into the municipal fund of the corporation.

123A. Delegation by Minister for State Highways

The Minister for State Highways may delegate any of his or her functions or powers under this Act, other than this power of delegation.

124. Delegation of powers, &c., by corporations

- (1) The corporation may, by special resolution, delegate to one or more officers of the corporation or to a committee consisting of members of the council the exercise or performance of such of its powers or functions under this Act (except this power of delegation) as are specified in the resolution and may, by resolution, revoke wholly or in part any such delegation.
- (2) A resolution for the purposes of subsection (1), other than a resolution revoking a delegation, shall be passed by a majority of at least two-thirds of the members of the council present at the meeting at which it is moved.

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- (3) A power or function, the exercise or performance of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.
- (4) A delegation under this section may be made subject to such conditions or limitations as to the exercise or performance of any of the powers or functions delegated, or as to time or circumstance, as are specified in the resolution.
- (5) Notwithstanding any delegation under this section, the corporation may continue to exercise or perform all or any of the powers or functions delegated.
- (6) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the corporation and shall be deemed to have been done by or to the corporation.
- (7) An instrument purporting to be signed by a delegate of the corporation in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the corporation under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the corporation under this section.

125. Offences by corporations

A corporation that fails to –

- (a) give notice as required by –
 - (i) section 6(2)(b) in respect of the opening of a highway or a widening or extension of a highway;
 - (ii) section 7(2) in respect of the approval of the dedication of any land as a highway;
 - (iii) section 14(1) in respect of the closure or diversion of a local highway; or
 - (iv) section 20(1)(a) in respect of the closure of part of a local highway; or
- (b) comply with any instructions given to it under section 25(1) by the Transport Commission; or
- (c) obtain any consent or approval that it is required to obtain under a provision of this Act before exercising a power under this Act –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

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126. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Regulations under subsection (1) 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.
- (3) Regulations under subsection (1) 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 fine not exceeding 5 penalty units and, in the case of a continuing offence, a further fine not exceeding 0.5 penalty unit for each day during which the offence continues.
- (4) A regulation under subsection (1) 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.

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**127A. Provision with respect to application of section 18 of
*Acts Interpretation Act 1931***

- (1) Notwithstanding that certain enactments (being enactments that are part of the *Local Government Act 1962*) are repealed by the *Local Government (Consequential Amendments) Act 1982*, this Act shall be deemed, for the purposes of section 18 of the *Acts Interpretation Act 1931*, to be an Act that repeals those enactments and consolidates them with amendments.
- (2) For the purposes of the application of section 18 of the *Acts Interpretation Act 1931* pursuant to subsection (1),

documents of authority includes public notices by the corporations of municipalities under the enactments referred to in that subsection.

128. Transitional provisions

Schedule 3 has effect.

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SCHEDULE 2 –

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SCHEDULE 3 – TRANSITIONAL PROVISIONS

Section 128

1. Interpretation

In this Schedule, reference to a section shall, except in so far as the context or subject-matter otherwise indicates or requires, be references to that section of the *Local Government Act 1962*.

2. Highways that become local highways maintainable by the corporation

Where before the proclaimed day a notice has been given under section 337 in respect of a highway, that highway becomes a local highway maintainable by the corporation if the conditions specified in paragraphs (b) and (c) of subsection (1) of that section have been complied with, unless within 3 months of the receipt of the notice the council has notified the person giving the notice as mentioned in subsection (2) of that section.

3. Proceedings in respect of certain actions

In respect of any of the following actions taken before the proclaimed day, the like proceedings may be taken, with the like effect, as if this Act had not been enacted:

- (a) the issue of a writ under section 342;
- (b) the giving of a notice under section 359;

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- (c) the giving of a consent under section 363;
- (d) the making of an application by owners of land under section 384;
- (e) the making of an order under section 387;
- (f) the issue of a commission under section 812 in respect of a proposal to close a highway.

4. Continuance of certain sections and instruments

- (1) Sections 361 and 362 and any regulations under the *Local Government Act 1962* for the purposes of section 361 (6A) continue to apply in a case where the final plan of a building estate took effect before the proclaimed day and section 9 of this Act does not apply in such a case.
- (2) A proclamation under section 371 continues in effect as an approval of the Governor under section 30(4) of this Act.
- (3) A proclamation under section 382 continues in effect as an order under section 49(2) of this Act.
- (3A) Where a corporation has, before the proclaimed day, caused a scheme for the construction of a street to be prepared pursuant to section 397, or has passed a resolution under the *Local Government Act 1962* directing that such a scheme be prepared, Division 11 of Part XV of that Act shall continue to apply in respect of that

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scheme as if that Division had not been repealed by the *Local Government (Consequential Amendments) Act 1982*.

- (4) A bond under section 410 continues in effect as an undertaking under section 77 of this Act.
- (5) A proclamation under section 418 continues in effect as an order under section 23 of this Act.

5. Gates maintained across country roads, &c.

- (1) Where a gate across a country road is maintained under section 365 immediately before the proclaimed day, being a gate that is of a substantial character, properly hung and latched, and at least 3 metres wide, that gate shall, on that day, be deemed to be a gate across a country highway that complies with section 40(3) of this Act.
- (2) A fence with a gate, or a gate and cattleguard, across a country road that is maintained under section 365 by the owner of land immediately before the proclaimed day shall, on that day, be deemed to be an animal barrier erected across a country highway with the consent of the relevant corporation under section 40(2) of this Act.

6. By-laws

Any by-laws in force under the *Local Government Act 1962* immediately before the proclaimed day shall, to the extent that they are

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authorized to be made under this Act, be deemed
to be by-laws made under this Act.

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NOTES

The foregoing text of the *Local Government (Highways) Act 1982* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 2 October 2019 are not specifically referred to in the following table of amendments.

| Act | Number and year | Date of commencement |
|--|-----------------|----------------------|
| <i>Local Government (Highways) Act 1982</i> | No. 57 of 1982 | 1.9.1983 |
| <i>Local Government (Highways) Amendment Act 1983</i> | No. 30 of 1983 | 1.9.1983 |
| <i>Tasmanian State Service (Miscellaneous Amendments) Act 1984</i> | No. 29 of 1984 | 1.12.1985 |
| <i>Traffic Amendment Act (No. 2) 1987</i> | No. 41 of 1987 | 8.5.1987 |
| <i>Administrative Arrangements (Miscellaneous Amendments) Act 1990</i> | No. 5 of 1990 | 1.7.1990 |
| <i>Statute Law Revision Act 1991</i> | No. 46 of 1991 | 1.7.1990 |
| <i>Penalty Units and Other Penalties Amendment Act 1991</i> | No. 43 of 1991 | 18.12.1991 |
| <i>Land Acquisition (Consequential Amendments) Act 1993</i> | No. 24 of 1993 | 1.1.1994 |
| <i>Local Government (Highways) Amendment Act 1993</i> | No. 87 of 1993 | 1.1.1994 |
| <i>Statute Law Revision Act 1994</i> | No. 68 of 1994 | 25.11.1994 |
| <i>Local Government (Consequential Amendments) Act 1995</i> | No. 30 of 1995 | 1.9.1995 |
| <i>Local Government (Highways) Amendment (National Road Transport Reform) Act 1996</i> | No. 19 of 1996 | 1.10.1996 |
| <i>Financial Sector Reform (Tasmania) (Miscellaneous Amendments) Act 1999</i> | No. 74 of 1999 | 1.1.2000 |
| <i>Passenger Transport (Consequential and Transitional) Act 1997</i> | No. 53 of 1997 | 26.6.2000 |
| <i>Vehicle and Traffic (Transitional and Consequential) Act 1999</i> | No. 90 of 1999 | 14.8.2000 |
| <i>Statutory Holidays (Consequential</i> | No. 82 of 2000 | 13.12.2000 |

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| Act | Number and year | Date of commencement |
|--|-----------------|--|
| <i>Amendments) Act 2000</i> | | |
| <i>Corporations (Consequential Amendments) Act 2001</i> | No. 42 of 2001 | 15.7.2001 |
| <i>Local Government (Highways) Amendment Act 2001</i> | No. 89 of 2001 | 17.12.2001 (remaining provisions) |
| <i>Vehicle and Traffic Amendment (Vehicle Operations) Act 2001</i> | No. 71 of 2001 | 1.1.2002 |
| <i>Local Government (Highways) Amendment Act 2001</i> | No. 89 of 2001 | 1.6.2002 (ss. 5, 6, 9, 10, 11, 14 and 16) |
| <i>Magistrates Court (Administrative Appeals Division) (Consequential Amendments) Act 2001</i> | No. 73 of 2001 | 1.7.2002 |
| <i>Local Government (Highways) Amendment Act 2002</i> | No. 50 of 2002 | 1.12.2002 |
| <i>Statute Law Revision Act 2003</i> | No. 9 of 2003 | 16.4.2003 |
| <i>Gas Infrastructure (Miscellaneous Amendments) Act 2002</i> | No. 44 of 2002 | 15.7.2003 |
| <i>Administrative Appeals (Miscellaneous Amendments) Act 2003</i> | No. 68 of 2003 | 15.12.2003 |
| <i>Building (Consequential Amendments) Act 2003</i> | No. 26 of 2003 | 1.7.2004 |
| <i>Local Government (Highways) Amendment Act 2005</i> | No. 10 of 2005 | 6.5.2005 |
| <i>Monetary Penalties Enforcement (Consequential Amendments) Act 2008</i> | No. 6 of 2008 | 28.4.2008 |
| <i>Monetary Penalties Enforcement (Consequential Amendments) Act (No. 2) 2008</i> | No. 27 of 2008 | 28.4.2008 |
| <i>Legal Profession (Miscellaneous and Consequential Amendments) Act 2007</i> | No. 66 of 2007 | 31.12.2008 |
| <i>Traffic Amendment (Road Rules Consequential Amendments) Act 2009</i> | No. 61 of 2009 | 20.11.2009 |
| <i>Monetary Penalties Enforcement (Miscellaneous Amendments) Act 2011</i> | No. 4 of 2011 | 1.6.2011 |
| <i>Justice and Related Legislation (Miscellaneous Amendments) Act 2013</i> | No. 20 of 2013 | 20.6.2013 |
| <i>Passenger Transport and Related Legislation (Consequential Amendments) Act 2011</i> | No. 60 of 2011 | 1.7.2013 |
| <i>Roads and Jetties Amendment</i> | No. 33 of 2018 | 10.12.2018 |

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| Act | Number and year | Date of commencement |
|--|-----------------|----------------------|
| <i>(Management of State Highways in Cities) Act 2018</i> | | |
| <i>Traffic and Related Legislation Amendment Act 2018</i> | No. 32 of 2018 | 10.12.2018 |
| <i>Financial Management (Consequential and Transitional Provisions) Act 2017</i> | No. 4 of 2017 | 1.7.2019 |
| <i>Local Government (Highways) Amendment Act 2019</i> | No. 28 of 2019 | 2.10.2019 |

TABLE OF AMENDMENTS

| Provision affected | How affected |
|--------------------|--|
| Section 3 | Amended by No. 29 of 1984, s. 3 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1, No. 30 of 1995, s. 3 and Sched. 1, No. 82 of 2000, Sched. 1, No. 89 of 2001, s. 5 and No. 26 of 2003, Sched. 1 |
| Section 4 | Amended by No. 46 of 1991, s. 4 and Sched. 2 and No. 87 of 1993, s. 4 |
| Section 5 | Amended by No. 5 of 1990, s. 3 and Sched. 1, No. 30 of 1995, s. 3 and Sched. 1 Repealed by No. 89 of 2001, s. 6 |
| Section 7 | Amended by No. 30 of 1995, s. 3 and Sched. 1 and No. 9 of 2003, Sched. 1 |
| Section 9 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 11 | Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 30 of 1995, s. 3 and Sched. 1 and No. 74 of 1999, Sched. 2 |
| Section 12 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 14 | Amended by No. 87 of 1993, s. 5 and No. 68 of 2003, Sched. 1 |
| Section 17 | Amended by No. 89 of 2001, s. 7 |
| Section 19 | Amended by No. 30 of 1995, s. 3 and Sched. 1 and No. 89 of 2001, s. 8 |
| Section 20 | Amended by No. 82 of 2000, Sched. 1 and No. 89 of 2001, s. 9 |
| Part III, Div. 1 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 21 | Amended by No. 71 of 2001, s. 26 |
| Section 22 | Substituted by No. 87 of 1993, s. 6 |
| Section 23 | Amended by No. 87 of 1993, s. 7 |
| Section 31 | Amended by No. 41 of 1987, s. 14 and No. 32 of 2018, s. 4 |
| Section 33 | Amended by No. 43 of 1991, s. 5 and Sched. 1 |
| Section 36 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 39 | Amended by No. 73 of 2001, Sched. 1 |
| Section 40 | Amended by No. 43 of 1991, s. 5 and Sched. 1 |
| Section 41 | Amended by No. 43 of 1991, s. 5 and Sched. 1 |

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| Provision affected | How affected |
|--------------------|---|
| Section 44 | Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 46 of 1991, s. 4 and Sched. 2, No. 71 of 2001, s. 26 and No. 61 of 2009, s. 4 |
| Section 45 | Amended by No. 30 of 1995, s. 3 and Sched. 1 and No. 90 of 1999, Sched. 1 |
| Section 46 | Amended by No. 68 of 1994, s. 3 and Sched. 1, No. 30 of 1995, s. 3 and Sched. 1 and No. 44 of 2002, s. 11 |
| Section 47 | Amended by No. 43 of 1991, s. 5 and Sched. 1 |
| Section 48 | Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 57 of 1996, s. 55 and Sched. 5 Repealed by No. 89 of 2001, s. 10 |
| Section 49 | Substituted by No. 26 of 2003, Sched. 1 |
| Section 51 | Amended by No. 43 of 1991, s. 5 and Sched. 1 |
| Section 52 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 55 | Amended by No. 43 of 1991, s. 5 and Sched. 1 |
| Section 57 | Amended by No. 24 of 1993, s. 3 and Sched. 1 |
| Section 60 | Amended by No. 66 of 2007, Sched. 1 |
| Section 62 | Amended by No. 24 of 1993, s. 3 and Sched. 1 |
| Section 64 | Substituted by No. 26 of 2003, Sched. 1 Amended by No. 10 of 2005, s. 4 |
| Section 74 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 76 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 77 | Amended by No. 5 of 1990, s. 3 and Sched. 1, No. 30 of 1995, s. 3 and Sched. 1, No. 9 of 2003, Sched. 1 and No. 4 of 2017, Sched. 1 |
| Section 78 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 81 | Amended by No. 9 of 2003, Sched. 1 |
| Part VI | Repealed by No. 89 of 2001, s. 11 |
| Section 83 | Repealed by No. 89 of 2001, s. 11 |
| Section 84 | Repealed by No. 89 of 2001, s. 11 |
| Section 85 | Repealed by No. 89 of 2001, s. 11 |
| Section 86 | Amended by No. 43 of 1991, s. 5 and Sched. 1 Repealed by No. 89 of 2001, s. 11 |
| Section 87 | Repealed by No. 19 of 1996, s. 5 and No. 89 of 2001, s. 11 |
| Section 88 | Repealed by No. 19 of 1996, s. 5 and No. 89 of 2001, s. 11 |
| Section 89 | Repealed by No. 19 of 1996, s. 5 and No. 89 of 2001, s. 11 |
| Section 90 | Repealed by No. 19 of 1996, s. 5 and No. 89 of 2001, s. 11 |
| Section 91 | Repealed by No. 19 of 1996, s. 5 and No. 89 of 2001, s. 11 |
| Section 92 | Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 19 of 1996, s. 4 Subsection (2) omitted by No. 19 of 1996, s. 4 Subsection (3) omitted by No. 19 of 1996, s. 4 Subsection (4) omitted by No. 19 of 1996, s. 4 Repealed by No. 89 of 2001, s. 11 |
| Section 93 | Repealed by No. 19 of 1996, s. 5 and No. 89 of 2001, s. 11 |
| Section 94 | Amended by No. 30 of 1983, s. 4, No. 90 of 1999, Sched. 1, No. 27 of 2008, Sched. 1 and No. 28 of 2019, s. 4 |
| Section 94A | Inserted by No. 27 of 2008, Sched. 1 |

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|--------------------|--|
| | Amended by No. 4 of 2011, s. 44 |
| Section 95 | Amended by No. 30 of 1983, s. 5 and No. 28 of 2019, s. 5 |
| Section 96 | Amended by No. 82 of 2000, Sched. 1, No. 50 of 2002, s. 4 and No. 28 of 2019, s. 6 |
| Section 97 | Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 90 of 1999, Sched. 1, No. 6 of 2008, Sched. 1, No. 27 of 2008, Sched. 1, No. 60 of 2011, Sched. 1 and No. 28 of 2019, s. 7 |
| Section 98 | Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 6 of 2008, Sched. 1 and No. 27 of 2008, Sched. 1 |
| Section 99 | Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 30 of 1995, s. 3 and Sched. 1, No. 6 of 2008, Sched. 1 and No. 27 of 2008, Sched. 1 |
| Section 100 | Substituted by No. 6 of 2008, Sched. 1 Amended by No. 27 of 2008, Sched. 1, No. 4 of 2011, s. 45, No. 20 of 2013, s. 57 and No. 28 of 2019, s. 8 |
| Section 101 | Amended by No. 30 of 1983, s. 6, No. 9 of 2003, Sched. 1 Repealed by No. 6 of 2008, Sched. 1 |
| Section 102 | Amended by No. 90 of 1999, Sched. 1 and No. 6 of 2008, Sched. 1 |
| Section 103 | Amended by No. 6 of 2008, Sched. 1 and No. 27 of 2008, Sched. 1 |
| Section 105 | Amended by No. 43 of 1991, s. 5 and Sched. 1 and No. 28 of 2019, s. 9 |
| Section 106 | Amended by No. 43 of 1991, s. 5 and Sched. 1 and No. 27 of 2008, Sched. 1 |
| Section 107 | Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 53 of 1997, Sched. 1 and No. 42 of 2001, Sched. 1 |
| Section 108 | Amended by No. 41 of 1987, s. 14 Repealed by No. 89 of 2001, s. 12 Inserted by No. 33 of 2018, s. 7 Repealed by No. 28 of 2019, s. 10 |
| Section 110 | Amended by No. 89 of 2001, s. 13 and No. 28 of 2019, s. 11 |
| Section 113 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 114 | Amended by No. 73 of 2001, Sched. 1 |
| Section 120 | Amended by No. 89 of 2001, s. 14 |
| Section 121 | Amended by No. 73 of 2001, Sched. 1 |
| Section 122 | Amended by No. 43 of 1991, s. 5 and Sched. 1 and No. 30 of 1995, s. 3 and Sched. 1 |
| Section 123 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 123A | Inserted by No. 28 of 2019, s. 12 |
| Section 124 | Amended by No. 89 of 2001, s. 15 |
| Section 125 | Amended by No. 43 of 1991, s. 5 and Sched. 1 |
| Section 126 | Amended by No. 43 of 1991, s. 5 and Sched. 1 |
| Section 127 | Repealed by No. 30 of 1995, s. 3 and Sched. 1 |
| Section 127A | Inserted by No. 30 of 1983, s. 7 |
| Schedule 1 | Amended by No. 30 of 1995, s. 3 and Sched. 1 |

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|-----------------------|---|
| Part I of Schedule 1 | Repealed by No. 89 of 2001, s. 16 Amended by No. 89 of 2001, s. 16 |
| Part II of Schedule 1 | Amended by No. 89 of 2001, s. 16 |
| Schedule 2 | Repealed by No. 30 of 1995, s. 3 and Sched. 1 |
| Schedule 3 | Amended by No. 30 of 1983, s. 8 |