

VERY FAST TRAIN (ROUTE INVESTIGATION) ACT 1989
No. 44

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions
4. Act binds the Crown
5. Object of Act

PART 2—PERMITS

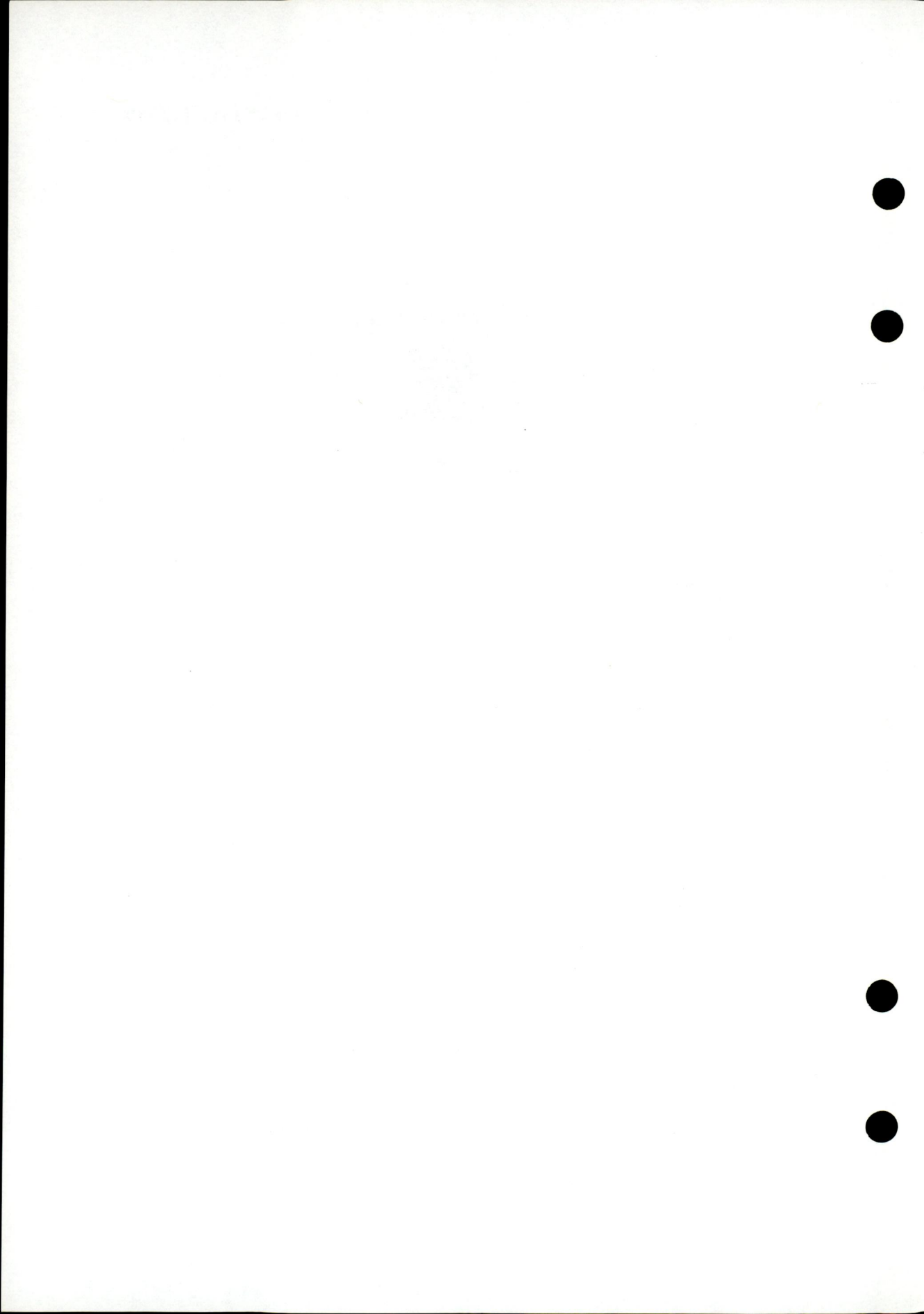
6. Approved persons
7. Applications for permits
8. Grant or refusal of permits
9. Duration of permits
10. Conditions of permits
11. Reduction of permit area
12. Surrender or revocation of permits
13. Rights conferred by permits
14. Restriction on exercise of rights
15. Contravention of condition of permit
16. Interference with authorised activities

PART 3—COMPENSATION

17. Agreements for compensation
18. Liability for compensation
19. Determination of claim for compensation

PART 4—MISCELLANEOUS

20. Delegation
21. Proceedings for offences
22. Regulations
23. Amendment of Land and Environment Court Act 1979 No. 204



VERY FAST TRAIN (ROUTE INVESTIGATION) ACT 1989 No. 44

NEW SOUTH WALES



Act No. 44, 1989

An Act to facilitate the investigation of a route for a very fast train linking Sydney with other centres within or outside the State; and for related purposes. [Assented to 11 May 1989]

Very Fast Train (Route Investigation) 1989

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Very Fast Train (Route Investigation) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. In this Act—

“approved person” means a person to whom a declaration in force under section 6 applies;

“owner”, in relation to land, means any person having an estate or interest in the land;

“permit” means a permit that is in force under section 8;

“survey” has the same meaning as in the Survey Co-ordination Act 1949.

Act binds the Crown

4. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Object of Act

5. The object of this Act is to facilitate the surveying, examining and testing of land so as to allow the thorough investigation of a route for a very fast train linking Sydney with other centres within or outside the State.

PART 2—PERMITS

Approved persons

6. (1) The Minister may, by an order published in the Gazette, declare a specified person or persons of a specified class to be an approved person or approved persons for the purposes of this Act and may, in the same way, revoke any such declaration.

(2) The Minister may not approve any person under this section unless the Minister is satisfied that the person—

(a) has access to technical expertise that is adequate to enable appropriate surveys, examinations and tests to be carried out efficiently; and

Very Fast Train (Route Investigation) 1989

- (b) has available sufficient resources to compensate owners and occupiers of such land as may be affected by those activities.

Applications for permits

7. (1) An approved person may apply to the Minister for a permit to enter land in connection with the investigation of the whole or any part of a proposed route for a very fast train.

(2) An application shall not be made unless the applicant has caused a notice—

- (a) declaring that the application is intended to be made; and
- (b) identifying the area of land intended to be entered under the permit; and
- (c) requesting any owner or occupier of that land who wishes to make a submission to the Minister about whether the permit should be granted or about conditions to be included in the permit to do so within 21 days,

to be published in a newspaper circulating throughout the State and in another newspaper circulating in the locality in which that land is situated.

(3) An application—

- (a) shall be in a form approved by the Minister; and
- (b) shall, together with a fee determined by the Minister, be lodged with the Director of Public Works; and
- (c) shall specify, in a manner approved by the Minister, the area of land intended to be entered under the permit; and
- (d) shall include such information as the Minister requires; and
- (e) may include any other information that the applicant wishes the Minister to consider.

(4) The Minister may, at any time, request further information about an application from an applicant.

(5) The Minister may refuse to further consider an application until any such request has been complied with to the Minister's satisfaction.

Grant or refusal of permits

8. (1) After considering an application for a permit, the Minister may—

- (a) grant a permit in respect of the whole or any part of the land to which the application relates; or
- (b) refuse the application.

(2) Before granting a permit to enter land, the Minister shall take into consideration—

- (a) any relevant submission received by the Minister within 21 days of publication of a notice under section 7 relating to the application; and

Very Fast Train (Route Investigation) 1989

- (b) all information included in the application under section 7 (3) (d) or (e); and
 - (c) whether any other permit has been granted in respect of the same land; and
 - (d) whether the grant of the permit would, in the Minister's opinion, result in unreasonable duplication of surveys, examinations or tests; and
 - (e) any features that, in the Minister's opinion, are special features of the land or of adjacent land,
- and may take into consideration any other matters the Minister considers relevant.

Duration of permits

9. (1) A permit comes into force on the day specified for the purpose in the permit and, unless sooner surrendered or revoked, remains in force—

- (a) for such period not exceeding 6 months as is specified in the permit; and
- (b) for any further period for which it is extended under this section.

(2) The Minister may, on written application made by the holder of a permit to the Minister before the permit ceases to be in force, extend the permit from time to time for such period not exceeding 6 months as the Minister thinks fit and specifies in a notice given to the holder.

(3) A permit can not be granted or renewed after the seventh anniversary of the commencement of this section.

(4) Any permit that, in the absence of this subsection, would be in force after the seventh anniversary of the commencement of this section ceases to be in force on that seventh anniversary.

Conditions of permits

10. (1) A permit is subject to such conditions as the Minister thinks fit and specifies in the permit.

(2) Despite subsection (1), if the conditions of a permit have been varied under this section, the permit is subject to those conditions as varied for the time being.

(3) Without limiting the kinds of conditions to which a permit may be subject, conditions of a permit may—

- (a) prohibit or regulate the carrying out of specified activities on the land to which the permit relates by the holder of the permit or anyone authorised by the holder; and
- (b) provide for the payment of compensation and the restoration of land by the holder of the permit; and

Very Fast Train (Route Investigation) 1989

- (c) require information relating to anything done under the permit on that land by those persons to be submitted by the holder of the permit to the Minister on a periodic or any other basis.
- (4) The Minister may, by a written notice given to the holder of a permit, vary the conditions of the permit—
 - (a) by adding new conditions; or
 - (b) by amending an existing condition; or
 - (c) by revoking an existing condition.

Reduction of permit area

11. The Minister may, on written application made by the holder of a permit to the Minister, reduce the area of land to which the permit applies by a written notice given to the holder.

Surrender or revocation of permits

12. (1) The holder of a permit may surrender the permit by a written notice given to the Director of Public Works.

(2) The Minister may, for such reason as the Minister thinks sufficient, revoke a permit by a written notice given to the holder of the permit.

(3) Without limiting the Minister's powers to revoke a permit, the Minister may revoke a permit by a written notice given to the holder if—

- (a) the holder or any person authorised to enter land by the holder contravenes this Act or the regulations; or
- (b) a condition of the permit is contravened.

(4) Proceedings may be taken against a person for an offence under section 15 relating to the contravention of a condition of a permit whether or not the permit has been revoked or has otherwise ceased to be in force since the contravention occurred.

Rights conferred by permits

13. (1) Subject to its conditions, a permit authorises the holder of the permit, and any other persons authorised by the holder in accordance with the conditions of the permit, to enter the area of land to which it applies for the time being and—

- (a) to undertake on that land such surveys, examinations and tests (including the drilling of bore holes, the sinking of shafts and the cutting of trenches), to take from that land such samples for examination and to carry out on that land such investigations, as the holder of the permit considers necessary for the purpose of ascertaining the suitability of the land—
 - (i) as a route for a very fast train; or

Very Fast Train (Route Investigation) 1989

- (ii) as a site for any structure or work the use of which may be incidental to the operation of a very fast train; or
 - (iii) as a means of access to any such route or site; or
 - (b) to use that land as a means of access to other land specified in the permit so that activities of the kind described in paragraph (a) may be carried out on the other land.
- (2) A person is not authorised by a permit—
- (a) to enter a dwelling or the curtilage of a dwelling; or
 - (b) to enter any land, unless the prescribed written notice of the person's intention to enter the land has been given in accordance with the regulations.

Restriction on exercise of rights

14. (1) Except as provided by this section, nothing in this Act allows the holder of a permit or any person authorised to enter land by such a holder to disregard the provisions of any Act, statutory rule or environmental planning instrument prohibiting or regulating (or having the effect of prohibiting or regulating) the exercise by the holder or person of any right conferred by this Act or the permit.

- (2) Anything authorised to be done by a permit—
- (a) is not prohibited by any environmental planning instrument; and
 - (b) does not require development consent under Part 4 of the Environmental Planning and Assessment Act 1979.

(3) In this section—

“environmental planning instrument” has the same meaning as in the Environmental Planning and Assessment Act 1979;

“statutory rule” has the same meaning as in the Interpretation Act 1987.

Contravention of condition of permit

15. (1) The holder of a permit shall not contravene a condition to which the permit is subject.

(2) A person authorised by the holder of a permit to enter land to which the permit relates shall not knowingly contravene a condition of the permit.

(3) The holder of a permit is guilty of an offence if—

- (a) a person authorised by the holder to enter land to which the permit relates contravenes a condition of the permit; and
- (b) the holder directed or permitted the person to contravene the condition.

Maximum penalty: 400 penalty units.

Very Fast Train (Route Investigation) 1989

Interference with authorised activities

16. (1) A person shall not, without reasonable excuse—

- (a) prevent another person from doing something the other person is authorised to do by a permit; or
- (b) hinder or obstruct another person who is attempting to do something the other person is authorised to do by a permit.

Maximum penalty: 50 penalty units.

(2) A person is not guilty of an offence under this section—

- (a) of preventing another person from entering land under the authority of a permit; or
- (b) of hindering or obstructing another person who is attempting to enter land under the authority of a permit,

unless the other person, before being so prevented, hindered or obstructed, produced for inspection by the person alleged to have committed the offence a notice in the prescribed form issued by the holder of the permit and confirming the other person's authority to enter the land.

PART 3—COMPENSATION

Agreements for compensation

17. (1) An owner or occupier of land may enter into a written agreement with the holder or former holder of a permit for or with respect to the payment of compensation, or the carrying out of work, (or both) by or on behalf of the holder or former holder in respect of any loss or damage that the owner or occupier may suffer or may have suffered as a result of anything done or omitted—

- (a) by the holder or former holder; or
- (b) by a person authorised to enter land by the holder or former holder.

(2) With the written consent of the holder or former holder of a permit, an agreement under this section may be entered into on behalf of the holder or former holder by any person.

Liability for compensation

18. Each owner or occupier of land is entitled to be paid compensation by the holder or former holder of a permit for any loss or damage suffered by the owner or occupier as a result of anything which was done or omitted—

- (a) by the holder or former holder; or
- (b) by a person authorised to enter land by the holder or former holder, while exercising or performing (or purporting to exercise or perform) any power, authority, duty or function conferred or imposed by the permit.

*Very Fast Train (Route Investigation) 1989***Determination of claim for compensation**

19. (1) An owner or occupier of land may, by complaint made to a mining warden's court, claim that compensation is payable under this Part to the owner or occupier.

(2) A mining warden's court has jurisdiction—

- (a) to hear and determine a complaint under this section; and
- (b) in determining any such complaint, to assess the amount of any compensation found to be payable; and
- (c) to order the payment of any amount of compensation so assessed.

(3) Part 9 of the Mining Act 1973 applies in relation to any such complaint or order as if it were a complaint or order made under that Act.

(4) If compensation is found to be payable for any loss or damage and the amount of the compensation is provided for in an agreement made under section 17, the amount required to be assessed is to be taken to be the amount so provided for.

(5) In making an assessment of compensation, the value of any work done pursuant to an agreement made under section 17 shall be taken into account.

(6) Section 146 (Costs may be allowed) of the Mining Act 1973 applies in relation to proceedings under that Act, as applied by this section.

PART 4—MISCELLANEOUS**Delegation**

20. The Minister may delegate to—

- (a) the Director of Public Works; or
- (b) the Chief Warden under the Mining Act 1973; or
- (c) a prescribed person or a person of a prescribed class,

any of the powers, authorities, duties or functions conferred or imposed on the Minister by this Act or the regulations, other than this power of delegation.

Proceedings for offences

21. (1) Proceedings for an offence against this Act shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

(2) Despite subsection (1), proceedings for an offence under section 15 may be dealt with before the Land and Environment Court in its summary jurisdiction.

(3) The maximum penalty that a Local Court may impose for an offence against this Act is 50 penalty units.

Very Fast Train (Route Investigation) 1989

(4) The maximum penalty that the Land and Environment Court may impose for an offence under section 15 is 400 penalty units.

(5) Proceedings in the Land and Environment Court for an offence under section 15 must be commenced not later than 6 months after the offence was alleged to have been committed.

Regulations

22. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Amendment of Land and Environment Court Act 1979 No. 204

23. The Land and Environment Court Act 1979 is amended by inserting after section 21 (h) the following paragraph:

(ha) proceedings under section 21 of the Very Fast Train (Route Investigation) Act 1989; and

*[Minister's second reading speech made in—
Legislative Assembly on 20 April 1989
Legislative Council on 3 May 1989]*



VERY FAST TRAIN (ROUTE INVESTIGATION) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to facilitate the surveying, examining and testing of land so as to allow the thorough investigation of a route for a very fast train linking Sydney with other centres within or outside the State.

The proposed Act will enable the issue of permits authorising the entry of land to carry out survey and other exploratory work. Permits will be required if agreement cannot be reached with owners and occupiers of land for such work to be carried out without a permit.

Compensation for loss or damage suffered by owners or occupiers as a consequence of any such exploratory work may be dealt with by agreements voluntarily entered into. Provisions of the Mining Act 1973 will apply so as to allow appropriate compensation to be claimed if land has been entered under the authority of a permit.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a proclaimed day or proclaimed days.

Clause 3 defines certain expressions for the purposes of the proposed Act.

Clause 4 provides the proposed Act will bind the Crown.

Clause 5 states the object of the proposed Act.

PART 2—PERMITS

Clause 6 enables the Minister to declare persons as "approved persons" for the purposes of the proposed Act. Only persons with access to adequate technical expertise to carry out surveys and having sufficient financial resources to pay compensation can be approved.

Very Fast Train (Route Investigation) 1989

Clause 7 allows approved persons to apply for permits. Applicants must advertise their intention to apply and must supply certain particulars in their applications. The Minister may defer consideration of an application until any further information requested is supplied.

Clause 8 empowers the Minister to grant or refuse permits. A permit may be granted for all or part of the land to which an application relates. The Minister must take into account certain issues before granting a permit, such as whether unreasonable duplication of surveys may result.

Clause 9 fixes 6 months as the maximum term for a permit, but extensions for further periods of up to 6 months may be granted. No work will be able to be carried out under a permit later than 7 years after the commencement of the proposed section.

Clause 10 provides for conditions to be imposed on the carrying out of work under the authority of a permit, which conditions may be varied during the currency of the permit.

Clause 11 allows the Minister to reduce the area to which a permit applies, at the request of the holder of the permit.

Clause 12 provides for the surrender or revocation of a permit. The Minister may revoke a permit if any of its conditions are contravened.

Clause 13 declares the rights to be conferred by permits. A permit authorises its holder (and other persons authorised by the holder) to enter land and to carry out surveys, examinations and tests or to use the land for access to other land. Entry to dwellings is not authorised, and notice of intention to enter any land must be given in accordance with the regulations.

Clause 14 preserves the restrictions imposed by other laws on a person who is exercising the rights conferred by a permit. The only exceptions are that things authorised by a permit are not prohibited by environmental planning instruments and do not require development consent.

Clause 15 creates an offence when a condition of a permit is contravened by the holder of the permit or knowingly contravened by anyone authorised by the holder to enter land. The maximum penalty for the offence is 400 penalty units (presently \$40,000).

Clause 16 creates an offence when a person prevents another person from doing something authorised to be done by a permit or hinders or obstructs another person who is doing any such thing. The maximum penalty for such an offence is 50 penalty units (presently \$5,000).

PART 3—COMPENSATION

Clause 17 allows owners and occupiers of land to enter into agreements relating to the payment of compensation or the performance of work in respect of any loss or damage suffered because of the activities of a permit holder or a person authorised to enter land by any such holder.

Clause 18 entitles owners and occupiers of land to compensation for loss or damage suffered as a result of anything done or omitted to be done by a permit holder or a person authorised to enter land by any such holder.

Clause 19 applies with modifications provisions of the Mining Act 1973 as a scheme for the determination of liability for, and for the assessment and enforcement of payment of, compensation to which owners and occupiers of land are entitled under the proposed Act. Under the scheme, liability will be determined and compensation will be assessed by a mining warden's court, subject to the provisions of any agreement for the payment of compensation made under clause 17.

Very Fast Train (Route Investigation) 1989

PART 4—MISCELLANEOUS

Clause 20 allows the Minister to delegate functions of the Minister under the proposed Act to the Director of Public Works, the Chief Warden under the Mining Act 1973 or any other person prescribed by regulations made under the proposed Act.

Clause 21 provides that any offence against the proposed Act may be dealt with by a Local Court, which may impose a maximum penalty of \$5,000. Offences against proposed section 15 may be dealt with by the Land and Environment Court, which may impose a maximum penalty of \$40,000.

Clause 22 empowers the making of regulations for the purposes of the proposed Act by the Governor-in-Council.

Clause 23 makes a consequential amendment to the Land and Environment Court Act 1979.



VERY FAST TRAIN (ROUTE INVESTIGATION) BILL 1989

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions
4. Act binds the Crown
5. Object of Act

PART 2—PERMITS

6. Approved persons
7. Applications for permits
8. Grant or refusal of permits
9. Duration of permits
10. Conditions of permits
11. Reduction of permit area
12. Surrender or revocation of permits
13. Rights conferred by permits
14. Restriction on exercise of rights
15. Contravention of condition of permit
16. Interference with authorised activities

PART 3—COMPENSATION

17. Agreements for compensation
18. Liability for compensation
19. Determination of claim for compensation

PART 4—MISCELLANEOUS

20. Delegation
 21. Proceedings for offences
 22. Regulations
 23. Amendment of Land and Environment Court Act 1979 No. 204
-

VERY FAST TRAIN (ROUTE INVESTIGATION) BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to facilitate the investigation of a route for a very fast train linking Sydney with other centres within or outside the State; and for related purposes.

Very Fast Train (Route Investigation) 1989

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Very Fast Train (Route Investigation)
5 Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

- 10 3. In this Act—
 “approved person” means a person to whom a declaration in force under section 6 applies;
 “owner”, in relation to land, means any person having an estate or interest in the land;
 15 “permit” means a permit that is in force under section 8;
 “survey” has the same meaning as in the Survey Co-ordination Act 1949.

Act binds the Crown

4. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other
20 capacities.

Object of Act

5. The object of this Act is to facilitate the surveying, examining and testing of land so as to allow the thorough investigation of a route for a very fast train linking Sydney with other centres within or outside the State.

25

PART 2—PERMITS

Approved persons

6. (1) The Minister may, by an order published in the Gazette, declare a specified person or persons of a specified class to be an approved person or approved persons for the purposes of this Act and may, in the same way,
30 revoke any such declaration.

(2) The Minister may not approve any person under this section unless the Minister is satisfied that the person—

- (a) has access to technical expertise that is adequate to enable appropriate surveys, examinations and tests to be carried out
35 efficiently; and

Very Fast Train (Route Investigation) 1989

- (b) has available sufficient resources to compensate owners and occupiers of such land as may be affected by those activities.

Applications for permits

7. (1) An approved person may apply to the Minister for a permit to enter land in connection with the investigation of the whole or any part of a proposed route for a very fast train.

(2) An application shall not be made unless the applicant has caused a notice—

- (a) declaring that the application is intended to be made; and
 10 (b) identifying the area of land intended to be entered under the permit; and
 (c) requesting any owner or occupier of that land who wishes to make a submission to the Minister about whether the permit should be granted or about conditions to be included in the permit to do so within 21 days,

15 to be published in a newspaper circulating throughout the State and in another newspaper circulating in the locality in which that land is situated.

(3) An application—

- (a) shall be in a form approved by the Minister; and
 20 (b) shall, together with a fee determined by the Minister, be lodged with the Director of Public Works; and
 (c) shall specify, in a manner approved by the Minister, the area of land intended to be entered under the permit; and
 (d) shall include such information as the Minister requires; and
 25 (e) may include any other information that the applicant wishes the Minister to consider.

(4) The Minister may, at any time, request further information about an application from an applicant.

30 (5) The Minister may refuse to further consider an application until any such request has been complied with to the Minister's satisfaction.

Grant or refusal of permits

8. (1) After considering an application for a permit, the Minister may—

- (a) grant a permit in respect of the whole or any part of the land to which the application relates; or
 35 (b) refuse the application.

(2) Before granting a permit to enter land, the Minister shall take into consideration—

- (a) any relevant submission received by the Minister within 21 days of publication of a notice under section 7 relating to the application;
 40 and

Very Fast Train (Route Investigation) 1989

- (b) all information included in the application under section 7 (3) (d) or (e); and
- (c) whether any other permit has been granted in respect of the same land; and
- 5 (d) whether the grant of the permit would, in the Minister's opinion, result in unreasonable duplication of surveys, examinations or tests; and
- (e) any features that, in the Minister's opinion, are special features of the land or of adjacent land,
- 10 and may take into consideration any other matters the Minister considers relevant.

Duration of permits

9. (1) A permit comes into force on the day specified for the purpose in the permit and, unless sooner surrendered or revoked, remains in force—
- 15 (a) for such period not exceeding 6 months as is specified in the permit; and
 - (b) for any further period for which it is extended under this section.
- (2) The Minister may, on written application made by the holder of a permit to the Minister before the permit ceases to be in force, extend the
- 20 permit from time to time for such period not exceeding 6 months as the Minister thinks fit and specifies in a notice given to the holder.
- (3) A permit can not be granted or renewed after the seventh anniversary of the commencement of this section.
- (4) Any permit that, in the absence of this subsection, would be in force
- 25 after the seventh anniversary of the commencement of this section ceases to be in force on that seventh anniversary.

Conditions of permits

10. (1) A permit is subject to such conditions as the Minister thinks fit and specifies in the permit.
- 30 (2) Despite subsection (1), if the conditions of a permit have been varied under this section, the permit is subject to those conditions as varied for the time being.
- (3) Without limiting the kinds of conditions to which a permit may be subject, conditions of a permit may—
- 35 (a) prohibit or regulate the carrying out of specified activities on the land to which the permit relates by the holder of the permit or anyone authorised by the holder; and
 - (b) provide for the payment of compensation and the restoration of land by the holder of the permit; and

Very Fast Train (Route Investigation) 1989

(c) require information relating to anything done under the permit on that land by those persons to be submitted by the holder of the permit to the Minister on a periodic or any other basis.

(4) The Minister may, by a written notice given to the holder of a permit, vary the conditions of the permit—

- (a) by adding new conditions; or
- (b) by amending an existing condition; or
- (c) by revoking an existing condition.

Reduction of permit area

10 11. The Minister may, on written application made by the holder of a permit to the Minister, reduce the area of land to which the permit applies by a written notice given to the holder.

Surrender or revocation of permits

15 12. (1) The holder of a permit may surrender the permit by a written notice given to the Director of Public Works.

(2) The Minister may, for such reason as the Minister thinks sufficient, revoke a permit by a written notice given to the holder of the permit.

(3) Without limiting the Minister's powers to revoke a permit, the Minister may revoke a permit by a written notice given to the holder if—

- 20 (a) the holder or any person authorised to enter land by the holder contravenes this Act or the regulations; or
- (b) a condition of the permit is contravened.

(4) Proceedings may be taken against a person for an offence under section 15 relating to the contravention of a condition of a permit whether 25 or not the permit has been revoked or has otherwise ceased to be in force since the contravention occurred.

Rights conferred by permits

30 13. (1) Subject to its conditions, a permit authorises the holder of the permit, and any other persons authorised by the holder in accordance with the conditions of the permit, to enter the area of land to which it applies for the time being and—

- 35 (a) to undertake on that land such surveys, examinations and tests (including the drilling of bore holes, the sinking of shafts and the cutting of trenches), to take from that land such samples for examination and to carry out on that land such investigations, as the holder of the permit considers necessary for the purpose of ascertaining the suitability of the land—

- (i) as a route for a very fast train; or

Very Fast Train (Route Investigation) 1989

- (ii) as a site for any structure or work the use of which may be incidental to the operation of a very fast train; or
- (iii) as a means of access to any such route or site; or
- 5 (b) to use that land as a means of access to other land specified in the permit so that activities of the kind described in paragraph (a) may be carried out on the other land.
- (2) A person is not authorised by a permit—
 - (a) to enter a dwelling or the curtilage of a dwelling; or
 - 10 (b) to enter any land, unless the prescribed written notice of the person's intention to enter the land has been given in accordance with the regulations.

Restriction on exercise of rights

14. (1) Except as provided by this section, nothing in this Act allows the holder of a permit or any person authorised to enter land by such a
 15 holder to disregard the provisions of any Act, statutory rule or environmental planning instrument prohibiting or regulating (or having the effect of prohibiting or regulating) the exercise by the holder or person of any right conferred by this Act or the permit.

- (2) Anything authorised to be done by a permit—
 - 20 (a) is not prohibited by any environmental planning instrument; and
 - (b) does not require development consent under Part 4 of the Environmental Planning and Assessment Act 1979.
- (3) In this section—
 - 25 “environmental planning instrument” has the same meaning as in the Environmental Planning and Assessment Act 1979;
 - “statutory rule” has the same meaning as in the Interpretation Act 1987.

Contravention of condition of permit

15. (1) The holder of a permit shall not contravene a condition to which the permit is subject.
- 30 (2) A person authorised by the holder of a permit to enter land to which the permit relates shall not knowingly contravene a condition of the permit.
 - (3) The holder of a permit is guilty of an offence if—
 - (a) a person authorised by the holder to enter land to which the permit relates contravenes a condition of the permit; and
 - 35 (b) the holder directed or permitted the person to contravene the condition.

Maximum penalty: 400 penalty units.

Interference with authorised activities

16. (1) A person shall not, without reasonable excuse—
- (a) prevent another person from doing something the other person is authorised to do by a permit; or
 - 5 (b) hinder or obstruct another person who is attempting to do something the other person is authorised to do by a permit.

Maximum penalty: 50 penalty units.

- (2) A person is not guilty of an offence under this section—
- 10 (a) of preventing another person from entering land under the authority of a permit; or
 - (b) of hindering or obstructing another person who is attempting to enter land under the authority of a permit,

unless the other person, before being so prevented, hindered or obstructed, produced for inspection by the person alleged to have committed the offence

15 a notice in the prescribed form issued by the holder of the permit and confirming the other person's authority to enter the land.

PART 3—COMPENSATION**Agreements for compensation**

20 17. (1) An owner or occupier of land may enter into a written agreement with the holder or former holder of a permit for or with respect to the payment of compensation, or the carrying out of work, (or both) by or on behalf of the holder or former holder in respect of any loss or damage that the owner or occupier may suffer or may have suffered as a result of anything done or omitted—

- 25 (a) by the holder or former holder; or
- (b) by a person authorised to enter land by the holder or former holder.

(2) With the written consent of the holder or former holder of a permit, an agreement under this section may be entered into on behalf of the holder or former holder by any person.

30 Liability for compensation

18. Each owner or occupier of land is entitled to be paid compensation by the holder or former holder of a permit for any loss or damage suffered by the owner or occupier as a result of anything which was done or omitted—

- 35 (a) by the holder or former holder; or
- (b) by a person authorised to enter land by the holder or former holder, while exercising or performing (or purporting to exercise or perform) any power, authority, duty or function conferred or imposed by the permit.

*Very Fast Train (Route Investigation) 1989***Determination of claim for compensation**

19. (1) An owner or occupier of land may, by complaint made to a mining warden's court, claim that compensation is payable under this Part to the owner or occupier.

5 (2) A mining warden's court has jurisdiction—

(a) to hear and determine a complaint under this section; and

(b) in determining any such complaint, to assess the amount of any compensation found to be payable; and

(c) to order the payment of any amount of compensation so assessed.

10 (3) Part 9 of the Mining Act 1973 applies in relation to any such complaint or order as if it were a complaint or order made under that Act.

(4) If compensation is found to be payable for any loss or damage and the amount of the compensation is provided for in an agreement made under section 17, the amount required to be assessed is to be taken to be
15 the amount so provided for.

(5) In making an assessment of compensation, the value of any work done pursuant to an agreement made under section 17 shall be taken into account.

20 (6) Section 146 (Costs may be allowed) of the Mining Act 1973 applies in relation to proceedings under that Act, as applied by this section.

PART 4—MISCELLANEOUS**Delegation**

20. The Minister may delegate to—

(a) the Director of Public Works; or

25 (b) the Chief Warden under the Mining Act 1973; or

(c) a prescribed person or a person of a prescribed class,

any of the powers, authorities, duties or functions conferred or imposed on the Minister by this Act or the regulations, other than this power of delegation.

30 Proceedings for offences

21. (1) Proceedings for an offence against this Act shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

(2) Despite subsection (1), proceedings for an offence under section 15 may be dealt with before the Land and Environment Court in its summary
35 jurisdiction.

(3) The maximum penalty that a Local Court may impose for an offence against this Act is 50 penalty units.

Very Fast Train (Route Investigation) 1989

(4) The maximum penalty that the Land and Environment Court may impose for an offence under section 15 is 400 penalty units.

(5) Proceedings in the Land and Environment Court for an offence under section 15 must be commenced not later than 6 months after the offence was alleged to have been committed.

Regulations

22. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Amendment of Land and Environment Court Act 1979 No. 204

23. The Land and Environment Court Act 1979 is amended by inserting after section 21 (h) the following paragraph:

(ha) proceedings under section 21 of the Very Fast Train (Route Investigation) Act 1989; and

