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Dated 12 December 2022



TASMANIA

ROADS AND JETTIES ACT 1935

No. 82 of 1935

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ROADS AND JETTIES ACT 1935

No. 82 of 1935

An Act to consolidate and amend certain enactments relating to roads and jetties and to make provision for the establishment and maintenance of aerodromes

[Royal Assent 16 January 1936]

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 *Roads and Jetties Act 1935*.

2.

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Part I – Preliminary

3. Interpretation

(1) In this Act, unless the contrary intention appears

—

construction, in relation to a road, includes —

- (a) the reconstruction or realignment of the road;
- (b) the bringing of the road to a higher standard;
- (c) investigation and associated engineering studies in connection with —
 - (i) the construction, reconstruction, or realignment of the road;
 - (ii) the bringing of the road to a higher standard; or
 - (iii) the planning of alternative routes for the road;
- (d) the acquisition of land for the purpose of —
 - (i) constructing, reconstructing, or realigning the road; or
 - (ii) bringing the road to a higher standard; and

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- (e) the doing of any other thing in relation to a matter specified in paragraph (a) or (b) –

but does not include the maintenance of the road;

country road means a road not being or forming portion of a State highway or subsidiary road, but does not include a street in any town;

Crown lands contract means a contract made under the *Crown Lands Act 1976* or a corresponding previous enactment;

line, used in relation to a highway, means the strip of land subject, or to become subject, to the highway and includes a portion of the length or breadth of a line;

maintenance, used in relation to –

- (a) a road, means all works which are required for the preservation and upkeep of the road or its associated works, but does not include any works for the reconstruction of the road; and
- (b) any plant, includes the reconstruction, repair, improving, and upkeep thereof;

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

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motor taxes means the taxation imposed in respect of motor vehicles by, and collected under, the *Vehicle and Traffic Act 1999*;

municipal district means a municipal area;

municipality means a municipal area;

plant means plant (including vehicles and animals) for the construction or maintenance of roads, bridges, jetties, and aerodromes, and includes any land, workshop, building, fixture, machine, implement, tool, or other equipment, erected, purchased, or acquired for the purpose of the construction or maintenance of any plant, and any spare parts to be used in connection therewith;

Register means the register of title to land kept under the *Land Titles Act 1980*;

road means a public highway and includes –

- (a) a road sign;
- (b) traffic control equipment;
- (c) street lighting equipment;
- (d) a vehicular ferry;
- (e) a bridge or tunnel, including a bridge or tunnel for the use of pedestrians;

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-
- (f) a path for the use of persons riding bicycles;
 - (g) a ramp to facilitate the launching of boats;
 - (h) vehicular access from a road to a ramp referred to in paragraph (g), being vehicular access;
 - (i) a fence erected, at the cost of the Crown or a council, for the protection of traffic, being a fence;
 - (j) a culvert;
 - (k) a kilometre post; and
 - (l) a milestone –

that is associated with such a highway;

road authority, used in relation to a State highway or subsidiary road, means the Minister; and, used in relation to any other road, means the council having the control of such road;

Secretary means the Secretary of the Department;

service authority means a person having the charge and control of a system for supplying water, gas, or electricity, or of drainage or sewerage;

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State highway means a road in respect of which a proclamation declaring the same to be a State highway for the purposes of Part II is in force;

subsidiary road means a road in respect of which a proclamation declaring the same to be a subsidiary road for the purpose of Part II is in force;

the Fund means the State Highways Trust Fund referred to in section 4.

(2)

(3) Where in any Act passed before the commencement of the *Roads and Jetties Act 1944*, reference is made to a main road, it shall be construed as a reference to a road which is a State highway within the meaning of this Act.

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Part IA – Powers and Functions of Minister in Respect of Certain
Commonwealth Acts

s. 3A

**PART IA – POWERS AND FUNCTIONS OF MINISTER
IN RESPECT OF CERTAIN COMMONWEALTH ACTS**

3A. Interpretation: Part IA

In this Part, *Commonwealth Act* means the
Roads Grants Act 1981 of the Commonwealth or
any other Commonwealth Act providing funds
for the State for road purposes.

**3B. Powers and functions of Minister in respect of
certain Commonwealth Acts**

The Minister –

- (a) has and may exercise all the powers of a
State or a Minister of a State conferred
by a Commonwealth Act; and
- (b) shall perform all the functions of a State
or a Minister of a State required to be
performed under a Commonwealth Act.

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Part IB – Appointment of Persons Required for the Exercise and
Performance of the Minister’s Powers and Functions

**PART IB – APPOINTMENT OF PERSONS REQUIRED
FOR THE EXERCISE AND PERFORMANCE OF THE
MINISTER’S POWERS AND FUNCTIONS**

**3C. Appointment of persons required for the exercise
and performance of the Minister’s powers and
functions**

Subject to and in accordance with the *State Service Act 2000*, there may be appointed or employed such persons as are required for the exercise and performance by the Minister of his powers and functions under this Act or any other Act.

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s. 4

PART II – STATE HIGHWAYS

4. State Highways Trust Fund

- (1) There shall be kept in the Public Account an account, to be called the State Highways Trust Fund (in this Part referred to as “the Fund”).
- (2) There shall be credited to the Fund –
 - (a - f)
 - (g) all money received by the Minister in respect of the sale or disposal of any stores or materials (other than plant) pursuant to section 17;
 - (h)
 - (i) any money provided by Parliament for the purposes of the Fund;
 - (ia) any profits made by the Minister in the exercise or performance of his powers or functions under an Act of Tasmania or a Commonwealth Act or under an agreement with the Commonwealth; and
 - (j) such other money (if any) as the Treasurer may direct to be credited to the Fund.
- (2A)
- (3) The Transport Commission shall, as and when directed by the Treasurer, pay to the Treasurer, to the credit of the Public Account–

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(a) all money received by it in each financial year by way of revenue derived from the use and operation of any jetty, the control and management of which are vested in the Minister under Part V;

(b)

(3A - 4)

(4A) Money for transport planning and research received by the State from the Commonwealth shall be paid into the Public Account and, as soon as practicable thereafter, shall be paid by the Treasurer to the Transport Commission out of the Public Account (which, to the necessary extent, is hereby appropriated accordingly).

(5 - 7)

5. Application of Fund

(1) There shall be debited to the Fund –

(a) all costs and expenses (including the costs of supervision) incurred in or in connection with the construction and maintenance of State highways and subsidiary roads in accordance with the provisions of this Act;

(b)

(c) all sums payable out of the Fund pursuant to subsection (2);

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- (d) all sums required for expenditure by the State, in accordance with the provisions of the *Roads Grants Act 1981* of the Commonwealth and any other Commonwealth Act, for any purpose for which those sums are, by virtue of such an Act, required or permitted to be expended;
 - (da) any losses made by the Minister in the exercise or performance of his powers or functions under an Act of Tasmania or a Commonwealth Act or an agreement with the Commonwealth;
 - (e) all costs and expenses incurred by the Minister in or in connection with the purchase, acquisition, or hiring of stores and materials (other than plant) pursuant to section 17;
 - (f) all costs and expenses paid or payable under section 22 of the *Local Government (Highways) Act 1982* in connection with a local highway within the meaning of that Act;
 - (g) all costs and expenses incurred by the Minister in connection with the maintenance or renewal of a bridge under section 23 of the *Local Government (Highways) Act 1982*; and
 - (h) all or part of the costs and expenses incurred by the Minister in connection with highway works carried out under

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section 111 of the *Local Government (Highways) Act 1982*.

- (2) The Minister, out of the Fund, is to pay for a financial year to each of the councils of the municipal areas of Kingborough, (in respect of Bruny Island) Flinders and King Island a sum equivalent to 98% of whichever of the following amounts is the lesser:
 - (a) the amount expended by the council from its own resources during that financial year on roads within its municipal area or, in the case of Kingborough, within Bruny Island; or
 - (b) the amount of motor taxes collected during that financial year within the municipal area or, in the case of Kingborough, within Bruny Island.
- (2A) The amounts paid to a council under subsection (2) shall be expended on roads within its municipality.
- (3) A statement of the expenditure out of the Fund shall be submitted annually to Parliament by the Treasurer.

6. Road Construction Plant Suspense Account

- (1) There shall be kept in the books of the Treasury an account, to be called the Road Construction Plant Suspense Account (in this Act referred to as “the Account”).

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- (2) All money standing to the credit of the Road Construction Plant Account in the books of the Transport Commission on 30th June 1951, shall, forthwith after the commencement of this section, be paid by the Commission to the credit of the Account.
- (3) There shall also be credited to the Account –
- (a) all money paid to the Minister in respect of the use, hire, sale, or disposal of any plant vested in the Minister by section 10 of the *Road Construction (Transfer of Functions) Act 1951* or purchased or acquired by the Minister for the purposes of this Act; and
 - (b) such amounts (including provision for wages, stores, and transport) as the Minister thinks reasonable in respect of –
 - (i) the use of any such plant in connection with the –
 - (A) construction and maintenance of State highways, subsidiary roads, and country roads, in accordance with the provisions of this Act; and
 - (B) execution, carrying out, construction, and maintenance of any public works authorized by Parliament; and

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- (ii) the insurance, maintenance, depreciation, and other charges in connection with the use of any such plant –

and all amounts so credited to the Account shall be debited to the costs of the State highways, subsidiary roads, country roads, and public works, in connection with which the plant is used.

- (4) There shall be debited to the Account –

- (a) all costs incurred in connection with the operation, maintenance, and insurance of plant vested in the Minister by section 10 of the *Road Construction (Transfer of Functions) Act 1951* or purchased or acquired by him for the purposes of this Act; and
- (b) all costs and expenses incurred by the Minister in connection with the purchase, replacement, renewal, or hire of plant for the purposes of this Act.

7. Power to proclaim State highways and subsidiary roads

- (1) The Governor may, by proclamation, declare any road or any specified portion thereof to be a State highway or subsidiary road for the purposes of this Part, and in like manner may at any time declare that any such road, or any specified portion thereof, shall cease to be a State highway or subsidiary road.

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- (2) Every proclamation under this section shall have effect upon and from the date specified therein or, if no date is so specified, from the date of the gazettal of the proclamation.
- (3) In any proclamation under this section which declares any road or portion thereof to be a subsidiary road, every subsidiary road to which the proclamation relates shall be classified as a –
- (a) main road;
 - (b) secondary road;
 - (c) developmental road; or
 - (d) tourist road.

8. Vesting of State highways and subsidiary roads

- (1) All State highways and subsidiary roads shall be vested in the Crown, and shall be under the control and direction of the Minister.
- (2) Except as otherwise provided, the Minister shall cause all State highways and subsidiary roads to be constructed and maintained as he shall direct.
- (3 - 5)

9.

9A. Alignment of highways

- (1) The Governor may, by proclamation, declare –

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- (a) the intended new line of a State highway or subsidiary road; or
- (b) the intended line of a new State highway or subsidiary road –

by setting it forth in the proclamation or by reference to a plan lodged in the office of the Director-General of Lands.

- (2) The Minister shall within 60 days after the gazettal of a proclamation under this section –
 - (a) if any lands affected by the proclamation are under the *Land Titles Act 1980*, lodge with the Recorder of Titles a copy of the proclamation, together with a plan showing the names of the registered proprietors of those lands and the volume and folium of their respective folios of the Register and the Recorder shall thereupon register the proclamation by making an appropriate entry of it on those folios of the Register;
 - (b) if any lands affected by the proclamation are not under the *Land Titles Act 1980* and are not being purchased under Crown lands contracts, lodge in the Registry of Deeds a copy of the proclamation, together with a plan identifying those lands and showing their owners so far as the Minister can ascertain them;
 - (c) lodge with the Director-General of Lands a copy of the proclamation and, if any

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lands affected by the proclamation are being purchased under Crown lands contracts, also lodge with the Director-General a plan showing the names of the purchasers of those lands; and

- (d) give notice in such form as he thinks fit to all owners of lands, and to all purchasers of lands being purchased under Crown lands contracts, that are affected by the proclamation or such of them as he can with reasonable diligence ascertain and notify within the 60 days.
- (2A) In subsection (2), ***proclamation under this section*** includes a proclamation under this section that is combined with a proclamation under section 52A.
- (2B) Where a copy of a proclamation under this section that is lodged as required by subsection (2)(c) affects any land being purchased under a Crown lands contract, the Director-General of Lands shall register the proclamation by making an appropriate entry of it in the registers kept by him.
- (3) Where a plan is referred to as provided in subsection (1) a copy thereof shall be annexed to or endorsed on the copy proclamation lodged under paragraph (a), (b), or (c) of subsection (2) and shall have added to it, if it does not already contain them, the details required by those paragraphs respectively.

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(4) At the end of the 60 days referred to in subsection (2) –

- (a) a proclamation under this section that is not combined with a proclamation under section 52A; or
- (b) the part of a proclamation under this section that is combined with such a proclamation –

takes effect in accordance with subsection (5).

(5) When a proclamation under this section, or the part of a proclamation under this section, takes effect –

- (a) the Tasmanian Planning Commission established under the *Tasmanian Planning Commission Act 1997* and the local authority shall take notice of it for the purposes of–
 - (i) town planning;
 - (ii) subdivision of land;
 - (iii) minimum areas;
 - (iv) distances of buildings from highways;
 - (v) drainage; and
 - (vi) new works;
- (b) buildings and other permanent improvements shall not be made on the

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intended line without the written consent of the Minister;

- (c) if any land on the intended line becomes clear of buildings or other structural improvements, the owner of the land or the purchaser of the land, in the case of land being purchased under a Crown lands contract –
 - (i) shall notify the Minister forthwith; and
 - (ii) may require the Minister to acquire the land as provided in subsection (6) or, as the case may require, to acquire the purchaser's estate and interest in the land as provided in subsection (6A);
- (d) the Minister may license the improvement of land on the intended line on such conditions as he thinks proper to ensure that –
 - (i) compensation for acquisition of the land or the purchaser's estate and interest in the land, in the case of land being purchased under a Crown lands contract, will not thereby be increased; and
 - (ii) construction of the highway on the intended line will not be more difficult;

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- (e) if land is injuriously affected by the declaration of the intended line made in the proclamation or part of the proclamation, the owner of the land or its purchaser, in the case of land being purchased under a Crown lands contract, is entitled to make a claim for compensation within the period of 12 months after the proclamation or the part of the proclamation takes effect and that compensation –
 - (i) if not agreed upon, shall be determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*; and
 - (ii) may be in the form of a lump sum or a yearly sum; and
 - (f) land on the intended line of the highway or a term of years therein may be purchased or taken in accordance with the provisions of the *Land Acquisition Act 1993* at any time, notwithstanding that there is no intention to proceed with the construction of the highway on the new line forthwith or at any definite time.
- (6) Where the Minister is required to acquire land under subsection (5)(c) –
- (a) he may elect to acquire the fee or a term of 21 years in the land;

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- (b) if he elects to acquire the fee –
 - (i) the price of the land, if not agreed upon, shall be determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*; and
 - (ii) on the ascertainment of the price the owner shall tender to the Minister an executed deed of surrender or transfer to the Crown;
- (c) if he elects to acquire a term –
 - (i) the rent of the land, if not agreed upon, shall be determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*;
 - (ii) the conditions of the lease shall be such as the parties agree upon, and if the parties cannot agree either party may apply to a judge in chambers in a summary way to settle the form of the lease, and the judge may do so as he thinks reasonable and may order costs; and
 - (iii) upon the ascertainment of the rent and conditions the owner shall tender to the Minister an executed deed of demise to the Minister and counterpart or an executed

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memorandum of lease to the
Minister, as the case may require;
and

(d) an owner required by this subsection to
tender an instrument –

(i) is entitled to be paid by the
Minister his costs of and
incidental to the preparation,
execution, and registration of that
instrument; and

(ii) shall, in the case of land under
the *Land Titles Act 1980*, do
everything necessary for
registration of the transfer or
memorandum of lease.

(6A) Where the Minister is required to acquire the
purchaser's estate and interest in land under a
Crown lands contract –

(a) the price of the estate and interest, if not
agreed on by the Minister and purchaser,
shall be determined in the same manner
as a disputed claim for compensation
under the *Land Acquisition Act 1993*;

(b) on the ascertainment of that price, the
purchaser shall tender to the Minister an
executed deed of surrender or transfer to
the Crown of the estate and interest; and

(c) the purchaser is entitled to be paid by the
Minister his costs of and incidental to the
preparation, execution, and registration

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of the deed of surrender or transfer that he is required, by paragraph (b), to tender to the Minister.

(7) A licence under subsection (5)(d) overrides in respect of manner of construction and type or use of buildings a provision of the *Building Act 2016* or regulations made under the *Building Act 2016*, a by-law, or a restrictive covenant to the contrary.

(8) If –

(a) by an instrument registered in the Registry of Deeds or under the *Land Titles Act 1980* an estate or interest is assured in land that is affected by a proclamation under this section a copy of which has been lodged as provided in subsection (2); and

(b) the registration of the proclamation before the registration of the first-mentioned instrument would not be disclosed by a reasonable and proper search in that Registry or in the office of the Recorder of Titles, as the case may be

—

the person to whom the estate or interest is assured or his successor in title is entitled to compensation by the Minister.

(9) Where the Governor issues a proclamation –

(a) revoking or amending a proclamation under this section that is not combined

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with a proclamation under section 52A;
or

- (b) revoking or amending the part of a proclamation under this section that is so combined –

the Minister shall, within 60 days after the gazettal of the proclamation –

- (c) if any lands affected by the proclamation are under the *Land Titles Act 1980*, lodge with the Recorder of Titles a copy of the proclamation, having attached to it, in the case of a proclamation amending a proclamation referred to in paragraph (a) or amending the part of a proclamation referred to in paragraph (b), a copy of a plan showing the names of the registered proprietors of those lands and the volume and folium of their respective folios of the Register;
- (d) if any lands affected by the proclamation are not under the *Land Titles Act 1980* and are not being purchased under Crown lands contracts, lodge in the Registry of Deeds a copy of the proclamation, having attached to it, in the case of a proclamation amending a proclamation referred to in paragraph (a) or amending the part of a proclamation referred to in paragraph (b), a copy of a plan identifying those lands and showing their owners so far as the Minister can ascertain them; and

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- (e) lodge with the Director-General of Lands a copy of the proclamation and, if any lands affected by the proclamation are being purchased under Crown lands contracts, having attached to it, in the case of a proclamation amending a proclamation referred to in paragraph (a), or amending the part of a proclamation referred to in paragraph (b), a copy of a plan identifying those lands and showing the persons who are purchasing them.
- (10) Where a copy of a proclamation under this section is lodged as required by subsection (9)(c), the Recorder of Titles shall register the proclamation by making an appropriate entry of it on the folios of the Register affected by the proclamation.
- (11) Where a copy of a proclamation under this section that is lodged as required by subsection (9)(e) affects any land being purchased under a Crown lands contract, the Director-General of Lands shall register the proclamation by making an appropriate entry of it in the registers kept by him.
- (12) The Recorder of Titles shall, if a proclamation under this section is registered in his office, make recordings on the deeds of grant or certificates of title of the lands affected by the proclamation when they are next produced to him.

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9B. Power to enter and make highways

- (1) The Minister may on 14 days' notice to the occupier of any land –
 - (a) by warrant under his official seal authorize persons to enter on that land with or without animals, vehicles, machinery, and plant and there set out and construct roads and other works connected with highways; and
 - (b) by notice published in the *Gazette* declare any road so constructed together with any land at the side which he intends to be used in connection therewith a highway.
- (2) Upon the publication of a notice under subsection (1) a highway shall for all purposes be deemed to exist accordingly and the Minister shall in the case of land subject to the *Land Titles Act 1980* cause –
 - (a) the highway to be registered under section 112 of the *Land Titles Act 1980*; or
 - (b) the land subject to the highway to be purchased or taken under the provisions of the *Land Acquisition Act 1993* –

except where a proclamation under section 9D is used to the same end.

- (3) The Minister may make compensation for anything done under subsection (1) and its

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consequences, but if a person claiming such compensation is dissatisfied with the amount offered by the Minister or with the Minister's delay in making an offer he may by notice in writing require the Minister to purchase or take the land affected and the consideration or compensation payable therefor shall then include compensation for anything so done and its consequences.

- (4) The Minister on being required to purchase or take under subsection (3) may elect to proceed under section 9D and compensation shall then be made under that section to include the compensation otherwise specially payable under subsection (3).
- (5) For the purposes of subsection (1) notice to the occupier of land –
 - (a) is intended to enable him to do what is necessary for the benefit of his stock or other property and affairs when the entry and construction takes place;
 - (b) shall be in writing;
 - (c) may, where the occupier is absent or not a natural person, be given to his manager, overseer, or other person apparently in charge of his affairs in connection with the land; and
 - (d) where the land is unoccupied may be addressed to “the occupier” without naming him and posted in a conspicuous place on the land, and shall then be

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deemed to have been given to the occupier of the land.

- (6) Where an occupier who receives a notice for the purposes of subsection (1) occupies as a tenant or licensee he shall forthwith pass on the notice to his landlord or licensor and where that landlord or licensor does not hold immediately of the Crown the same rule shall be followed until the notice reaches the person holding immediately of the Crown.

9C. Realignment of highways

- (1) The Minister may alter the line of a State highway or subsidiary road in accordance with this section.
- (2) The Minister may exclude the public from any part of the new line of the highway lying outside the old line, notwithstanding any dedication thereof as a highway, until reconstruction is completed.
- (3) So long as a sufficient way is provided for the normal traffic on the highway the Minister may exclude the public from any part of the existing line of the highway required for reconstruction.
- (4) When the construction of the highway on the new line is complete the Minister may, subject to subsection (5), close off all portions of the old line of the highway not within the new line.
- (5) The Minister shall not under subsection (4) obstruct the access to the new line of the

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highway of any person who had access to the old line, but may determine how and where that access is to be given, and for the purpose of anticipating action under section 9D may acquire a right of way for a private person over another person's land as if it were a public right of passage.

9D. Simplified conveyancing on realignment

- (1) Upon, or in anticipation of, the completion of action under section 9C in respect of a length of a State highway or subsidiary road the Governor may, by proclamation in accordance with this section, bring the boundaries of adjacent and nearby lands into conformity with the new alignment.
- (2) Subject to the provisions of subsections (3) and (4) a proclamation may –
 - (a) vest in the owner of specified land land of the Crown –
 - (i) within either line of the highway;
or
 - (ii) reserved or acquired for the highway and not within either line –

subject to the highway, in the case of land within the new line;
 - (b) divest from its owner land within the new line of the highway and vest it in the

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Crown or without affecting its vesting
declare it to be subject to the highway;
and

- (c) divest from its owner land severed by the new line of the highway and vest it in the owner of specified land.
- (3) An owner in whom land may be vested under subsection (2) shall be the owner of land adjoining the land so vested.
- (4) Land may be dealt with under subsection (2)(c) only if the Director-General of Lands is of opinion that –
 - (a) the severed land cannot reasonably be enjoyed in its severed condition by one owner not owning adjoining land; or
 - (b) while one of the severed portions is sufficient to be enjoyed independently of any other land the other portion (being that dealt with) cannot reasonably be enjoyed therewith.
- (5) A proclamation under this section shall be registered –
 - (a) if it affects any land not under the *Land Titles Act 1980*, as a deed in the Registry of Deeds; and
 - (b) if it affects any land under that Act, in the office of the Recorder of Titles as prescribed under that Act –

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and if required by this section to be registered in both places shall be so registered on the same day.

- (6) Upon the registration of a proclamation under this section it operates –
- (a) to vest in the Crown any land thereby expressed –
 - (i) so to vest; or
 - (ii) to be divested from its owner –

as if that land were then duly surrendered by the most effectual assurance by a person having full power so to do;
 - (b) to make subject to the highway any land thereby expressed to be subject as if then duly dedicated as a highway by a person having full power so to do and duly accepted for that purpose; and
 - (c) to vest in the owner of specified lands any land thereby expressed so to vest as if then duly granted by the Crown to that owner upon the same terms and conditions as the specified land is then held of the Crown to the intent that there will be no difference between his estate and interest in either piece of land.
- (7) Upon the registration of a proclamation under this section –

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- (a) the Director-General of Lands shall note or amend the public records under his control in conformity with the proclamation; and
 - (b) the Recorder of Titles shall, if the proclamation is registered in his office, at the first opportunity –
 - (i) amend documents of title kept or lodged with him; or
 - (ii) cancel such documents then existing and make, and in proper cases issue, new documents –in accordance with the proclamation or its consequences.
- (8) Where a proclamation under this section operates to diminish the extent of any lands the rights of mortgagees and other encumbrancers therein and of persons holding under the owner thereof continue otherwise unchanged in respect of the diminished extent subject to subsection (12).
- (9) Where a proclamation under this section operates to add to the extent of any lands the rights of mortgagees and other encumbrancers therein and of persons holding under the owner thereof extend to the added lands subject to subsections (10) and (12).
- (10) Where a proclamation under this section operates to convey a piece of land from one owner to another that piece remains subject to

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any easement or profit a preponder affecting it unless the proclamation otherwise provides.

- (11) Notwithstanding any other provision of this section a proclamation thereunder may be expressed and operate to extend, diminish, or shift the incidence of, an easement and to provide for any interest in land not otherwise in this section provided for.
- (12) A person whose estate or interest in land is destroyed or diminished by the operation of a proclamation under this section is entitled to compensation under the *Land Acquisition Act 1993* so far as his loss is not made up for by some benefit accruing to him under the proclamation.
- (13) The Minister may for a consideration in money or land agree that some benefit will be provided by a proclamation under this section.
- (14) An agreement under subsection (13) may be enforced –
 - (a) by the Crown against the other party by action for the consideration; and
 - (b) by the other party against the Crown by action for damages for breach.
- (15) Where land which might be dealt with under this section has been taken under the *Land Acquisition Act 1993*, the Minister upon payment of reasonable interest may withhold compensation and stop proceedings in respect thereof for the purpose of dealing with or

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affecting the matter under this section, and subsection (12) will then apply to the compensation.

9E. Power to acquire and dispose of land adjoining a highway

- (1) Where a portion of a piece of land may be purchased or taken for a State highway or subsidiary road leaving a portion –
 - (a) which in the opinion of the Director-General of Lands cannot reasonably be enjoyed by an owner not owning adjoining land; and
 - (b) of which the owner does not in fact own any adjoining land, or owns only adjoining land of which the ownership will not in the opinion of the Director-General of Lands enable him reasonably to enjoy the portion left –

the whole piece of land may be purchased or taken as for the purpose of the State highway or subsidiary road.

- (2) Surplus land acquired under this section may be disposed of to an adjoining owner by way of –
 - (a) sale; or
 - (b) compensation for land from him acquired for the State highway or subsidiary road.

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9F. Provision of access to certain land

Where any land is deprived of existing access, or rendered incapable of obtaining access, to a highway as the result of the construction of a line of new State highway or subsidiary road or the realignment of the line of a State highway or subsidiary road, the Minister may, in accordance with the provisions of the *Land Acquisition Act 1993*, acquire land for the purpose of providing access over it for the first-mentioned land and the Minister for Lands may, on such terms and conditions as he thinks fit, and in accordance with the *Crown Lands Act 1976*, grant to the owner of the first-mentioned land a right of carriageway over, or the fee simple in, the land so acquired.

10. Planting of trees along State highways deemed part of maintenance or reconstruction

- (1) The Minister may, in any case in which he thinks it desirable so to do, cause trees to be planted, nurtured, and preserved on and along the side of any State highway or subsidiary road, or, with the consent of the owner of any land bounded by such highway, on such land along the side of the highway.
- (2) The planting of, nurturing, and preservation of all such trees as aforesaid shall, for the purposes of this Part, be deemed to be part of the maintenance or reconstruction of the State highway or subsidiary road.

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11. Maintenance of State highways, &c., in cities, &c.

- (1) Subject to subsection (2), where in a city, town or village there is a footpath on one side or both of a State highway or subsidiary road –
 - (a) the Minister is required to maintain and reconstruct –
 - (i) the carriageways and the surface lying between them, in the case of 2 paved carriageways divided by a median strip;
 - (ii) the carriageway and the overtaking lane, in the case of a single paved carriageway incorporating an overtaking lane;
 - (iii) a paved carriageway not exceeding 7·4 metres in width, in the case of a single undivided paved carriageway;
 - (iv) a paved carriageway not exceeding 4·3 metres in width, in the case of a carriageway providing a traffic lane to a traffic interchange; and
 - (iva) in the case of a State highway comprising more than one lane in a single direction, the carriageway; and

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- (v) the culverts and bridges over which the State highway or subsidiary road runs; and
 - (b) the remainder of the State highway or subsidiary road, including drainage and shoulders but not culverts and bridges, shall be maintained and reconstructed by the local authority.
- (2) The Minister, with the agreement of the relevant council, may maintain or reconstruct a State highway or a subsidiary road otherwise than in accordance with subsection (1).

12. Power of Transport Commission with respect to water pipes, &c.

- (1) The Minister may require any service authority, or any person having the charge or control of any water-supply main, service pipe, or any passage, tunnel or other thing whatsoever placed in, upon, or under any State highway or subsidiary road to –
- (a) remove and place the same beyond the limits of the pavement of such highway or road as may be directed by the Minister;
 - (b) take such other measures as the Minister may direct to ensure the preservation of such pavement from damage by reason of any excavation for the purpose of repairing or replacing any such thing or

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by reason of leakage from any such thing; or

- (c) repair and make good to the satisfaction of the Minister any damage caused to any State highway or subsidiary road as a result of any leakage from, or the breaking or bursting of any main, pipe, passage, tunnel, or other things as aforesaid –

or may himself cause all or any of such work to be carried out, and may recover the cost of so doing from such service authority or person.

- (2) Every such service authority or person shall comply with any such requirement by the Minister at its or his own expense, or where the Minister has caused any such work to be done, shall pay to the Minister on demand the cost of such work.

12A. Removal of water mains, &c., on alteration of road

- (1) Where the Minister is about to alter the line or level of a State highway or subsidiary road or the paved portion thereof he may require, by notice in writing, any service authority, or any person having the charge or control of any water-supply main or service pipe, or any passage, tunnel, or other thing placed in, on, or under that road to move it clear of his proposed work as set forth in the notice.

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- (2) A person complying with a notice under this section is entitled to be repaid his reasonable costs and expenses by the Minister.

13. Excavations by certain authorities

- (1) Except as otherwise expressly provided, no service authority shall make any excavation in or under any State highway or subsidiary road without the consent of the Minister.
- (1A) Where consent is sought under subsection (1) the Minister may make his consent conditional on the placing of any new works by the service authority in the excavation where in his opinion they will not interfere with possible future construction of roads and bridges by the Minister.
- (1B) If a service authority places new works –
- (a) in an excavation made without the consent of the Minister; or
 - (b) otherwise than in accordance with the conditions of the Minister's consent to an excavation –

the Minister may require the service authority to remove those works or alter them to comply with any conditions he might have imposed and if the service authority does not comply within a reasonable time the Minister may do the required work and recover the cost as certified by the Secretary from the service authority.

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- (2) In any case of emergency where it is impracticable to obtain such consent as aforesaid to meet the exigency of such emergency, the service authority shall notify the Minister forthwith after proceeding with such excavation and shall furnish him with such particulars as will explain the necessity for anticipating such consent.
- (3) Immediately upon completion of any such work as aforesaid, the service authority, at its own cost, shall reinstate the road where such excavation was made to a sufficient degree to render the same safe, and thereafter the permanent reinstatement thereof shall be executed by the Minister at the cost of the service authority.
- (4) Nothing in this section absolves a service authority from liability for negligent acts or omissions in relation to an act authorized by this section.
- (5)

14. Regulation of electric wires

- (1) The Minister at any time may require any service authority in charge of any electric-light or power mains, which cross any State highway or subsidiary road, at its own cost, to take such measures as may be necessary to ensure a clear space of not less than 5.5 metres from the surface of the road beneath such mains or beneath any stay-wire or other erection connected therewith.

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- (2) Where the Minister proposes to widen, regrade, or alter the alignment of any State highway or subsidiary road, he may require the service authority in charge of any pole or tower carrying overhead wires to remove the same to such position as will make it clear of such proposed work.
 - (3) The service authority shall comply with every such requirement of the Minister, and the reasonable cost of its so doing shall be repaid by the Minister to the service authority out of the Fund, except in the case of a pole or tower attached to a structure erected by the Minister or some previous highway authority, in which case the cost of removal from or attachment to the structure shall not be paid out of the Fund but shall be borne by the service authority.

15. Regulation of erection of poles, &c., for electric mains, &c.

- (1) In any case where a service authority desires to erect any pole or tower for carrying electric mains or wires along any portion of a State highway or subsidiary road, such authority shall apply in writing to the Minister for permission so to do, and shall submit a plan showing the proposed disposition of the poles or towers, the mains or wires carried thereby, and the stays thereof in relation to the pavement, shoulders, and structures of the road to be affected thereby.
- (2) The Minister may grant such permission as aforesaid, either in accordance with the plan so

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submitted or subject to such alteration of the disposition of the poles or towers as the Minister may think fit.

- (3) The Minister may require the service authority forthwith to remove, at its own expense, any pole or tower erected by it as aforesaid otherwise than in accordance with such permission, and the authority shall comply with every such requirement.

16. Works in highways

- (1) Structures shall not be erected or placed and other works shall not be done in a State highway or subsidiary road without the consent in writing of the Minister.

Penalty: Fine not exceeding 10 penalty units.

- (2) This section –
- (a) extends to local authorities acting under section 11;
 - (b) does not authorize a common nuisance;
 - (c) does not affect the operation of Chapter XV of the *Criminal Code*; and
 - (d) does not affect civil remedies.
- (3) The Minister's consent under this section may be, at his discretion, granted absolutely or on condition, withheld, or withdrawn.

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- (4) Where the Minister's consent is withdrawn, whether for breach of condition or otherwise, the person who erected, placed, or did the work consented to and his assigns shall forthwith at his own or their own cost remove or undo the work and restore the surface of the road in a proper and workmanlike manner to the satisfaction of the Minister.

Penalty: Fine not exceeding 50 penalty units.

- (5) If the Minister under subsection (1) has consented to the erection or placement of a structure, or to the doing of any other works, the Minister may do any one or more of the following by written notice to the relevant person:
- (a) if the erection or placement of the structure, or the other works, has not been completed, impose conditions or further conditions, or remove or amend any conditions, to which the consent is subject;
 - (b) whether or not the erection or placement of the structure, or the other works, has been completed and if the Minister considers that a condition of the consent has not or is not being complied with, require the relevant person to ensure that, within the time specified in the notice, the condition is complied with to the satisfaction of the Minister;

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- (c) if the erection or placement of the structure, or the other works, has been completed and the Minister considers that the standard of the structure or other works is not satisfactory, require the relevant person to upgrade the structure or other works, within the time specified in the notice, to a standard satisfactory to the Minister;
- (d) if the erection or placement of the structure, or the other works, has been completed, require the person to carry out maintenance or repairs, within the time specified in the notice, to a standard satisfactory to the Minister;
- (e) if the erection or placement of the structure, or the other works, is not completed, require the relevant person to complete the works within the time specified in the notice;
- (f) if the erection or placement of the structure, or the other works, has not been completed and –
 - (i) a condition of the consent has been, or is being, contravened; or
 - (ii) a person has not complied with a notice under paragraph (b) or (e) –

require the relevant person to cease erecting or placing the structure, or doing

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the other works, within the time specified in the notice;

- (g) if the erection or placement of the structure, or the other works, has been completed and –
 - (i) a condition of the consent has been contravened; or
 - (ii) a person has not complied with a notice under paragraph (b), (c) or (d) –

require the relevant person to remove or undo the structure or other works, or part of the structure or other works, within the time specified in the notice;

- (h) if the Minister has issued a notice under paragraph (f) or (g), include in the notice under that paragraph a requirement that the relevant person, within the time specified in the notice, take all action necessary to restore the State highway or subsidiary road, or a section of the State highway or subsidiary road specified in the notice, to the condition it was in before the erection or placement of the structure, or the doing of the other works, was commenced.

- (6) If a person is erecting or placing a structure or is doing other works in a State highway or subsidiary road without the consent of the Minister under subsection (1), or has so erected or placed a structure or done other works, the

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Minister may do one or more of the following by written notice provided to the relevant person:

- (a) require the relevant person to cease erecting or placing the structure or doing the other works;
 - (b) require the relevant person to remove or undo the structure or other works, or part of the structure or other works, within the time specified in the notice;
 - (c) require the relevant person, within the time specified in the notice, to take all action necessary to restore the State highway or subsidiary road to the condition it was in before the erection or placement of the structure, or the doing of the other works, was commenced;
 - (d) consent to the erection or placement of the structure or the doing of the other works, regardless of whether or not the erection or placement of the structure or the doing of the other works has been completed.
- (7) If the Minister under subsection (6)(d) consents to the erection or placement of a structure or the doing of other works, this section applies as if the consent were granted before the erection or placement of the structure, or the doing of the other works, was commenced.
- (8) A notice under subsection (5) or (6) may specify that the action required by the notice to be undertaken must be completed within the period

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(being a period of not less than 60 days) specified in the notice or such longer period as the Minister may allow on the application of the relevant person.

- (9) A relevant person must comply with a notice under subsection (5) or (6).

Penalty: Fine not exceeding 10 penalty units.

- (10) If –

- (a) a relevant person fails to comply with a notice under subsection (5) or (6); or
- (b) the Minister considers that an action that could be required to be taken by a relevant person by such a notice needs to be undertaken as a matter of urgency –

the Minister may authorise a person to take that action and, for the purpose of taking that action, the person may enter onto and remain on any land if the person considers it necessary to do so.

- (11) If the Minister under subsection (10)(b) authorises a person to take action, the Minister is to take reasonable steps to notify the relevant person of the authorisation before the action is taken.
- (12) If the Minister under subsection (10) authorises a person to take any action, the reasonable costs incurred in taking that action –
- (a) are a debt due and payable by the relevant person to the Crown; and

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- (b) may be recovered in a court of competent jurisdiction.
- (13) The relevant person is responsible for the construction of the structure or the doing of other works and for the completion, upgrading, maintenance and repair of the structure constructed or works done under this section.
- (14) A reference in this section to a structure includes a reference to –
 - (a) a sign or banner, whether fixed or movable; and
 - (b) a pathway that is constructed by a construction process or other works and that allows vehicular access to a State highway or subsidiary road.
- (15) In this section –
 - relevant person* means, in relation to a structure or works –
 - (a) a person to whom consent has been given under subsection (1) to erect or place a structure or to undertake other works; or
 - (b) a person who owns, or who has possession or control of, the structure or other works; or
 - (c) a person who owns, or who has possession or control of, the land from which –

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- (i) there is vehicular access to a State highway or subsidiary road by means of a pathway referred to in subsection (14)(b); or
 - (ii) vehicular access to a State highway or subsidiary road by means of a pathway referred to in subsection (14)(b) will be available once the construction of the pathway is completed.
- (16) Nothing in this section applies to a pathway by which vehicular access to a State highway or subsidiary road occurs if that pathway is formed by, or exists because of, the use of a vehicle over an area to access the highway or road and not by any construction process or other works.

16AA. Informal vehicular access to State highway or subsidiary road

- (1) In this section –

informal access pathway means a pathway by which vehicular access to a State highway or a subsidiary road occurs if that pathway is formed by, or exists because of, the use of a vehicle over an area to access the highway or road and not by any construction process or other works;

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relevant person means a person who owns, or who has possession or control of, the land from which vehicular access to a State highway or subsidiary road occurs, or may occur, by means of an informal access pathway.

- (2) The relevant person has responsibility for the upgrading, maintenance and repair of an informal access pathway.
- (3) The Minister, by written notice provided to the relevant person, may require an informal access pathway to be –
 - (a) upgraded to a standard satisfactory to the Minister; or
 - (b) maintained to a standard satisfactory to the Minister; or
 - (c) repaired to a standard satisfactory to the Minister; or
 - (d) relocated to a place or area specified in the requirement; or
 - (e) removed.
- (4) A notice under subsection (3)(e) requiring the removal of an informal access pathway may include a statement that the notice does not prevent the relevant person applying for the Minister's consent under section 16(1) for the construction of a pathway to allow vehicular access to the relevant State highway or subsidiary road.

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- (5) If the Minister requires the relocation of an informal access pathway or its removal under subsection (3)(d) or (e), the Minister, in the notice under that subsection, also may require the relevant person to take all action necessary to restore the State highway or subsidiary road to the condition it was in before the informal access pathway was created.
- (6) A notice under subsection (3) may specify that the action required by the notice to be taken must be completed within the period (being a period of not less than 60 days) specified in the notice or such longer period as the Minister may allow on the application of the relevant person.
- (7) If the relevant person does not comply with a notice under subsection (3), the Minister may authorise a person to take the action required by the notice and, for that purpose, the person may enter and remain on the land from which the informal access pathway runs to the relevant State highway or subsidiary road.
- (8) If the Minister considers that any action that a relevant person could be required to take under subsection (3) needs to be taken as a matter of urgency, the Minister may authorise a person to take the action required by the notice and, for that purpose, the person may enter and remain on the land from which the informal access pathway runs to the relevant State highway or subsidiary road.
- (9) If the Minister under subsection (8) authorises a person to take action, the Minister is to take

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reasonable steps to notify the relevant person of the authorisation before the action is taken.

- (10) If the Minister under subsection (7) or (8) authorises a person to take action, the reasonable costs incurred in taking the action –
- (a) are a debt due and owing by the relevant person to the Crown; and
 - (b) may be recovered in a court of competent jurisdiction.

16A. Temporary closing of State highways and subsidiary roads

- (1) The Minister may close a State highway or subsidiary road if the Minister is satisfied that the closure is necessary for one or more of the following:
- (a) the highway or road has become unsafe for traffic;
 - (b) the highway or road has been damaged by flood, rain or other causes and, as a result of the damage, the Minister is satisfied that the use of the highway or road while it is damaged would –
 - (i) result in further damage to the highway or road; or
 - (ii) result in the highway or road becoming unsafe for traffic; or

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- (iii) significantly increase the cost of the repair of the damage; or
 - (iv) significantly increase the period of time that the highway or road would need to be closed, under this section, for the damage to be repaired or made fit;
- (c) for the purposes of carrying out the maintenance, construction, repair, reconstruction or upgrade of –
 - (i) the highway or road; or
 - (ii) the associated infrastructure in respect of, or a bridge relating to, the highway or road;
- (d) for the purposes of carrying out other works on, or in respect of, the highway or road including, but not limited to, works consented to by the Minister under section 16;
- (e) a hazard, danger or obstruction has occurred, or is likely to occur, on, or in respect of, the highway or road;
- (f) an activity is being, or is about to be, undertaken on land adjacent to the highway or road and that activity poses a risk to –
 - (i) the condition of the highway or road; or

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- (ii) the visibility or driving conditions of road users; or
 - (iii) the safety of the road or road users.
- (2) A State highway or subsidiary road closed in accordance with subsection (1) may be closed in either or both of the following ways:
 - (a) in whole or in part;
 - (b) to all traffic or to specified classes of traffic.
- (3) If a State highway or subsidiary road is closed, in whole or in part, under this section, the Minister is to ensure that –
 - (a) sufficient traffic control devices, within the meaning of the *Road Rules*, are erected on or in respect of the highway or road to warn traffic of –
 - (i) the closure of the highway or road; and
 - (ii) if relevant, the specified classes of traffic in respect of which the highway or road is so closed; and
 - (b) if appropriate, the highway or road, or part of the highway or road, that is closed under this section is cordoned off to prevent unauthorised use of the closed highway or road, or closed part of the highway or road.

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- (4) Unless authorised under this Act or by the Minister, a person must not go along, or cause an animal or vehicle to go along, a State highway or subsidiary road while it is closed under this section.

Penalty: Fine not exceeding 2 penalty units.

16B. Prohibition of traffic likely to cause damage

- (1) Where it appears to the Minister that traffic of a particular kind is likely to injure seriously a State highway or subsidiary road, the Minister may, by causing signs to be placed in accordance with subsection (2), prohibit the use of that highway or road by traffic of that kind.
- (2) The signs must be posted conspicuously on or near to the State highway or subsidiary road to which they relate.
- (3) At least 30 days before imposing a prohibition under this section, the Minister must, except in an emergency, also publish notice of the prohibition, indicating its effect –
- (a) in a local newspaper circulating in the locality in which the State highway or subsidiary road is situated; and
 - (b) in a newspaper circulating generally in Tasmania; and
 - (c) in such other manner as the Minister thinks fit.

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17. Provisions relating to plant, stores, &c.

- (1) The Minister may –
 - (a) purchase or acquire such plant, and such stores and materials (other than plant) as he may consider necessary for the purposes of this Act, and maintain in good condition any such plant, stores, and materials and all other plant, stores, and materials at the disposal of the Minister for the purposes of this Act; and
 - (b) hire from any person any plant which he considers necessary for the purposes of this Act.
- (2) Subject to subsection (3), the Minister may let on hire or sell or otherwise dispose of any such plant, stores, or materials to any person upon such terms and conditions as he may think fit.
- (3) Nothing in subsection (2) shall be construed as authorizing the Minister to sell or dispose of any land otherwise than in accordance with the law relating thereto.

17A. Boundaries of State highways and subsidiary roads

- (1) Where the boundary of a State highway or subsidiary road is disputed or uncertain the Minister may obtain a writ out of the Supreme Court setting out that the highway therein described is a State highway or subsidiary road, as the case may be, where the boundary is disputed or uncertain, and the landowners

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concerned, and directing a magistrate to inquire into and determine the true boundary and to return his finding into the Court.

- (2) The magistrate named in such a writ may summon before him the Minister and the landowners named therein and inquire accordingly as if the matter were before him on a complaint by the Minister under the *Justices Act 1959*, and when by his inquiry he has found what is the true boundary he shall make a return to the writ accordingly.
- (3) If on an inquiry under this section it appears to the magistrate making it that the true boundary is unknown he shall fix the boundary where he thinks it ought to be, in the light of the evidence adduced by the parties before him and in fairness to all concerned, and the boundary fixed by him shall, subject to any traverse taken in the Supreme Court, be deemed to be the true boundary for all purposes including the rectification of public records.
- (4) When –
 - (a) the time within which to traverse the return to the writ is expired; or
 - (b) where the return is traversed, the subsequent proceedings are at an end –

the Minister shall take all proper steps for the rectification of public records in accordance with the return.

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- (5) Rules of court may be made for the purposes of this section and so far as no rules of court extend the procedure pursuant to a writ issued under this section shall, subject to the express provisions of this section, be like the procedure of the Supreme Court in matters formerly on the Crown side of the Court of Queen's Bench.

17B. Discharge of concentrated drainage on to roads

- (1) An owner or occupier of land adjacent to a State highway or subsidiary road shall not do anything to concentrate the natural drainage of the land on to the State highway or subsidiary road without the consent, in writing, of the Minister.

Penalty: Fine not exceeding 10 penalty units.

- (2) The road authority of a road running into a State highway or subsidiary road shall not do any works by means of which the natural drainage from its road is carried or will run into a drain or culvert on or connected with the State highway or subsidiary road without the consent, in writing, of the Minister.
- (3) The Minister's consent under this section may be subject to conditions.
- (4) Without prejudice to the generality of subsection (3) the Minister may make a condition of his consent that the person requiring the consent shall –
 - (a) as directed by the Minister and under the supervision and to the satisfaction of an

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officer designated by him enlarge a drain or culvert on or connected with the State highway or subsidiary road to the extent which the Minister thinks necessary to carry the additional drainage; or

- (b) pay the Minister the cost incurred by him in carrying out such enlargement.
- (5) Where concentrated natural drainage is discharged on to a State highway or subsidiary road contrary to this section or in breach of a condition of the Minister's consent the Minister may by his name of office sue the person responsible therefor as if he were the owner of the State highway or subsidiary road and may in addition to any other remedy recover as damages the amount that he will be required to spend on and in connection with drains and culverts if the concentrated drainage continues to discharge upon the State highway or subsidiary road.

17C. Sullage draining on to roads

- (1) No person shall cause or suffer any drainage other than water naturally on land from rain, snow, natural flow in watercourses or over ground, or soakage to flow into any drain on, or draining, a State highway or subsidiary road without the consent in writing of the Minister.

Penalty: Fine not exceeding 10 penalty units.

- (2) The Minister's consent under this section may be subject to conditions.

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- (3) Where drainage flows in a drain on, or draining, a State highway or subsidiary road contrary to this section the Minister may by notice in writing require the person responsible to keep the drainage out of any drain on, or draining, a State highway or subsidiary road, and if that person fails or neglects to comply for 30 days after receiving the notice the Minister may by notice in writing require the local authority to take proper steps to that end within 90 days, and if the local authority does not do so the Minister may do so, charging the cost to the Fund in the first place and recovering it from the person responsible.
- (4) For the purposes of subsection (3) the cost –
 - (a) is ascertainable by the certificate of the Director; and
 - (b) when so ascertained is recoverable as a debt.
- (5) This section –
 - (a) applies to councils having the control of roads;
 - (b) does not authorize a nuisance; and
 - (c) does not affect civil remedies or the operation of –
 - (i) Chapter XV of the *Criminal Code*;
 - (ii) the *Public Health Act 1997*;

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- (iii) section 15 of the *Police Offences Act 1935*; or
 - (iv) any other enactment, regulation, or by-law for the preservation of health or the suppression of nuisances.
- (6) The Minister shall not be deemed to be a party to the creation or continuance of a nuisance merely because he has given a consent under this section to something constituting, or contributing to, a nuisance.

17D. Delegation

- (1) The Minister may, by instrument in writing, delegate to any person specified in the instrument of delegation the performance or exercise of such of the Minister's functions and powers under this Act (other than this power of delegation) as are specified in the instrument of delegation.
- (2) The Minister may, by instrument in writing, revoke wholly or in part or vary a delegation made under this section.
- (3) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

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- (4) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument of delegation.
- (5) Notwithstanding any delegation under this section, the Minister may continue to perform or exercise all or any of the functions or powers 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 Minister and shall be deemed to have been done by or to the Minister.
- (7) An instrument purporting to be signed by a delegate of the Minister 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 Minister and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Minister under this section.
- (8) If the Minister by whom a delegation is made dies, or ceases to hold, or is suspended from, office, that delegation shall be deemed to continue in force according to its tenor until it is revoked or varied under this section.

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PART IV – ROADS GENERALLY

Division 1 – Purchase and taking of land and materials for roads

26. Powers of Minister with respect to construction of roads

Whenever the Minister is authorized by Parliament to lay out, form, construct, widen, divert, alter, repair, or improve any road, the Minister shall, in addition to the powers and obligations conferred and imposed upon him by the *Land Acquisition Act 1993*, in the case of the undertaking, construction, or provision by him of any public work, have the powers and be subject to the obligations conferred and imposed upon him by this Act.

27.

28. Acquisition of land for quarry, &c.

Any road authority may purchase or take land required by it for the purposes of a quarry or gravel-pit in the same manner and subject to the like conditions as it may acquire land for constructing, widening, or altering a road.

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29. Intention to acquire land may be abandoned if compensation excessive

Where a road authority has given notice of its intention to take land for any of the purposes hereinbefore set forth, and the compensation in respect thereof is determined, if the road authority deems it inexpedient to pay the amount thereof, it may, within 21 days after receiving notice of the amount of compensation so determined, withdraw the notice of intention to take the land on payment of the costs of the reference and determination.

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32. Entry by council upon land and staking out of same

Whenever a road authority intends to take any land for the purposes of this Act, it shall be lawful for the road authority, after having given 7 days' notice in writing to the occupier thereof, to enter upon such land and to stake out the same in such manner as it thinks necessary or expedient; and, if any person shall wilfully pull up, remove, or destroy any stake used for the purpose aforesaid, he shall be liable to a fine not exceeding 5 penalty units.

33. Rental of land

A road authority may contract and agree with the owner of any land for the rental from him of

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such land for the purpose of obtaining materials therefrom for the construction or maintenance of any road or street or for any other of the purposes of this Act which are applicable to such road authority.

34. Use of uncultivated land for temporary road

- (1) Any road authority may make use of any uncultivated land for the purpose of constructing a temporary road whilst any road is being reconstructed, widened, diverted, altered, improved, or repaired without making compensation for the same.
- (2) Any such temporary road shall, if necessary, be fenced in or otherwise so secured by the road authority as to afford to the person through whose land such temporary road shall pass an equal protection against trespass as was possessed by such person previously to the construction of such temporary road.
- (3) On the completion of the works or repairs aforesaid any damage done to the lands through which such temporary road shall pass shall in all respects, as far as practicable, be made good by the road authority.

35. Taking of timber, &c., from land

- (1) Any road authority may, after giving 7 days' notice in writing to the owner or occupier thereof, enter upon any uncultivated land and cut down and carry away all such indigenous timber

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as the road authority may require for making, repairing, or fencing any road, or for any other of the purposes of this Act, and in any such case the road authority shall make full compensation for such timber to the owner of the land.

- (2) It shall not be lawful for the road authority in the exercise of its powers under this section to cut down any such indigenous timber where it is made to appear to the satisfaction of the road authority that the same has been, and is intended to be, reserved and used by the owner or occupier of the land for the purpose of ornament or shelter.
- (3) The road authority may, after having given such notice as aforesaid, enter upon any land and dig, quarry, and carry away all such materials as it may require for the construction or maintenance of any road, and in any such case the road authority shall make full compensation to all parties interested for the damage thereby sustained.
- (4) The compensation payable in respect of the exercise by a road authority of any of the powers conferred by this section is to be determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.
- (5) Where any land to be entered under the provisions of this section is fenced, the road authority upon making such entry shall cause a substantial gate to be erected where required to prevent the escape of any stock from such land.

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36. Quarries, &c., to be fenced and filled up or otherwise secured

The road authority shall cause all quarries and pits which have been opened up or used upon any land by it to be fenced or otherwise secured and kept so fenced or secured so long as the same shall continue open and in use; and upon ceasing to use the same shall, if required by the owner or occupier of such land, cause the same to be filled up, sloped down, or otherwise secured.

37. Fences to be restored

Where in the exercise of any of the powers conferred upon a road authority by this Part any fence has been temporarily taken down, the same shall, upon completion of the work necessitating such taking down, be well and sufficiently restored by the road authority.

38. Deviations to be fenced

Where any road has been diverted, the road authority shall, if required by the owner or occupier of any land through which such road passes, cause such road to be well and sufficiently fenced where it so passes.

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Division 2 – Miscellaneous provisions

39. Entry upon certain adjoining lands for specified purposes

- (1) The Minister, or a person authorised by the Minister under subsection (2)(a), may enter upon any land adjoining any road for which the Minister is the road authority, if entry upon that land is necessary for one or more of the following purposes:
- (a) to take any action necessary to maintain, reconstruct or upgrade the road;
 - (b) to take any action necessary to monitor and investigate infrastructure and conditions, including subsurface conditions, in respect of the road;
 - (c) to take any action necessary for the planning, designing or investigating in respect of works to be performed in relation to, or in connection with, the road;
 - (d) to take any action necessary in respect of the following items on the land that may negatively impact on the condition of the road or the safety of the road or road users:
 - (i) a building or structure, whether permanent or temporary, other than a place of residence of the owner or occupier of the land;

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- (ii) vegetation or land formations, whether natural or man-made.
- (2) The Minister may –
 - (a) authorise a person to take an action under subsection (1) as is specified in the authorisation; or
 - (b) direct the owner, or occupier, of land to take an action under subsection (1) as specified in the direction.
- (3) A person entering land, for the purpose of taking an action under this section, must –
 - (a) give notice, in accordance with subsection (4), to each owner and occupier of the land of –
 - (i) the intended action to be taken; and
 - (ii) the anticipated period during which the action is to be taken; and
 - (b) give the notice under paragraph (a) at least 14 days, or such other prescribed period, before taking the action.
- (4) A notice under subsection (3)(a) is to be given to an owner or occupier of land –
 - (a) by serving a copy of the notice on the owner or occupier; or

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- (b) if a valid email address, or other form of communication is known for the owner or occupier, by transmitting a copy of the notice to the owner or occupier by electronic means; or
 - (c) by displaying, for the duration of the period referred to in subsection (3)(b), a copy of the notice on the land –
 - (i) in a conspicuous location; and
 - (ii) in a manner that enables the information on the notice to be read without trespassing onto the land.
- (5) Subsection (3) does not apply in respect of the taking of an action on land under this section if the Minister is satisfied that action must be immediately taken to address an immediate risk to the safety of road users.
- (6) A person taking an action under this section in respect of land –
- (a) must ensure, so far as is possible, the security of the land while the action is taken; and
 - (b) must make good all damage, or injury, to the land (including, but not limited to, damage or injury to the fences, hedges, ditches, buildings, structures or other things on the land) that occurs as a result of the person taking the action; and

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- (c) may take onto the land such persons, and equipment, as are necessary to take the action.
- (7) Subsections (3) and (6) do not apply to the owner, or occupier, of land that is taking an action under this section as directed by the Minister under subsection (2)(b).
- (8) Nothing in this section authorises a person –
 - (a) to fail to comply with this Act, or any other Act, when taking an action under this section; or
 - (b) to enter a building or structure on land without the consent of the owner, or occupier, of the building or structure.

40. Power to make drains on adjoining lands

- (1) The road authority may make, cleanse, and keep open all drains or watercourses which it may deem necessary in and through any land adjoining or near to any road of which it has the construction or maintenance.
- (2) Before first entering on any land for the purposes of this section, the road authority shall give to the owner and occupier thereof 14 days' notice of its intention so to do; and such notice shall set forth such particulars, if any, as may be prescribed.
- (3) The road authority shall pay to the owner and occupier of such land compensation for any

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damage sustained by such owner and occupier respectively by reason of the exercise by the road authority of the powers conferred by this section, and in default of agreement such compensation shall be determined in the manner prescribed by section 35.

- (4) The road authority at all times shall maintain and keep in repair any drain or watercourse constructed under this section.

**41. Timber growing near roads may be cut down:
Consent of owner required in certain cases**

- (1) The road authority may cut down and remove any indigenous timber growing or standing within 23 metres of the centre of any road of which it has the care, control, or management, making good all damage or injury to the fences, hedges, ditches, walls, or any other thing upon the land on which such timber may be growing or standing.
- (2) The road authority shall not, without the consent of the owner of such land, cut down any timber reserved or planted thereon for the purpose of ornament or shelter.

42. Hedges, &c., obstructing view of traffic to be cut or trimmed

- (1) Where the road authority is of opinion that it is necessary, for the prevention of danger arising from obstruction to the view of persons using such road, that any fence, construction, hedge,

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tree, or vegetation erected, constructed, growing, or planted on land adjoining such road, or any road intersecting or junctioning with such road, should be reduced in height or otherwise cut or trimmed, the road authority may give to the owner or occupier of such land 21 days' notice in writing to reduce the height of or cut or trim such fence, construction, hedge, tree, or vegetation to such an extent or in such a manner as the road authority shall think necessary for the purpose aforesaid and shall specify in such notice.

- (2) If such owner or occupier shall fail to comply with such notice within the time aforesaid, the road authority may cause such fence, construction, hedge, tree, or vegetation to be reduced in height or otherwise cut or trimmed to such an extent or in such manner as shall have been specified in such notice, and may recover in any court of competent jurisdiction from the person to whom such notice was given the expenses incurred in so doing.

43. Discharge of concentrated drainage from land adjacent to road

The occupier of any land which is bounded by or adjacent to any road, and upon which has been executed any work for the purpose of concentrating the drainage flowing thereon, and of causing the same when so concentrated to be discharged onto the road or into any drain or culvert on or under such road, shall obey all reasonable directions in writing of the Secretary,

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or, in the case of a road under the care, control, or management of any council, of the council, as to the place at which such drainage shall be so discharged.

Penalty: Fine not exceeding 5 penalty units.

44. Culverts to be constructed by owners at entrances to lands adjoining roads

- (1) The road authority may give to the owner of any land adjoining any road a notice in writing requiring such owner, within a time to be specified in the notice, to construct to the satisfaction of the road authority across the table-drain or gutter of such road, at or opposite to any entrance to such land which is used or intended to be used for vehicular traffic to or from such land, a culvert of such a nature and of such dimensions as shall be specified in the notice, and as will allow the free passage through such culvert of any water which may reasonably be expected to flow along such table-drain or gutter and into such culvert when so constructed.
- (2) If such owner shall fail to comply with such notice within the time specified therein, the road authority may cause such culvert to be constructed, and may recover from such owner in any court of competent jurisdiction the expenses incurred in such construction.

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45. Power of Minister in certain cases to erect gates across roads

- (1) If any road which is being constructed by the Minister passes through a fence which is erected on the common boundary of 2 adjoining properties, or which subdivides a property through which the road passes, the Minister may cause a gate of not less than 3 metres in width, with or without a cattle-guard of a similar width at one side of such gate, to be erected or constructed and maintained across such road where the same passes through such fence.
- (2) If and when such road shall thereafter come under the care, control, or management of a council, the council shall continue to maintain such gate, or such gate and cattle-guard, as the case may be; and, in any case in which a gate has been erected by the Minister without a cattle-guard at one side thereof, the council may, if it thinks fit, on such road coming under its care, control, or management, or at any time thereafter, construct and maintain a cattle-guard at one side of such gate.
- (3) If such gate is maintained in good and sufficient repair, is properly hung, and provided with a latch or other suitable fastening, and has distinctly painted thereon the words “Shut this Gate: Penalty \$10”, every person passing through such gate shall shut and fasten the same.

Penalty: Fine not exceeding 1 penalty unit.

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46. Damage caused by overweight vehicles

- (1) Where any extraordinary expenses have been incurred by a road authority in repairing any road under its care, control, or management by reason of the damage caused by any excessive weight passing along such road, or extraordinary traffic thereon, or in any other way, the road authority may recover, in any court of competent jurisdiction from any person causing such weight or traffic to so pass along the same or otherwise causing the damage, the amount of such expenses as may be proved to the satisfaction of such court to have been incurred by the road authority by reason of the damage arising from such excessive weight or extraordinary traffic so passing as aforesaid or in any other way.
- (2) Any person from whom such expenses are or may be recoverable under this section may enter into an agreement with the road authority for the payment to it of compensation in respect of such expenses, and, upon such person paying such compensation, he shall not be liable to any proceedings under this section.

47. Road metal, &c., may be placed on side of road

- (1) The road authority may cause road metal or other materials, or any vehicle or plant used for the purpose of or in connection with the construction or maintenance of any road, to be stacked, deposited, or left upon such road at a distance from the centre thereof of not less than 3 metres in the case of a State highway, and not

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less than 2.5 metres in the case of a country road.

- (2) No such road metal, materials, vehicle, or plant shall be stacked, deposited, or left upon the pavement of any road, or in such manner as to obstruct any other road intersecting or junctioning with the same, or the table drain of any road, or the entrances to any private land.

47A. Warning gantries for bridges with overhead members

- (1) Subject to subsection (2), a road authority may erect on a part of a road under its control that forms an approach to a bridge with overhead members such warning gantries and crash-beam gantries as the authority considers necessary for the protection of that bridge.
- (2) A road authority other than the Minister shall not erect a gantry pursuant to subsection (1) without the prior approval of the Minister.
- (3) A road authority shall cause a gantry erected by it pursuant to subsection (1) to be marked clearly with the maximum clearance height for vehicles on the bridge in respect of which the gantry is erected.

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48. Power of road authority, with the consent of the Governor, to permit tramway or railway along or across road

- (1) The road authority may, with the consent of the Governor, grant authority to any person to lay down, construct, and maintain a tramway or railway along or across any road under its control subject to such terms and conditions as may be recommended by the council and approved by the Governor.
- (2) The granting of such authority shall be notified, and the terms and conditions of such grant shall be published, in the *Gazette* and in a newspaper within one month after such approval as aforesaid.

48A. Removal and disposal of abandoned articles

- (1) Where it appears to the road authority that an article has, without lawful authority, been abandoned on a State highway or subsidiary road, the road authority may remove the article from that highway or road.
- (2) Where an article has been removed from a State highway or subsidiary road under this section the road authority 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 or road, possession has not been taken of the article under subsection (4); or

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- (b) if the road authority 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 or road and its storage for the period of one month thereafter.
- (3) Notwithstanding anything in subsection (2), if the article is the carcase of an animal or of a perishable nature the road authority may at any time dispose of it in such manner as it thinks fit.
- (4) Unless the article has otherwise been disposed of in accordance with this section, the road authority, 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 State highway or subsidiary road and in its storage until possession of the article is taken by that person.
- (5) If under subsection (2) or (3) an article is sold and the amount recovered from its sale exceeds the cost of its removal from the State highway or subsidiary road and of its storage until the time it is sold, the road authority shall, on a claim made to it, within 6 months of its being so removed, by a person who satisfies the road authority that he is an owner of the article, pay to that person the amount of the excess.
- (6) Where, before payment is made under subsection (5) in respect of any article, 2 or more

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separate claims are made under that subsection by persons each of whom the road authority 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 may be agreed between them or, in default of agreement, as may be determined by a justice on the application of any of them.

- (7) Where a claim is made under subsection (5) in respect of an article by a person and it appears to the authority that there is or may be some other person who is an owner of that article, nothing in that subsection requires the authority 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 road authority in writing that he does not intend to make such a claim.
- (8) The rights of any person in an article to which this section applies, or in the proceeds of the sale thereof, have effect subject to the powers and duties conferred or imposed on a road authority under this section, and that authority 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, any article arising in connection therewith.
- (9) A road authority may recover from a person who is an owner of an article removed from a State highway or subsidiary road under this section, or

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from the person who abandoned the article, the cost incurred in its removal, storage, and disposal, less any sums received by the authority on the sale of the article.

- (10) The expenses incurred by a road authority 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 State highway or subsidiary road from which the article was removed, and any sums received by the road authority under this section shall be paid into the Fund.
- (11) This section does not apply to a carcass that a council must remove from a highway under section 171 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.
- (12) In this section –
- article** includes a vehicle or trailer, or any part or component thereof, and the carcass of any animal;
- owner**, when used in relation to an article removed from a State highway or subsidiary road under this section, means any 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.
- (13) Without prejudice to the provisions of subsection (12), where an article removed from a State highway or subsidiary road under this section is

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a motor vehicle or trailer within the meaning of the *Vehicle and Traffic Act 1999*, or is a part or component of such a 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.

48B. Power to remove vehicles causing obstruction or danger

- (1) A road authority may move, keep or impound any vehicle (and anything in, on or attached to the vehicle) that –
 - (a) is causing an unlawful obstruction; or
 - (b) is unlawfully parked or left standing in an area designated by the Minister; or
 - (c) has been left standing illegally for a period of at least 2 days; or
 - (d) has been left standing in an area in which in the opinion of the road authority the vehicle is obstructing the free movement of traffic on a road or from a driveway; or
 - (e) has been left standing in an area in which in the opinion of the road authority the

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vehicle constitutes a hazard to road safety.

- (2) A road authority must return to its owner a vehicle moved, kept or impounded under subsection (1) on payment of a fee.
- (3) The fee set for the purposes of subsection (2) must not exceed an amount that reasonably represents the cost to a road authority of impounding, moving, keeping and releasing the vehicle, including any relevant overhead and other indirect costs.
- (4) Subject to subsection (5), a road authority may sell, destroy or give away a vehicle that has been moved, kept or impounded under subsection (1) (and anything in, on or attached to the vehicle) if the owner of the vehicle has not paid the fee under subsection (2) within 60 days of the date when the vehicle was first moved, kept or impounded.
- (5) Before exercising the power under subsection (4), the road authority must take reasonable steps to notify the owner of the vehicle that the vehicle has been moved, kept or impounded and that it may be sold, destroyed or given away unless the specified fee is paid within 60 days.
- (6) A road authority and anyone who obtains the vehicle from a road authority under subsection (4) is not liable to the owner of the vehicle or any other person in respect of any action taken under that subsection.

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Division 3 – Offences

49. Obstructing roads: Notice to remove obstructions

(1) No person shall –

- (a) make or erect any building or fence on or at the side of any road in such a manner as to reduce the width or confine the limits thereof;
- (b) fill up or obstruct –
 - (i) a drain in, under or along; or
 - (ii) a drain or watercourse made by the Minister or a council through land adjoining or near –

a road for the purpose of draining that road;
- (c) make any drain, sink, or watercourse upon or across any road;
- (d) pull down, deface, damage, or destroy any lamp, lamp-post, milestone, kilometre post, direction-sign, wall, fence, post, or rail on any road;
- (e) extinguish any light maintained on or beside any road for the lighting of such road or for the protection of traffic thereon; or

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- (f) in any manner whatsoever wilfully obstruct the use or enjoyment of any road.

Penalty: Fine not exceeding 5 penalty units.

- (2) No person being the owner or occupier of any land adjoining any road shall –
 - (a) permit or suffer any hedge planted or growing on such land to encroach on such road so as to reduce the width or confine the limits thereof, or permit or suffer any such hedge in any manner whatever to obstruct such road;
 - (b) permit or suffer the seedlings, suckers, or other off sets of such hedge to encroach on such road;
 - (c) permit or suffer the branches of any tree growing or standing on such land to overhang such road in such a manner as to obstruct or interfere with the use of such road; or
 - (d) permit or suffer any briar, blackberry, gorse, Californian thistle, Bathurst burr (*Xanthium spinosum*), or any declared weed within the meaning of the *Weed Management Act 1999*, to spread from such land to, or encroach on, such road.

Penalty: Fine not exceeding 5 penalty units.

- (3) The road authority may give to any person making or erecting any building or fence, or

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causing or permitting any obstruction or encroachment, or making any drain, sink, or watercourse in contravention of any of the provisions of subsections (1) or (2) in respect of any road under its care, control, or management, 21 days' notice in writing to take down such building or fence, remove or abate such obstruction or encroachment, or fill such drain, sink, or watercourse; and, in default of such person complying with such notice within the time aforesaid, the road authority may take down such building or fence, remove or abate such obstruction or encroachment, or fill up such drain or watercourse, and may recover in any court of competent jurisdiction from the person making such default the expenses incurred by the road authority in so doing.

50. Damage to roads, &c.

- (1) A person must not do, or cause to be done, either of the following things in respect of a road:
 - (a) draw or haul anything other than a vehicle along the surface of the road;
 - (b) allow anything being carried on a vehicle to drag or trail along the surface of the road, whether continuously or intermittently.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not, intentionally or recklessly, damage a road, bridge or jetty.

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Penalty: Fine not exceeding 20 penalty units.

- (3) A court that convicts a person of an offence under subsection (1) or (2) may, in addition to or instead of imposing a penalty under that subsection, order the person to pay the responsible entity an amount, determined by the court, for the damage occasioned by the offence.
- (4) For subsection (3),

responsible entity means the Crown or other person that the court considers to be primarily responsible for the maintenance of the damaged road, bridge or jetty.

50A. Scaffolding

A person must not unlawfully erect any scaffolding or boarding in a street in a town.

Penalty: Fine not exceeding 2 penalty units.

50B. Excavations

A person must not make any excavation, vault or cellar beneath a street in a town without the consent of the appropriate council.

Penalty: Fine not exceeding 2 penalty units.

50C. Removal of barricades

A person must not remove any barricade, chain, fence or lamp set up –

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-
- (a) in connection with the making or repair of a road; or
 - (b) for the protection or control of persons passing along the road.

Penalty: Fine not exceeding 2 penalty units.

51. Laying down timber, &c., on roads

No person shall –

- (a) lay down or cause to be laid down or deposited any timber, stone, hay, straw, dung, lime, soil, ashes, or other like matter or thing, or any rubbish upon any road;
- (b) fell, cut, bark, or remove any tree on or at the side of any road; or
- (c) remove any soil from any road –

unless he be authorized by the road authority having the care, control, or management of such road so to do.

Penalty: Fine not exceeding 5 penalty units.

52. Making fires on roads

No person shall make a fire upon the paved or constructed portion of any road or within 1·8 metres of any fence on or at the side of any road.

Penalty: Fine not exceeding 5 penalty units.

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PART IVA – LIMITED ACCESS TO ROADS

52AA. Interpretation of Part

In this Part –

licence means –

- (a) a licence issued under section 52CB; or
- (b) a licence taken to be validly issued by virtue of section 52G;

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

potential access means an access –

- (a) that could reasonably be constructed in accordance with any national standards relating to road and access safety; and
- (b) the construction of which is not prohibited under any Act;

proclaimed place of access, in relation to a limited access road, means a place of access set forth, for that limited access road, in a proclamation in accordance with section 52A(3);

proclamation means –

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- (a) a proclamation under section 52A that is not combined with a proclamation under section 9A; or
- (b) the part of a proclamation under section 52A that is combined with a proclamation under section 9A.

52A. Proclamation of limited access

- (1) The Governor may, by proclamation, declare any State highway or subsidiary road, or part thereof to be a “limited access road”.
- (2) A proclamation under this section may be combined with a proclamation under section 9A and, where a proclamation under this section is so combined, the part of the proclamation under this section takes effect on the opening of the relevant highway.
- (3) A proclamation under this section shall set forth the places of access for the purposes of section 52B.
- (4) The Minister shall, within the period of 60 days after the gazettal of a proclamation under this section –
 - (a) if any lands affected by the proclamation are under the *Land Titles Act 1980*, lodge with the Recorder of Titles a copy of the proclamation, together with a plan showing the names of the registered

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proprietors of those lands and the volume and folium of their respective folios of the Register, and the Recorder shall thereupon register the proclamation by making an appropriate entry of it on those folios of the Register;

- (b) if any lands affected by the proclamation are not under the *Land Titles Act 1980* and are not being purchased under Crown lands contracts, lodge in the Registry of Deeds a copy of the proclamation, together with a plan identifying those lands and showing their owners so far as the Minister can ascertain them; and
- (c) lodge with the Director-General of Lands a copy of the proclamation, and, if any lands affected by the proclamation are being purchased under Crown lands contracts, also lodge with the Director-General of Lands a plan showing the names of the purchasers of those lands.

(5)

- (6) Where a copy of a proclamation under this section that is lodged as required by subsection (4)(c) affects any land being purchased under a Crown lands contract, the Director-General of Lands shall register the proclamation by making an appropriate entry of it in the records kept by him.

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(7) The Minister shall, within the period of 60 days after –

- (a) the gazettal of a proclamation under this section that is not combined with a proclamation under section 9A; or
- (b) the part of a proclamation under this section that is combined with such a proclamation takes effect as provided in subsection (2) –

give notice of its taking effect in such form as he thinks fit to all owners of lands, and to all purchasers of lands being purchased under Crown lands contracts, that are affected by that proclamation or part, or such of them as he can with reasonable diligence ascertain and notify within that period.

(8) Where the Governor issues a proclamation–

- (a) revoking or amending a proclamation under this section that is not combined with a proclamation under section 9A; or
- (b) revoking or amending the part of a proclamation under this section that is so combined–

the Minister is to, within 60 days after the gazettal of the proclamation–

- (c) if any lands affected by the proclamation are under the *Land Titles Act 1980*, lodge with the Recorder of Titles a copy of the proclamation, having attached to it, in the

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- case of a proclamation amending a proclamation referred to in paragraph (a) or amending the part of a proclamation referred to in paragraph (b), a copy of a plan showing the names of the registered proprietors of those lands and the volume and folium of their respective folios of the Register;
- (d) if any lands affected by the proclamation are not under the *Land Titles Act 1980* and are not being purchased under Crown lands contracts, lodge in the Registry of Deeds a copy of the proclamation having attached to it, in the case of a proclamation amending a proclamation referred to in paragraph (a) or amending the part of a proclamation referred to in paragraph (b), a copy of a plan showing their owners so far as the Minister can ascertain them; and
- (e) lodge with the Director-General of Lands a copy of the proclamation and, if any lands affected by the proclamation are being purchased under Crown lands contracts, having attached to it, in the case of a proclamation amending a proclamation referred to in paragraph (a) or amending the part of a proclamation referred to in paragraph (b), a copy of a plan identifying those lands and showing the persons who are purchasing them.
- (9) Where a copy of a proclamation under this section is lodged as required by subsection

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(8)(c), the Recorder of Titles shall register the proclamation by making an appropriate entry of it on the folios of the Register affected by the proclamation.

- (10) Where a copy of a proclamation under this section that is lodged as required by subsection (8)(e) affects any land being purchased under a Crown lands contract, the Director-General of Lands shall register the proclamation by making an appropriate entry of it in the records kept by him.
- (11) The Recorder of Titles shall, if a proclamation under this section is registered in his office, make recordings on the deeds of grant or certificates of title of the lands affected by the proclamation when they are next produced to him.

52B. Effect of proclamation

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

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- (2) A person must not cause or permit a vehicle or livestock to cross the side boundary of a limited access road at a place other than a proclaimed place of access unless –
- (a) the person holds a licence in respect of that crossing; and
 - (b) the crossing is carried out in accordance with the licence.

Penalty: Fine not exceeding 5 penalty units.

- (3) The Minister may erect a fence on the side boundary of a limited access road which is sufficient to prevent a contravention of subsection (2).
- (4) The Minister may recover from the owner of land adjacent to any part of the fence the cost of erecting that part.
- (5) The owner of land which is adjacent to part of the fence must maintain that part.

52C. Compensation

- (1) An owner of land who loses an access or potential access to the land across a common boundary with a road because of a proclamation declaring that road to be a limited access road may apply for compensation.
- (2) An application for compensation is to be –
- (a) in writing; and

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- (b) lodged with the Minister.
- (3) An application for compensation is to be made within 12 months after the day on which the owner receives notice under section 52A(7).
- (4) The Minister may only pay compensation if satisfied that the person applying has lost an access or potential access to his or her land that existed before the proclamation.
- (5) The amount of compensation is to be –
 - (a) as agreed by the Minister and the owner;
or
 - (b) if there is no agreement, determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.
- (6) If a person is issued with a licence under section 52CA in respect of land, the amount of compensation payable to that person may be reduced to take into account the fact that the person has been issued with the licence in respect of the land.
- (7) Compensation is not payable more than once in relation to any particular land.

52CA. Application for licence

- (1) Subject to subsections (2) and (3), an owner of land who does not have access to the land across a common boundary with a road because of a proclamation declaring that road to be a limited

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access road may apply for a licence referred to in section 52CC.

- (2) An owner of land may only apply for a licence in respect of an access to the land if –
- (a) he or she, or any previous owner of the land, has not received compensation under this Part in relation to that access, other than compensation under this Part that is, or has been, reduced to take into account that an owner of the land has gained, or retained, access to the limited access road other than at a proclaimed place of access; and
 - (b) subject to subsection (3), a licence has not been issued under this Part in respect of the land.
- (3) Subsection (2)(b) does not apply to land, in respect of which a licence has been issued under this Part (the *initial licence*), if –
- (a) the land is to be subdivided; and
 - (b) the application for a new licence is to reallocate, to the land so subdivided, an access that was provided in respect of the land under the initial licence.
- (4) An application is to be –
- (a) in writing; and
 - (b) lodged with the Minister.
- (5) On receipt of an application, the Minister may –

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-
- (a) grant the application with or without conditions; or
 - (b) refuse to grant the application.
 - (5A) The Minister may refuse to grant an application of an owner in respect of land –
 - (a) if the Minister is satisfied that it was never intended for an owner of the land to have a licence allowing access to the land; or
 - (b) for any other reason that the Minister considers reasonable in the circumstances.
 - (5B) The Minister may not grant an application in respect of land that is already the subject of a licence if the approval of the application would provide that land with more access under this Part than was in force in respect of the land before the application was made.
 - (6) The Minister, by notice in writing, is to notify the owner of –
 - (a) the grant of the application; or
 - (b) the refusal to grant the application and any reasons for the refusal.

52CB. Issue of licence

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

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- (2) The Minister may issue a licence, on the Minister's own initiative and without an application under section 52CA, within 12 months after a proclamation is gazetted.
- (3) A licence issued under this section –
 - (a) is issued in respect of the land specified in the licence; and
 - (b) may be subject to any condition, specified in section 52CD, that the Minister thinks fit.

52CC. Authority of licence

- (1) A licence authorizes the owner of, and any person coming to, or leaving, the land in relation to which the licence was granted to access the land from the limited access road at a place other than a proclaimed place of access.
- (2) A licence –
 - (a) is to specify –
 - (i) the place of access; and
 - (ii) the land to which it relates; and
 - (b) is to be forwarded to the owner of the land as soon as practicable after it is granted; and
 - (c) is full or partial satisfaction of a claim for compensation according to its value to the land affected.

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-
- (3) A licence remains in force in respect of land until–
- (a) the licence ceases to have effect, or be in force, in accordance with a term or condition of the licence; or
 - (b) the Minister revokes the licence; or
 - (c) the owner surrenders the licence.
- (4) For the avoidance of doubt, a licence in force in respect of land is taken to be transferred to a new owner of the land on the sale, or disposal, of the land to the new owner unless the sale, or disposal, of the land results in that licence ceasing to have effect or be in force.

52CD. Conditions of licence

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

- (a) the location and width of the access authorized by the licence;
- (b) the duration of the licence;
- (c) the renewal of the licence;
- (d) the licence ceasing to be in force on the sale, or disposal, of the land;
- (e) the purpose for which the access in relation to which the licence was issued may be used;

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- (f) any other matter the Minister considers appropriate.

52CE. Variation of conditions of licence by Minister

- (1) The Minister may vary a condition of a licence if of the opinion that the variation will not have an adverse effect on the traffic on the limited access road.
- (2) If the Minister varies a condition of a licence, the owner may apply for compensation.
- (3) An application is to be –
 - (a) in writing; and
 - (b) lodged with the Minister.
- (4) On receipt of an application, the Minister may –
 - (a) grant the application; or
 - (b) refuse to grant the application.
- (5) If the Minister grants the application, the Minister must pay the owner compensation at an amount –
 - (a) agreed by the Minister and the owner; or
 - (b) if there is no agreement, determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.
- (6) A person may apply to the Magistrates Court (Administrative Appeals Division) for a review

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of the Minister's refusal to grant an application
for compensation under this section.

52CF. Variation of conditions of licence by owner

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

52CG. Revocation of licence

- (1) The Minister may revoke a licence –
 - (a) if the owner fails to comply with, or contravenes, any condition of the licence;
or
 - (b) for any other reason.
- (2) Before revoking a licence, the Minister by notice served on the owner is to notify the owner of –
 - (a) the intention to revoke the licence; and

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- (b) the owner's right to make submissions and give evidence in relation to the matter within 30 days of the date of that notice.
- (3) If the Minister decides to revoke the licence, the Minister is to serve a notice of revocation on the owner.
- (4) The revocation takes effect 30 days after the expiration of the period referred to in subsection (2)(b).
- (5) If the Minister revokes a licence under subsection (1)(a), compensation is not payable.
- (6) If the Minister revokes a licence under subsection (1)(b), compensation is payable to the owner at an amount—
 - (a) agreed by the Minister and the owner; or
 - (b) if there is no agreement, determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.

52CH. Surrender of licence

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

52D. Effect on building laws

- (1) Except in the case of a piece of land to which belongs access to it by virtue of a licence—

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-
- (a)
- (b) frontage on a limited access road shall not be deemed to be a frontage on a highway of any kind for the purposes of any enactment, regulation, by-law, or other provision intended to secure vehicular access to houses or other buildings.
- (2) For the purposes of this section a provision requiring lands, houses, or other buildings to have a frontage to any kind of highway for vehicles shall be deemed to be intended to secure vehicular access to houses or other buildings unless a contrary intention appears.

52E. Local access roads

- (1) The Minister may make roads and other works, alter existing roads and other works, and stop up existing roads –
- (a) for the convenience of lands –
- (i) deprived of existing access; or
- (ii) rendered unable to obtain access –
- to a highway by reason of the proclamation of a limited access road; or
- (b) so as to make the road system of its neighbourhood agree with the scheme of a limited access road.

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(2) For the purposes of this section the Minister may

—

- (a) exercise over the roads and works hereby affected the same powers as if those roads were State highways; and
- (b) carry roads under or over the limited access road or one another —

and the Governor may in the name and on behalf of the Crown by letters patent, proclamation, or otherwise as the case may require, dispose of lands, works, and the control of roads and of viaducts over and tunnels under the limited access road.

(3) A person whose land is injuriously affected by an act of the Minister under this section is entitled to compensation therefor, which compensation if not agreed upon shall be determined in the same manner as a disputed claim for compensation under the *Land Acquisition Act 1993*.

52F. Provision of access in certain cases for land belonging to private person

Where any land is deprived of existing access, or rendered incapable of obtaining access, to a highway as the result of a proclamation under section 52A or works under section 52E, the Minister may, in accordance with the provisions of the *Land Acquisition Act 1993*, acquire land for the purpose of providing access over it for the first-mentioned land and the Minister for

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Lands may, on such terms and conditions as he thinks fit, and in accordance with the *Crown Lands Act 1976*, grant to the owner of the first-mentioned land a right of carriageway over, or the fee simple in, the land so acquired.

52G. Validation of certain limited access licences

- (1) A licence issued, or purportedly issued, by the Minister in good faith under this Part before the commencement of the *Roads and Jetties Amendment (Validation) Act 2019*, that was not revoked or surrendered under this Part before the commencement of that Act –
- (a) is taken to have been validly issued; and
 - (b) is taken to have been so validly issued in respect of the land specified in the licence; and
 - (c) is taken to have remained in force on the same terms and conditions until the commencement of that Act; and
 - (d) on and from the commencement of that Act, is taken to remain in force until the first of the following occurs:
 - (i) the licence ceases to have effect, or be in force, in accordance with a term or condition of the licence;
 - (ii) the licence is revoked under section 52CG;

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(iii) the licence is surrendered under section 52CH.

- (2) A licence that is taken to remain in force on and from the commencement of the *Roads and Jetties Amendment (Validation) Act 2019*, by virtue of subsection (1)(d), is taken to have been in force continuously since the licence was issued, or purportedly issued, under this Part subject to its terms and conditions.
- (3) If, before the commencement of the *Roads and Jetties Amendment (Validation) Act 2019* –
- (a) the owner of land, in respect of which a licence was issued, sold, or otherwise disposed of, the land; and
 - (b) the licence was not revoked under section 52CG, or surrendered under section 52CH, before the sale or disposal of the land by the owner –

the licence is not taken to have ceased to be in force solely on the basis of that sale, or disposal, of the land.

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Part V – Control and Management of Certain Jetties and Marine Facilities

s. 53

**PART V – CONTROL AND MANAGEMENT OF
CERTAIN JETTIES AND MARINE FACILITIES**

53. Interpretation

In this Part, unless the contrary intention appears

—

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

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

- (a) by proclamation under section 54(1); or
- (b) under section 54B(2);

vested jetty means a jetty —

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

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

(ii) under section 54B(2).

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

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

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

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

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

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Part V – Control and Management of Certain Jetties and Marine Facilities

s. 54A

54A. Power of Governor to vest in Minister control and management of jetties under municipal control

- (1) Subject to this section, the Governor may, by proclamation, vest in the Minister the control and management of a jetty the control and management of which are vested in a council.
- (2) A proclamation under subsection (1) is only to be made with the consent of the council of the municipal area in which the jetty is situated.
- (3) A proclamation under subsection (1) shall contain the name or a description, and particulars of the location, of each jetty to which it relates.

54B. Power of Minister to construct jetties and marine facilities on Crown land

- (1) The Minister may, with the approval of the Minister for Lands for the use of Crown land for that purpose, cause to be constructed on Crown land such jetties and marine facilities as he considers are necessary to provide adequate facilities and protection for shipping and the preservation of life and property.
- (2) The management of a jetty or marine facility constructed pursuant to subsection (1) vests in the Minister.

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s. 54C Part V – Control and Management of Certain Jetties and Marine Facilities

54C. Powers of Minister in respect of vested jetties and vested facilities

- (1) Subject to this section, the Minister may maintain, extend, reconstruct, close, or demolish a vested jetty or vested facility.
- (2) A jetty vested in the Minister by proclamation under section 54A(1) may not be extended without the approval of the Minister for Lands for the use of Crown land for that purpose.
- (3) The Minister shall, as soon as possible after he closes (otherwise than for a temporary purpose) or demolishes a vested jetty or vested facility, require the Secretary to give written notice of the closure or demolition to the Director-General of Lands.

54D. Provisions with respect to unused vested jetties and unused vested facilities

- (1) If the Minister is of the opinion that a vested jetty or vested facility is not required for public use, the Governor may, by proclamation, divest the Minister of the control and management of the jetty or facility and vest its control and management in the Minister for Lands.
- (2) Where the control and management of a jetty or facility are vested in the Minister for Lands by proclamation under subsection (1), that Minister may, in accordance with the *Crown Lands Act 1976*, grant a lease of that jetty or facility to any person for such term, at such rent, and subject to such conditions, as he thinks fit.

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Part V – Control and Management of Certain Jetties and Marine Facilities

s. 54DA

54DA. List of vested jetties and vested facilities

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

54DB. Vesting control of certain jetties and facilities

On the date on which the *Marine and Safety Authority Act 1997* commences, the management and control of any vested jetty or vested facility is divested from the Minister and is vested in the Marine and Safety Authority established under that Act.

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s. 54E

Part VA – Aerodromes

PART VA – AERODROMES

54E. Power to establish aerodromes

- (1) The Transport Commission may purchase or take an estate or term in, or an easement over, such land as it may deem necessary for the purposes of the establishment or extension of an aerodrome.
- (2) Upon land so purchased or taken, the Transport Commission may provide or cause to be provided and maintained such facilities as may be required for the safe and efficient operation of aircraft within the State and between the State and points outside the State.
- (3) Where any aerodrome is under the control or management of any person or authority other than the Transport Commission, the Commission may take over the control and management of the aerodrome upon such terms and subject to such conditions as may be agreed upon between the Commission and the person or authority.
- (4) The Transport Commission may, in relation to any aerodrome referred to in subsection (3), exercise all the powers conferred by this section in relation to any aerodrome established by the Commission.
- (5) The Transport Commission may maintain, extend, reconstruct, or close any aerodrome purchased, acquired, or taken under this section or under its control and management.

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Part VA – Aerodromes

s. 54F

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- (6) The Transport Commission may make by-laws regulating the use of any aerodrome purchased or taken under this section or under its control and management, and of any facilities thereon, and may prescribe charges to be paid by specified persons or classes of persons for the use of the aerodrome or of any facilities thereon.
- (7) In this section, *aerodrome* means any area used or intended to be used for the landing or departure of aircraft and includes any land acquired in connection with any water area so used or intended to be used and any public aviation station.

54F. Application of *Land Acquisition Act 1993*

- (1) Any land which the Transport Commission is empowered by this Part to purchase or take may be purchased or taken under the *Land Acquisition Act 1993*.
- (2) The *Land Acquisition Act 1993* is incorporated with this Part.
- (3 - 4)

54G. Sale of land acquired under this Part

- (1) The Transport Commission may sell any land purchased or taken by it and not required for the purposes of this Part.
- (2) Any lands acquired for the purposes of this Part under the *Lands Resumption Act 1910* and vested in the Crown for those purposes at the

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s. 54G

Part VA – Aerodromes

commencement of the *Roads and Jetties Act 1957* shall be granted to the Transport Commission on its petition to the Governor therefor.

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Part VI – Regulations

s. 55

PART VI – REGULATIONS

55. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2)
- (3) Where under any Act a council has prescribed a building-line in relation to a State highway running through any town controlled by such council, and such highway in such town is being, or about to be, widened, the Governor by regulation may define and cause to be marked and indicated as prescribed a line which shall be deemed to be the centre line of such highway for the purposes of the ascertainment of such building-line until the widening of such highway is completed.
- (4) Regulations under this section may prescribe the procedure to be followed and the conditions which shall be observed by the road authority and by owners and occupiers respectively in relation to the exercise of the powers conferred by section 40.
- (5) Regulations under this section may regulate and control the passage of shipping and navigation through or under any bridge, may prescribe and regulate the times at which, and the conditions under which, the passage of shipping or navigation through or under any bridge shall be permitted, and may prohibit or regulate and

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Act No. 82 of 1935

s. 55

Part VI – Regulations

control the tying of vessels to any part of the structure of a bridge.

- (6) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene, or fail to comply with, any of the regulations and may provide in respect of any such offence for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.
- (7) Regulations under this section may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.
- (8) A regulation under this section may authorize any matter or thing to be from time to time determined, applied, or regulated by any person or body specified in the regulation.

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**PART VII – SAVINGS AND TRANSITIONAL
PROVISIONS**

56. Scheduled projects

A project for the construction or maintenance of a State highway or a subsidiary road that would not have been considered and reported on by the Parliamentary Standing Committee on Public Works in accordance with section 15 of the *Public Works Committee Act 1914* if the *Roads and Jetties Amendment Act (No. 2) 1989* had not been passed is not required to be considered and reported on by that Committee in accordance with that section unless –

- (a) the project is planned to start after 30th June 1991; or
- (b) work on the project to a value in excess of \$1 000 000 is planned to take place after that date.

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SCHEDULE 1 – ACTS HEREBY REPEALED

Section 2

Regnal Year and Number	Title of Act
45 Vict. No. 31	<i>Branch Roads Construction Act 1881</i>
45 Vict. No. 33	<i>Roads Maintenance Act 1881</i>
48 Vict. No. 28	<i>Roads Act 1884</i>
49 Vict. No. 38	<i>Roads Act 1885</i>
53 Vict. No. 48	<i>An Act to amend the Roads Act 1884</i>
54 Vict. No. 3	<i>Roads Act 1890</i>
58 Vict. No. 14	<i>An Act to amend the Roads Act 1884</i>
63 Vict. No. 37	<i>Roads Act 1899</i>
64 Vict. No. 57	<i>Roads Act 1900</i>
20 Geo. V No. 86	<i>State Highways Maintenance Act 1929</i>
24 Geo. V No. 9	<i>State Highways Maintenance Act 1933</i>

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NOTES

The foregoing text of the *Roads and Jetties Act 1935* 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 30 November 2022 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Statute Law Revision Act 1934 and proclamations thereunder</i>	No. 78 of 1934	13.12.1934
<i>Roads and Jetties Act 1935</i>	No. 82 of 1935	16.1.1936
<i>Transport Act 1938</i>	No. 70 of 1938	1.7.1939
<i>Roads and Jetties Act 1940</i>	No. 51 of 1940	10.12.1940
<i>Roads and Jetties Act 1941</i>	No. 13 of 1941	17.6.1941
<i>Roads and Jetties Act 1944</i>	No. 4 of 1944	13.10.1944
<i>Roads and Jetties Act 1945</i>	No. 27 of 1945	7.12.1945
<i>Roads and Jetties Act 1947</i>	No. 74 of 1947	5.12.1947
<i>Public Authorities' Land Acquisition Act 1949</i>	No. 22 of 1949	4.5.1949
<i>Road Construction (Transfer of Functions) Act 1951</i>	No. 22 of 1951	1.7.1951
<i>Roads and Jetties Act 1955</i>	No. 58 of 1955	1.7.1956
<i>Roads and Jetties Act 1957</i>	No. 101 of 1957	23.12.1957
<i>Local Government Act 1962</i>	No. 67 of 1962	1.1.1964
<i>Noxious Weeds Act 1964</i>	No. 3 of 1964	1.9.1965
<i>Decimal Currency Act 1965</i>	No. 55 of 1965	14.2.1966
<i>Roads and Jetties Act 1967</i>	No. 71 of 1967	20.12.1967
<i>Roads and Jetties Act 1971</i>	No. 85 of 1971	14.12.1971
<i>Roads and Jetties Act 1972</i>	No. 41 of 1972	7.12.1972
<i>Metric Conversion Act 1973</i>	No. 75 of 1973	1.1.1974
<i>Roads and Jetties Act 1974</i>	No. 54 of 1974	24.10.1974
<i>Crown Lands Act 1976</i>	No. 28 of 1976	18.8.1976
<i>Roads and Jetties Act 1977</i>	No. 11 of 1977	28.4.1977
<i>Public Works Construction Act 1977</i>	No. 30 of 1977	19.5.1977
<i>Roads and Jetties Act (No. 2) 1977</i>	No. 91 of 1977	30.11.1977
<i>Land Titles Act 1980</i>	No. 19 of 1980	1.10.1981
<i>Roads and Jetties Amendment Act 1981</i>	No. 67 of 1981	30.11.1981
<i>Statute Law Revision Act 1982</i>	No. 99 of 1982	1.2.1983
<i>Local Government (Consequential Amendments) Act 1982</i>	No. 51 of 1982	1.9.1983
<i>Roads and Jetties Amendment Act 1984</i>	No. 84 of 1984	30.11.1984

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Act	Number and year	Date of commencement
<i>Roads and Jetties Amendment (Risdon Ferry Repeal) Act 1984</i>	No. 86 of 1984	30.11.1984
<i>Roads and Jetties Amendment Act 1985</i>	No. 35 of 1985	14.5.1985
<i>Tasmanian State Service (Miscellaneous Amendments) Act 1984</i>	No. 29 of 1984	1.12.1985
<i>Roads and Jetties Amendment Act 1986</i>	No. 65 of 1986	1.8.1986
<i>Roads and Jetties Amendment Act (No. 2) 1989</i>	No. 44 of 1989	1.7.1989
<i>Administrative Arrangements (Miscellaneous Amendments) Act 1990</i>	No. 5 of 1990	1.7.1990
<i>Penalty Units and Other Penalties Amendment Act 1991</i>	No. 43 of 1991	18.12.1991
<i>Roads and Jetties Amendment Act 1993</i>	No. 86 of 1993	1.1.1994
<i>Land Acquisition (Consequential Amendments) Act 1993</i>	No. 24 of 1993	1.1.1994
<i>Statute Law Revision Act 1994</i>	No. 68 of 1994	25.11.1994
<i>Roads and Jetties Amendment Act 1994</i>	No. 69 of 1994	28.12.1994
<i>Local Government (Consequential Amendments) Act 1995</i>	No. 30 of 1995	1.9.1995
<i>Marine (Consequential Amendments) Act 1997</i>	No. 16 of 1997	30.7.1997
<i>Resource Planning and Development Commission Act 1997</i>	No. 85 of 1997	1.1.1998
<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>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Police Offences Amendment Act (No. 2) 2001</i>	No. 86 of 2001	17.12.2001
<i>Traffic Control (Miscellaneous Amendments) Act 2001</i>	No. 104 of 2001	1.1.2002
<i>Magistrates Court (Administrative Appeals Division) (Consequential Amendments) Act 2001</i>	No. 73 of 2001	1.7.2002
<i>Roads and Jetties Amendment Act 2002</i>	No. 65 of 2002	19.12.2002
<i>Statute Law Revision Act 2003</i>	No. 9 of 2003	16.4.2003
<i>Roads and Jetties Amendment Act 2004</i>	No. 4 of 2004	9.6.2004
<i>Building (Consequential Amendments) Act 2003</i>	No. 26 of 2003	1.7.2004
<i>Resource Planning and Development Commission Legislation (Miscellaneous Amendments) Act</i>	No. 28 of 2009	1.9.2009

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Act	Number and year	Date of commencement
<i>2009</i>		
<i>Legislation Publication Act 1996</i>	No. 17 of 1996	10.2.2010
<i>Roads and Jetties Amendment Act 2010</i>	No. 30 of 2010	28.10.2010
<i>Building (Consequential Amendments) Act 2016</i>	No. 12 of 2016	1.1.2017
<i>Roads and Jetties Amendment (Management of State Highways in Cities) Act 2018</i>	No. 33 of 2018	10.12.2018
<i>Financial Management (Consequential and Transitional Provisions) Act 2017</i>	No. 4 of 2017	1.7.2019
<i>Roads and Jetties Amendment (Works in Highways) Act 2019</i>	No. 38 of 2019	4.11.2019
<i>Roads and Jetties Amendment (Validation) Act 2019</i>	No. 39 of 2019	4.11.2019
<i>Roads and Jetties Amendment Act 2022</i>	No. 30 of 2022	30.11.2022
<i>Biosecurity (Consequential and Transitional Provisions) Act 2020</i>	No. 18 of 2020	not commenced

TABLE OF AMENDMENTS

Provision affected	How affected
Section 2	Repealed by 25 Geo. V No. 78
Section 3	Amended by 8 Geo. VI No. 4, s. 3, 9 Geo. VI No. 27, s. 2, No. 22 of 1951, s. 2, No. 101 of 1957, s. 2, 25 Geo. V No. 78, No. 71 of 1967, s. 2, No. 30 of 1977, s. 5 and Sched. 1, No. 84 of 1984, s. 4, No. 35 of 1985, s. 4, No. 5 of 1990, s. 3 and Sched. 1, No. 30 of 1995, s. 3 and Sched. 1 and No. 90 of 1999, Sched. 1
Part IA	Inserted by No. 35 of 1985, s. 5
Section 3A	Inserted by No. 35 of 1985, s. 5
Section 3B	Inserted by No. 35 of 1985, s. 5
Part IB	Substituted by No. 29 of 1984, s. 3 and Sched. 1
Section 3C	Substituted by No. 29 of 1984, s. 3 and Sched. 1
	Amended by No. 86 of 2000, Sched. 1
Section 4	Inserted by No. 22 of 1951, s. 3
	Amended by No. 58 of 1955, s. 2, No. 85 of 1971, s. 2, No. 11 of 1977, s. 2, No. 91 of 1977, s. 2, No. 67 of 1981, s. 4, No. 35 of 1985, s. 25 and Sched. 1, No. 65 of 1986, s. 4, No. 44 of 1989, s. 3, No. 86 of 1993, s. 4, No. 53 of 1997, Sched. 1, No. 90 of 1999, Sched. 1 and No. 4 of 2017, Sched. 1
Section 5	Inserted by No. 22 of 1951, s. 3
	Amended by No. 41 of 1972, s. 2, No. 54 of 1974, s. 2, No. 11 of 1977, s. 3, No. 51 of 1982, s. 9, No. 86 of 1984, s.

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Provision affected	How affected
	4, No. 35 of 1985, s. 8, No. 86 of 1993, s. 5 and No. 30 of 1995, s. 3 and Sched. 1
Section 6	Inserted by No. 22 of 1951, s. 3 Amended by No. 35 of 1985, s. 9
Section 7	Substituted by 8 Geo. VI No. 4, s. 4 Amended by No. 22 of 1951, s. 6 and Sched. 1, No. 35 of 1985, s. 25 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1 and No. 86 of 1993, s. 6
Section 8	Substituted by 8 Geo. VI No. 4, s. 4 Amended by No. 22 of 1951, s. 6 and Sched. 1, No. 101 of 1957, s. 4, No. 55 of 1965, s. 5, No. 35 of 1985, s. 10, No. 43 of 1991, s. 5 and Sched. 1 and No. 30 of 2022, s. 4
Section 9	Repealed by No. 86 of 1993, s. 7
Section 9A	Inserted by No. 101 of 1957, s. 5 Amended by No. 19 of 1980, s. 171 and Sched. 1, No. 35 of 1985, s. 12, No. 24 of 1993, s. 3 and Sched. 1, No. 68 of 1994, s. 3 and Sched. 1, No. 85 of 1997, Sched. 4, No. 26 of 2003, Sched. 1, No. 28 of 2009, s. 53 and No. 12 of 2016, Sched. 1
Section 9B	Inserted by No. 101 of 1957, s. 5 Amended by No. 19 of 1980, s. 171 and Sched. 1 and No. 24 of 1993, s. 3 and Sched. 1
Section 9C	Inserted by No. 101 of 1957, s. 5
Section 9D	Inserted by No. 101 of 1957, s. 5 Amended by No. 19 of 1980, s. 171 and Sched. 1, No. 35 of 1985, s. 25 and Sched. 1, No. 24 of 1993, s. 3 and Sched. 1 and No. 17 of 1996
Section 9E	Inserted by No. 101 of 1957, s. 5 Amended by No. 28 of 1976, s. 74 and Sched. 3 and No. 35 of 1985, s. 25 and Sched. 1
Section 9F	Inserted by No. 35 of 1985, s. 13 Amended by No. 24 of 1993, s. 3 and Sched. 1
Section 10	Amended by 8 Geo. VI No. 4, s. 8 and Sched. 1 and No. 35 of 1985, s. 14
Section 11	Substituted by No. 101 of 1957, s. 6 Amended by No. 75 of 1973, s. 2 and Sched. 1, No. 35 of 1985, s. 15
Section 12	Substituted by No. 33 of 2018, s. 4 Substituted by 4 Geo. VI No. 51, s. 2 Amended by 8 Geo. VI No. 4, s. 8 and Sched. 1, No. 22 of 1951, s. 6 and Sched. 1 and No. 101 of 1957, s. 7
Section 12A	Inserted by No. 101 of 1957, s. 8
Section 13	Amended by 8 Geo. VI No. 4, s. 8 and Sched. 1, No. 101 of 1957, s. 9, No. 35 of 1985, s. 16 and No. 5 of 1990, s. 3 and Sched. 1
Section 14	Amended by 8 Geo. VI No. 4, s. 8 and Sched. 1, No. 101 of 1957, s. 10 and No. 75 of 1973, s. 2 and Sched. 1

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Provision affected	How affected
Section 15	Amended by 8 Geo VI No. 4, s. 8 and Sched. 1 and No. 101 of 1957, s. 11
Section 16	Inserted by No. 101 of 1957, s. 12 Amended by No. 55 of 1965, s. 5, No. 43 of 1991, s. 5 and Sched. 1, No. 4 of 2004, s. 4 and No. 38 of 2019, s. 4
Section 16AA	Inserted by No. 30 of 2010, s. 4 Substituted by No. 38 of 2019, s. 5
Section 16A	Inserted by No. 101 of 1957, s. 12 Amended by No. 55 of 1965, s. 5, No. 35 of 1985, s. 17, No. 43 of 1991, s. 5 and Sched. 1 Substituted by No. 30 of 2022, s. 5
Section 16B	Inserted by No. 65 of 2002, s. 4
Section 17	Substituted by No. 22 of 1951, s. 4
Section 17A	Inserted by No. 101 of 1957, s. 13 Amended by No. 99 of 1982, s. 3 and Sched. 2, Pt.II and No. 35 of 1985, s. 25 and Sched. 1
Section 17B	Inserted by No. 101 of 1957, s. 13 Amended by No. 55 of 1965, s. 5 and No. 43 of 1991, s. 5 and Sched. 1
Section 17C	Inserted by No. 101 of 1957, s. 13 Amended by No. 55 of 1965, s. 5, No. 35 of 1985, s. 25 and Sched. 1, No. 43 of 1991, s. 5 and Sched. 1 and No. 9 of 2003, Sched. 1
Section 17D	Substituted by No. 5 of 1990, s. 3 and Sched. 1
Part III	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 18	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 19	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 20	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 21	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 22	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 23	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 24	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 25	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 26	Amended by No. 35 of 1985, s. 19 and No. 24 of 1993, s. 3 and Sched. 1
Section 27	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 30	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 31	Repealed by No. 67 of 1962, s. 2 and Sched. 1
Section 32	Amended by No. 55 of 1965, s. 5 and No. 43 of 1991, s. 5 and Sched. 1
Section 35	Amended by 25 Geo. V No. 78 and No. 24 of 1993, s. 3 and Sched. 1
Section 39	Amended by No. 35 of 1985, s. 20 Substituted by No. 30 of 2022, s. 6
Section 40	Amended by 25 Geo. V No. 78
Section 41	Amended by No. 75 of 1973, s. 2 and Sched. 1
Section 42	Amended by 9 Geo VI No. 27, s. 2 and No. 71 of 1967, s. 4
Section 43	Amended by No. 101 of 1957, s. 16, No. 55 of 1965, s. 5,

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Provision affected	How affected
	No. 35 of 1985, s. 25 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 45	Amended by No. 55 of 1965, s. 5, No. 75 of 1973, s. 2 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 46	Amended by 25 Geo. V No. 78 and No. 51 of 1982, s. 10
Section 47	Amended by No. 75 of 1973, s. 2 and Sched. 1
Section 47A	Inserted by No. 35 of 1985, s. 21
Section 48A	Inserted by No. 71 of 1967, s. 5
	Amended by No. 30 of 1995, s. 3 and Sched. 1 and No. 90 of 1999, Sched. 1
Section 48B	Inserted by No. 33 of 2018, s. 5
Section 49	Amended by No. 101 of 1957, s. 17, No. 3 of 1964, s. 36 and Sched. 1, No. 55 of 1965, s. 5, No. 75 of 1973, s. 2 and Sched. 2, No. 43 of 1991, s. 5 and Sched. 1 and No. 9 of 2003, Sched. 1
Section 50	Amended by No. 55 of 1965, s. 5, No. 43 of 1991, s. 5 and Sched. 1
	Substituted by No. 104 of 2001, s. 10
Section 50A	Inserted by No. 86 of 2001, s. 21
Section 50B	Inserted by No. 86 of 2001, s. 21
Section 50C	Inserted by No. 86 of 2001, s. 21
Section 51	Amended by No. 55 of 1965, s. 5 and No. 43 of 1991, s. 5 and Sched. 1
Section 52	Amended by No. 55 of 1965, s. 5, No. 75 of 1973, s. 2 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Part IVA	Inserted by No. 101 of 1957, s. 18
Section 52AA	Inserted by No. 69 of 1994, s. 5
	Amended by No. 39 of 2019, s. 4
Section 52A	Inserted by No. 101 of 1957, s. 18
	Amended by No. 35 of 1985, s. 22, No. 69 of 1994, s. 6 and No. 39 of 2019, s. 5
Section 52B	Substituted by No. 69 of 1994, s. 7
Section 52C	Substituted by No. 69 of 1994, s. 7
	Amended by No. 39 of 2019, s. 6
Section 52CA	Inserted by No. 69 of 1994, s. 7
	Amended by No. 39 of 2019, s. 7
Section 52CB	Inserted by No. 69 of 1994, s. 7
	Amended by No. 39 of 2019, s. 8
Section 52CC	Inserted by No. 69 of 1994, s. 7
	Amended by No. 39 of 2019, s. 9
Section 52CD	Inserted by No. 69 of 1994, s. 7
	Amended by No. 39 of 2019, s. 10
Section 52CE	Inserted by No. 69 of 1994, s. 7
	Amended by No. 73 of 2001, Sched. 1
Section 52CF	Inserted by No. 69 of 1994, s. 7
	Amended by No. 39 of 2019, s. 11
Section 52CG	Inserted by No. 69 of 1994, s. 7
	Amended by No. 39 of 2019, s. 12

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Provision affected	How affected
Section 52CH	Inserted by No. 69 of 1994, s. 7
Section 52D	Inserted by No. 101 of 1957, s. 18 Amended by No. 35 of 1985, s. 25 and Sched. 1, No. 30 of 1995, s. 3 and Sched. 1, No. 9 of 2003, Sched. 1, No. 26 of 2003, Sched. 1 and No. 39 of 2019, s. 13
Section 52E	Inserted by No. 101 of 1957, s. 18 Amended by No. 35 of 1985, s. 25 and Sched. 1 and No. 24 of 1993, s. 3 and Sched. 1
Section 52F	Inserted by No. 35 of 1985, s. 24 Amended by No. 24 of 1993, s. 3 and Sched. 1
Section 52G	Inserted by No. 39 of 2019, s. 14
Part V	Inserted by No. 84 of 1984, s. 5
Section 53	Inserted by No. 84 of 1984, s. 5
Section 54	Inserted by No. 84 of 1984, s. 5
Section 54A	Inserted by No. 84 of 1984, s. 5 Amended by No. 30 of 1995, s. 3 and Sched. 1
Section 54B	Inserted by No. 84 of 1984, s. 5
Section 54C	Inserted by No. 84 of 1984, s. 5 Amended by No. 5 of 1990, s. 3 and Sched. 1
Section 54D	Inserted by No. 84 of 1984, s. 5
Section 54DA	Inserted by No. 84 of 1984, s. 5
Section 54DB	Inserted by No. 16 of 1997, Sched. 1
Part VA	Inserted by 8 Geo. VI No. 4, s. 7
Section 54E	Inserted by 8 Geo. VI No. 4, s. 7 Amended by No. 101 of 1957, s. 23
Section 54F	Inserted by 8 Geo. VI No. 4, s. 7 Amended by No. 101 of 1957, s. 24 and No. 24 of 1993, s. 3 and Sched. 1
Section 54G	Inserted by 8 Geo. VI No. 4, s. 7 Amended by No. 101 of 1957, s. 25
Section 55	Amended by 11 Geo. VI No. 74, s. 2, 25 Geo. V No. 78, No. 84 of 1984, s. 6, No. 43 of 1991, s. 5 and Sched. 1 and No. 16 of 1997, Sched. 1
Schedule	Amended by 25 Geo. V No. 78