

FIRST PRINT

## ROADS BILL 1992

NEW SOUTH WALES



### EXPLANATORY NOTE

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

This Bill is cognate with the Local Government Bill 1992.

The object of this Bill is to consolidate, within a single enactment, the provisions of the State Roads Act 1986, the Crown and Other Roads Act 1990, Part 9 of the Local Government Act 1919, the Public Gates Act 1901, the Width of Streets and Lanes Act 1902 and the Traffic Safety (Lights and Hoardings) Act 1951. Generally speaking, the Bill seeks to continue the effect of those provisions without any major change.

### PART 1—PRELIMINARY

This Part (clauses 1–7) contains certain formal provisions together with a statement of the objects of the proposed Act (clause 3), statements of the rights of passage and access that attach to public roads (clauses 5 and 6) and a statement of the relationship between the various roads authorities and public roads (clause 7).

### PART 2—OPENING OF PUBLIC ROADS

This Part (clauses 8–18) provides for the various ways in which public roads may be opened and contains a provision (clause 18) that provides for the resolution of doubt as to whether a particular road is or is not a public road.

### PART 3—ROAD ALIGNMENTS AND ROAD LEVELS

This Part (clauses 19–31) provides for the resolution of doubt as to the location of the boundaries of a particular public road (Division 1), for the widening of public roads by means of road widening orders (Division 2) and for the fixing and varying of road levels (Division 3).

### PART 4—CLOSING OF PUBLIC ROADS

This Part (clauses 32–42) provides for the various ways in which a public road may be closed (Divisions 1–4) and for the disposal of land that has previously been a public road (Division 5).

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**PART 5—CLASSIFICATION OF ROADS**

This Part (clauses 43–65) provides for the classification of roads (Division 1), requires there to be consultation with the various roads authorities before a road is classified (Division 2) and states the effect of classification in relation to the exercise by the various roads authorities of their functions under the Act (Division 3).

**PART 6—ROAD WORK**

This Part (clauses 66–82) confers road making functions on the various roads authorities (Division 1), contains special provisions with respect to the construction of bridges and tunnels across navigable waters (Division 2) and makes provision for certain matters incidental to road making (Division 3).

**PART 7—PROTECTION OF PUBLIC ROADS AND TRAFFIC**

This Part (clauses 83–104) enables a roads authority to take certain action to protect public roads from damage (Division 1), to ensure the removal of traffic hazards in the vicinity of a public road (Division 2) and to ensure the removal of obstructions and encroachments on public roads (Division 3). The Part also contains provisions regulating the maximum weights of vehicles and their loads and providing for the payment of excess weight charges to be applied to the maintenance of public roads (Division 4).

**PART 8—REGULATION OF TRAFFIC**

This Part (clauses 105–114) gives limited powers to a roads authority to regulate traffic (Division 1), allows the RTA to consent to a roads authority exercising additional traffic regulating functions (Division 2) and enables the Minister to compel roads authorities to exercise their traffic regulating functions in a particular manner (Division 3).

**PART 9—REGULATION OF WORKS AND STRUCTURES**

This Part (clauses 115–130) enables a roads authority to grant approval to the use of footways for the purposes of a restaurant (Division 1), to grant permits for the erection of gates across public roads (Division 2) and to consent to the carrying out of works and the erection of structures on public roads (Division 3).

**PART 10—ANCILLARY FUNCTIONS WITH RESPECT TO PUBLIC ROADS ETC.**

This Part (clauses 131–146) restricts the power of a roads authority to dispose of public roads (Division 1), provides for the granting of short-term leases over unused public roads and portions of public roads (Division 2) and confers certain additional powers on the RTA with respect to land (Division 3).

**PART 11—ENTRY TO LAND ETC.**

This Part (clauses 147–158) empowers certain persons to enter private land for the purposes of the proposed Act (Division 1) and empowers a roads authority to make use of certain vacant land while constructing or repairing a public road (Division 2).



## **PART 12—ACQUISITION OF LAND**

This Part (clauses 159–180) provides for the acquisition of land generally by roads authorities (Division 1), for the acquisition of land for the purposes of a public road on the application of a private landowner (Division 2), for the acquisition of land for the purposes of road widening (Division 3) and for the payment of compensation by the Crown to councils when public roads are compulsorily acquired (Division 4).

## **PART 13—COMPENSATION**

This Part (clauses 181–184) provides for the payment of compensation to which persons may become entitled under the other provisions of the Act. The Part provides for the compensation for loss of access to a freeway or controlled access road (Division 1) and other provisions concerning the payment of compensation generally (Division 2). This Part does not apply to compensation for the compulsory acquisition of land, which is determined in accordance with the relevant provisions of the Land Acquisition (Just Terms Compensation) Act 1991.

## **PART 14—FINANCE**

This Part (clauses 185–204) provides for the granting of financial assistance to roads authorities (Division 1), for the imposition of tolls and charges for bridges, tunnels and ferries (Division 2), for the recovery by roads authorities of certain costs incurred for the provision of kerbing and guttering (Division 3), for the payment by roads authorities to the RTA of certain costs incurred by the RTA in carrying out works on public roads (Division 4) and other miscellaneous financial matters (Division 5).

## **PART 15—ENFORCEMENT OF ACT ETC.**

This Part (clauses 205–225) enables an authorised officer to require the production of certain information (Division 1), provides for the enforcement of the excess weight restrictions imposed by Division 4 of Part 7 (Division 2), provides for the enforcement of certain directions under the proposed Act (Division 3), creates miscellaneous offences (Division 4), provides for the taking of legal proceedings, both criminal and civil, and the issuing of penalty notices (Division 5) and provides for certain evidentiary matters (Division 6).

## **PART 16—ADMINISTRATION**

This Part (clauses 226–236) contains a miscellany of provisions relevant to the administration of the Act, including provisions for the appointment of authorised officers (clause 226), for the service of documents (clauses 229 and 230), for the retrospective correction of mistakes in orders and notices published under the proposed Act (clause 232), the reference of certain matters to local land boards (clause 235) and the resolution of disputes between public authorities (clause 236).

## **PART 17—MISCELLANEOUS**

This Part (clauses 237–244) contains a miscellany of provisions of a machinery nature, including provisions to ensure that the proposed Act binds the Crown (clause 237), to provide for the allocation of the administration of the Act (clause 238), to enable the making of regulations (clause 240), to repeal legislation (clause 241) and to require the proposed Act to be reviewed within 5 years of its assent (clause 244).

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**SCHEDULE 1—AMENDMENT OF OTHER ACTS**

This Schedule amends other Acts as a consequence of the enactment of the proposed Act.

**SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**

This Schedule enacts savings, transitional and other provisions as a consequence of the enactment of the proposed Act.

**DICTIONARY**

This Dictionary defines certain words and expressions that are used in the proposed Act.

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DICTIONARY

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**ROADS BILL 1992**

**NEW SOUTH WALES**



No.      , 1992

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**A BILL FOR**

An Act to make provision with respect to the roads of New South Wales;  
to repeal the State Roads Act 1986, the Crown and Other Roads Act 1990  
and certain other enactments; and for related purposes.

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The Legislature of New South Wales enacts:

**PART 1—PRELIMINARY**

**Short title**

1. This Act may be cited as the Roads Act 1992.

**5 Commencement**

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

**Objects of Act**

3. The objects of this Act are:
- 10 (a) to set out the rights of members of the public to pass along a public road; and
- (b) to set out the rights of persons who occupy land adjoining a public road to have access to the public road; and
- 15 (c) to establish the procedures for the opening and closing of a public road; and
- (d) to provide for the classification of roads; and
- (e) to provide for the declaration of certain public authorities as roads authorities for both classified and unclassified roads; and
- 20 (f) to confer certain functions (in particular, the function of carrying out road work) on roads authorities; and
- (g) to provide for the distribution of the functions conferred by this Act between the various roads authorities; and
- (h) to regulate the carrying out of various activities on public roads.

**Definitions**

- 25 4. In this Act, the words and expressions appearing in the Dictionary at the end of this Act have the meanings given to them in that Dictionary.

**Right of passage along public road by members of the public**

5. (1) A member of the public is entitled, as of right, to pass along a public road (whether on foot, in a vehicle or otherwise) and to drive stock or other animals along the public road.
- 30

(2) The right conferred by this section does not derogate from any right of passage that is conferred by the common law, but is subject to such restrictions as are imposed by or under this or any other Act.

(3) In particular, the right conferred by this section is subject to such restrictions as are imposed:

- (a) by or under the Traffic Act 1909; or
- (b) by or under section 72 of the Crown Lands Act 1989.

#### **Right of access to public road by owners of adjoining land** 5

6. (1) The owner of land adjoining a public road is entitled, as of right, to access (whether on foot, in a vehicle or otherwise) between the land and the public road.

(2) The right conferred by this section does not derogate from any right of access that is conferred by the common law, but is subject to such restrictions as are imposed by or under this or any other Act. 10

#### **Roads authorities**

7. (1) The RTA is the roads authority for all freeways.

(2) The Minister is the roads authority for all Crown roads.

(3) The regulations may declare that a specified public authority is the roads authority for a specified public road, or for all public roads within a specified area, other than any freeway or Crown road. 15

(4) The council of a local government area is the roads authority for all public roads within the area, other than:

- (a) any freeway or Crown road; or 20
- (b) any public road for which some other public authority is declared by the regulations to be the roads authority.

(5) This Act, section 63 in particular, confers certain functions on a roads authority.

### **PART 2—OPENING OF PUBLIC ROADS** 25

#### **Division 1—General**

#### **Opening of public roads**

8. (1) Land may become a public road under this Act:

- (a) by the registration in the Land Titles Office, in accordance with section 11, of a plan of subdivision that bears a statement of intention to dedicate specified land as a public road (other than a temporary public road); or 30



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- (b) by the registration in the Land Titles Office, in accordance with section 12, of a plan of subdivision that bears a statement of intention to dedicate specified land as a temporary public road; or
- 5 (c) by the publication in the Gazette, in accordance with section 13, of a notice to the effect that specified land held by the RTA or by a council is dedicated as a public road; or
- (d) by the publication in the Gazette, in accordance with section 14, of a notice to the effect that specified land that has been acquired for the purposes of a public road by the Minister is dedicated as a public road; or
- 10 (e) by the publication in the Gazette, in accordance with section 15, of a notice to the effect that specified unoccupied Crown land is dedicated as a public road; or
- (f) by the making of a proclamation, in accordance with section 16, by which specified land owned by a public authority and used as a public road is dedicated as a public road; or
- 15 (g) by the acquisition of land in connection with the widening of a public road as referred to in section 17; or
- (h) by the publication in the Gazette, in accordance with section 18, of a declaration to the effect that a specified road is a public road.
- 20

(2) This section does not limit any other means by which a public road may be opened, whether at common law or otherwise.

**Public roads may not be opened by private persons except with consent**

- 25 9. (1) The purported dedication of land as a public road by a person other than the Crown is of no effect unless the proposed dedication is approved:
  - (a) in the case of land within a local government area, by the council of the area; or
  - 30 (b) in the case of land outside a local government area, by the Minister.
- (2) An approval under this section may be given unconditionally or subject to conditions.
- (3) In particular, an approval may be given subject to conditions with respect to any one or more of the following:
  - 35 (a) the width of the road and of any footway or roadway forming part of the road;



- (b) the surface material of any footway or roadway forming part of the road;
  - (c) the inclusion of parking bays along the road;
  - (d) the provision of kerbing and guttering along the road;
  - (e) the provision of stormwater drainage works for the road; 5
  - (f) the manner in which water, sewerage, electricity and gas services are to be provided along the road;
  - (g) the landscaping to be carried out along the road.
  - (4) An approval may not be given under this section unless:
    - (a) each person who has an interest in the land consents to the dedication of the land as a public road; and 10
    - (b) the proposed road will not be an isolated road.
  - (5) The dedication of land as a public road is not invalid merely because of a failure to comply with subsection (4).
- Nature of ownership of public roads** 15
10. (1) Except as otherwise provided by this Act, the dedication of land as a public road:
- (a) does not affect the rights or liabilities of any person under any easement or under any Act or law; or
  - (b) does not affect any rights of any person with respect to minerals below the surface of the land; and 20
  - (c) does not constitute the owner of the road as an occupier of the land; and
  - (d) does not authorise the owner of the land to dispose of any interest (other than an easement or covenant) in the land; and 25
  - (e) exempts the land, and the owner of the land, from any liability under the Dividing Fences Act 1991 in respect of the land; and
  - (f) does not prevent any lands that were previously considered to be adjoining lands for the purposes of the Land Acquisition (Just Terms Compensation) Act 1991 from continuing to be so considered. 30
- (2) This section does not restrict the power of a roads authority to regulate the digging up of public roads pursuant to the provisions of any other Act.

**Division 2—Methods of opening public roads****Public road created by plan of subdivision**

- 5 11. On the registration in the Land Titles Office of a plan of subdivision that bears a statement of intention to dedicate specified land as a public road (other than a temporary public road):

- (a) the land is dedicated as a public road; and
- (b) in the case of land within a local government area, the council of the area becomes the owner of the road; and
- 10 (c) in the case of land outside a local government area, the land becomes Crown land.

**Temporary public road created by plan of subdivision**

12. On the registration in the Land Titles Office of a plan of subdivision that bears a statement of intention to dedicate specified land as a temporary public road:

- 15 (a) the land is dedicated as a public road; and
- (b) in the case of land within a local government area, the council of the area becomes the owner of the road; and
- (c) in the case of land outside a local government area, the Minister becomes the owner of the land.

20 **Land held by RTA or by councils**

13. (1) The RTA or a council may, by notice published in the Gazette, dedicate any land held by it (including land acquired by it under Division 1 of Part 12) as a public road.

- 25 (2) On the publication of the notice, the land is dedicated as a public road.

**Land acquired by Minister**

14. (1) The Minister may, by notice published in the Gazette, dedicate any land acquired by the Minister under Division 1 or 2 of Part 12 as a public road.

- 30 (2) The notice must declare whether or not the road is to be a Crown road.

- (3) On the publication of the notice:

- (a) the land is dedicated as a public road; and



- (b) in the case of land (other than land declared to be a Crown road) within a local government area, the council of the area becomes the owner of the road.

#### **Minister may open road over unoccupied Crown land**

**15.** (1) The Minister may, by notice published in the Gazette, dedicate any unoccupied Crown land as a public road. 5

(2) The notice must declare whether or not the road is to be a Crown road.

(3) On the publication of the notice:

(a) the land described in the notice becomes free of all trusts, restrictions, dedications, reservations, obligations and interests; and 10

(b) the land is dedicated as a public road; and

(c) in the case of land (other than land declared to be a Crown road) within a local government area, the council of the area becomes the owner of the road. 15

#### **Governor may proclaim certain public land to be public road**

**16.** (1) The Governor may, by proclamation, dedicate as a public road any land that is owned by a public authority and is used by the public as a road.

(2) Such a proclamation may not be made except on the recommendation of the Minister and with the concurrence of the Minister responsible for the authority. 20

(3) On the publication of the proclamation:

(a) the land described in the proclamation becomes free of all trusts, restrictions, dedications, reservations, obligations and interests; and 25

(b) the land is dedicated as a public road; and

(c) in the case of land that is situated within a local government area, the council of the area becomes the owner of the road; and

(d) in the case of land that is situated outside a local government area, the road becomes Crown land. 30

#### **Acquired land becomes public road without further dedication**

**17.** Land that is acquired under Division 3 of Part 12 for the purpose of widening an existing public road pursuant to a road widening order becomes part of the public road without the need for any separate dedication and the owner of the public road becomes the owner of the land so acquired. 35

**Resolution of doubts concerning status of certain roads**

18. (1) This section applies to land that has been set aside for the purposes of a road in a plan of subdivision that was registered in the office of the Registrar-General before 1 January 1920.

- 5 (2) The council of a local government area within which such land is situated may serve on the owner of the land a notice to the effect that the council intends to declare the land to be a public road.

(3) The owner of the land may, in accordance with rules of court, appeal to the Supreme Court against the proposed declaration.

- 10 (4) Such an appeal must be made within 30 days after service of the notice.

(5) The Supreme Court may make such decision as it thinks fit with respect to the appeal.

- 15 (6) The council may, by notice published in the Gazette, declare the land to be a public road:

(a) if no appeal is made; or

(b) if an appeal is made and if the Supreme Court decides that the council should be allowed to declare the land to be a public road.

(7) On the making of such a declaration:

- 20 (a) the land described in the declaration becomes free of all trusts, restrictions, dedications, reservations, obligations and interests; and

(b) the land becomes a public road; and

(c) the council becomes the owner of the road.

- 25 (8) If an appeal is made and the Supreme Court decides that the council should not be allowed to declare the land to be a public road, no further claim may be made under this section with respect to the same land or any part of it.

(9) In this section, **owner** includes the person who, assuming the land is not a public road, is the owner of the land.

30 **PART 3—ROAD ALIGNMENTS AND ROAD LEVELS**

**Division 1—Identification of road boundaries**

**Identification of boundaries of public road**

- 35 19. (1) A roads authority may cause surveys to be carried out to identify the boundaries of a public road if those boundaries have not previously been properly identified or if the survey marks used to identify those boundaries have been lost or forgotten.



(2) If the boundaries of a public road are identified in accordance with this section on the application of a private individual, the applicant is liable to pay to the roads authority the costs incurred in carrying out the surveys.

**Public notice to be given of proposed boundaries** 5

20. (1) On completing the surveys, the roads authority must cause notice of the proposed boundaries to be published in the Gazette.

(2) Before approving the proposed boundaries, the roads authority must cause notice of the proposed boundaries:

- (a) to be published in a local newspaper; and 10
- (b) to be served on the owner of each parcel of land affected by the proposed boundaries.

(3) The notice:

- (a) must identify the survey that indicates the proposed boundaries of the road concerned; and 15
- (b) must indicate the place at which, and the times during which, the survey is available for inspection by members of the public; and
- (c) must state that any person is entitled to object to the proposed boundaries indicated by the survey; and
- (d) must indicate the manner in which, and the period within which, any such objection should be made. 20

(4) The roads authority must ensure that copies of the proposed plan are available for inspection by members of the public at the place, and during the times, specified in the notice.

**Decision on proposed boundaries** 25

21. (1) After considering any objections that have been duly made with respect to the proposal, the roads authority may approve the plan of survey, either with or without alteration.

(2) The roads authority:

- (a) must cause notice of its approval of the plan of survey to be published in the Gazette; and 30
- (b) must cause a notice of the effect of the plan of survey with respect to any land affected by the plan to be served on the owner of the land; and
- (c) must lodge a copy of the plan at the Land Titles Office and with the Valuer-General and, if the authority is not a council, with the council concerned. 35

**Effect of boundary identification**

22. (1) On the registration in the Land Titles Office of the plans of survey by which the boundaries identified in accordance with this section are identified, those boundaries are taken to be the boundaries of the public road.

(2) No compensation is payable to any person with respect to any loss or damage arising from the operation of this section.

**Division 2—Road widening****Preparation of road widening plan**

23. (1) A roads authority may submit to the Minister a proposed plan for the widening of a public road.

(2) Before approving a proposed plan, the Minister must ensure that the roads authority causes notice of the proposed plan:

- (a) to be published in a local newspaper; and
- (b) to be served on the owner of any land affected by the proposed plan.
- (3) The notice:
  - (a) must identify the plan; and
  - (b) must indicate the place at which, and the times during which, the plan is available for inspection by members of the public; and
  - (c) must state that any person is entitled to object to the proposed plan; and
  - (d) must indicate the manner in which, and the period within which, any such objection should be made.
- (4) The roads authority:
  - (a) must ensure that copies of the proposed plan are available for inspection by members of the public at the place, and during the times, specified in the notice; and
  - (b) must ensure that any objections received by the roads authority with respect to the proposed plan are forwarded to the Minister.

**Decision on proposal**

24. (1) After considering any objections that have been duly made with respect to the proposed plan, the Minister may make a road widening order to give effect to the proposed plan, either with or without alteration, or may refuse to make such an order.



- 
- (2) If the Minister makes a road widening order, the roads authority:
- (a) must cause notice of the making of the order to be published in the Gazette; and
  - (b) must cause a notice of the effect of the order with respect to any land affected by a road widening order to be served on the owner of the land; and
  - (c) must lodge a copy of the plan at the Land Titles Office and with the Valuer-General and, if the authority is not a council, with the council concerned.
- 5
- No constructions on land affected by road widening order** 10
25. (1) A person must not construct, replace or repair a building or work on land affected by a road widening order.
- Maximum penalty: 10 penalty units.
- (2) This section does not prevent a person from carrying out minor repairs or improvements to a building so long as:
- (a) they are designed merely to enable the reasonable preservation of the building for temporary use; and
  - (b) they are carried out with the consent of the appropriate roads authority.
- 15
- (3) A roads authority may direct the owner of any land affected by a road widening order (being land on which a building or work has been constructed, replaced or repaired in contravention of this section) to carry out such work as is necessary to restore the affected land to the state it was in before the contravention occurred.
- 20
- Rescission and variation of road widening orders** 25
26. (1) The Minister may, by order published in the Gazette:
- (a) rescind a road widening order; or
  - (b) vary a road widening order by excluding land from the operation of the order.
- (2) On the making of an order rescinding a road widening order, all land that was affected by the order ceases to be land so affected.
- 30
- (3) On the making of an order varying a road widening order by excluding land from the operation of the order, the excluded land ceases to be affected by the order.



**Effect of road widening order for purposes of hardship provisions of Land Acquisition (Just Terms Compensation) Act 1991**

27. For the purposes of Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, land affected by a road widening order is taken to be land designated for acquisition by an authority of the State for a public purpose.

**Division 3—Road levels****Fixing the levels of public road**

28. (1) A roads authority may, by order published in the Gazette:
- 10 (a) fix the levels of a public road; or
- (b) vary from time to time any levels so fixed.
- (2) Such an order may fix or vary the levels of a public road by reference to a plan of levels held by the roads authority.
- 15 (3) Before making such an order, the roads authority must cause notice of the proposed order:
- (a) to be published in a local newspaper; and
- (b) to be conspicuously displayed at regular intervals along the road concerned.
- (4) The notice:
- 20 (a) must indicate the place at which, and the times during which, the proposed plan of levels is available for inspection by members of the public; and
- (b) must state that adjoining landowners are entitled to object to the proposal; and
- 25 (c) must indicate the manner in which, and the period within which, any such objection should be made.
- (5) The roads authority must ensure that copies of the proposed plan of levels are available for inspection by members of the public at the place, and during the times, specified in the notice.

**30 Objections**

29. Any owner of land adjoining such part of a public road as is affected by the proposed order may object to the proposed levels of the road.

**Decision on proposal**

30. (1) After considering any objections that have been duly made with respect to the proposal, the roads authority may make the proposed order, either with or without alteration, or may refuse to make the order.

(2) If the roads authority makes the order, it must cause notice of the order to be published in a local newspaper. 5

**Rights of adjoining landowners in relation to the fixing of levels**

31. (1) If the fixing of the levels of a road results in loss of access between a public road and land adjoining the public road, the roads authority must restore access between the road and that land. 10

(2) If the varying of levels so fixed results in loss of access between a public road and land adjoining the public road, the roads authority is liable to pay compensation under Part 13 to the owner of the land for loss or damage arising from the loss of access.

**PART 4—CLOSING OF PUBLIC ROADS 15****Division 1—Closing of public roads by Minister****Proposal to close public road**

32. (1) Any person may apply to the Minister for the closing of a public road.

(2) The Minister, whether or not on the application of such a person, may propose the closing of a public road. 20

(3) The Minister may from time to time, by notice in writing served on an applicant, require the applicant to lodge with the Minister:

- (a) any fee required to cover the cost of processing the application; and
- (b) any sum of money necessary to defray a cost incurred by the Minister or any other person with respect to the proposed closing of the road; and 25

- (c) further information that the applicant has relevant to the application.

(4) Such a notice may be served either before or during the consideration of the application. 30

(5) An application is taken to have been abandoned if any such requirement is not complied with within the period specified in the notice.



**Publication of proposal to close public road**

33. (1) The Minister must cause notice of the proposed closing of a public road to be published in a local newspaper.

(2) The notice:

- 5 (a) must identify the road that is proposed to be closed; and
- (b) must state that any person is entitled to object to the closing of the road; and
- (c) must indicate the manner in which, and the period (being not less than 28 days) within which, any such objection should be made.

10 **Decision on proposal**

34. (1) After considering any objections that have been duly made with respect to the proposal, the Minister may, by notice published in the Gazette, close the public road concerned.

(2) A public road may not be closed:

- 15 (a) in the case of a classified road—unless the RTA consents to the closure of the road; and
- (b) in the case of a road owned by a council—unless the council consents to the closure of the road; and
- 20 (c) in the case of a classified road that is owned by a council—unless both the RTA and the council consent to the closure.

**Effect of notice of closure**

35. On publication of the notice closing the public road concerned:

- (a) the road ceases to be a public road; and
- 25 (b) the rights of passage and access that previously existed in relation to the road are extinguished; and
- (c) the land (if not already Crown land) becomes Crown land.

**Division 2—Closing of public roads by RTA****RTA may close freeways**

36. (1) The RTA may, by notice published in the Gazette, close a  
30 freeway.

(2) On the publication of the notice:

- (a) the road ceases to be a public road; and
- (b) the rights of passage and access that previously existed in relation to the road are extinguished.



**Division 3—Closing of temporary public roads****Roads authority may close temporary public road**

37. (1) A roads authority may, by notice published in the Gazette, close a temporary public road if, and only if, the road does not give access to an isolated road.

5

(2) On the publication of the notice:

- (a) the temporary public road ceases to be a public road; and
- (b) the rights of passage and access that previously existed in relation to the road are extinguished.

**Land to be transferred to original subdivider etc.**

10

38. (1) A roads authority that closes a temporary public road must take reasonable steps to notify the original subdivider, or the original subdivider's successor in title, of the fact of the closing of the temporary public road and of that person's right to the ownership of the land on which it was situated.

15

(2) At any time within 5 years after the road is closed, the original subdivider, or the original subdivider's successor in title, may apply to the roads authority to become the owner of the land on which the road was situated.

(3) If no application is made within 5 years after the road is closed, the rights of the original subdivider, and of each of the original subdivider's successors in title, cease.

20

(4) The roads authority must convey or transfer the land to an applicant if satisfied that the applicant is the original subdivider or the original subdivider's successor in title.

25

(5) No stamp duty is payable under the Stamp Duties Act 1920 in respect of the conveyance or transfer.

(6) In this section, **original subdivider**, in relation to a temporary public road, means the person who owned the land comprised in the temporary public road immediately before the land was subdivided to create the temporary public road.

30

**Division 4—Closing of public roads by compulsory acquisition****Compulsory acquisition of land operates to close public road**

39. A public road that is compulsorily acquired under this or any other Act or law ceases to be a public road as a consequence of its compulsory acquisition.

**Division 5—Miscellaneous****Disposal of Crown land arising from closure of public road**

40. (1) Land that has become Crown land as a consequence of the closing of a public road under this Part may be sold, leased or otherwise dealt with under the Crown Lands Acts or may be given in compensation for land acquired for the purposes of this Act.

(2) The provisions of:

- (a) section 35 of the Crown Lands Act 1989; and
- (b) Part 3 of that Act,

- do not apply to the sale or lease of the land if it is sold or leased to the owner of other land adjoining the former public road.

**Disposal of land comprising former public road owned by council**

41. (1) This section applies to land comprising a public road that has been closed under this Part, being a public road that, immediately before its closure, was owned by a council.

(2) If land to which this section applies is disposed of under the Crown Lands Acts by way of sale, the proceeds of sale (less the costs of the sale) are to be paid:

- (a) in the case of land that formerly comprised a classified road, to the council and to the RTA in equal parts or in such other proportions as the council and the RTA may agree; or
- (b) in the case of land that formerly comprised a public road (other than a classified road) in respect of which no road has ever been constructed, to the Minister for payment into the Consolidated Fund; or
- (c) in any other case, to the council.

(3) Money received by a council from the proceeds of sale of land to which this section applies is not to be used by the council except for the purpose of carrying out road work on public roads.



### **Resumption of land following rescission or variation of road widening order**

42. (1) This section applies to land that is owned by a council as a result of:

- (a) some other roads authority having made a road widening order under Division 2 of Part 3; and 5
- (b) the land having been acquired under Division 3 of Part 12; and
- (c) the land having become part of a public road, and the council having become the owner of the land, by operation of section 17.

(2) If land to which this section applies ceases to be subject to the road widening order because of the variation or revocation of the order, the land ceases to be part of the public road. 10

(3) The roads authority that made the road widening order may, by the same order as that by which the road widening order is varied or revoked or by a subsequent order published in the Gazette, declare that it acquires the land under this section. 15

(4) The declaration operates to transfer the land from the council concerned to the roads authority.

(5) No compensation is payable to the council with respect to any loss or damage arising from the operation of this section. 20

## **PART 5—CLASSIFICATION OF ROADS**

### **Division 1—General**

#### **Main roads**

43. (1) The Minister may, by order published in the Gazette, declare to be a main road any public road or any other road that passes through public open space and joins a public road. 25

(2) A road that is not a public road does not become a public road merely because it is declared to be a main road.

#### **State highways**

44. (1) The Minister may, by order published in the Gazette, declare to be a State highway any main road that is a principal avenue of road communication within the State and that connects with similar roads in other States. 30

(2) A main road does not cease to be a main road merely because it is declared to be a State highway. 35



**Freeways**

45. (1) The Minister may, by order published in the Gazette, declare to be a freeway any main road that is specifically designed to facilitate the movement of motor traffic.

- 5 (2) A main road does not cease to be a main road merely because it is declared to be a freeway.

**Controlled access roads**

46. (1) The Minister may, by order published in the Gazette, declare to be a controlled access road:

- 10 (a) any main road that is designed to facilitate the movement of motor traffic; and

(b) any road that joins a main road referred to in paragraph (a).

(2) A road that is not a public road does not become a public road merely because it is declared to be a controlled access road.

- 15 (3) A main road does not cease to be a main road merely because it is declared to be a controlled access road.

**Secondary roads**

47. The Minister may, by order published in the Gazette, declare to be a secondary road any public road that, by carrying a substantial amount of through traffic, relieves a neighbouring main road of traffic.
- 20

**Tourist roads**

48. (1) The Minister may, by order published in the Gazette, declare to be a tourist road any public road, or any other road that passes through public open space, being a public or other road:

- 25 (a) that joins a main road, a State highway, a freeway, a tollway or a controlled access road; and

(b) that provides access to places that are visited, or likely to be visited, by tourists.

- (2) A road that is not a public road does not become a public road merely because it is declared to be a tourist road.
- 30

**Tollways**

49. (1) The Minister may, by order published in the Gazette, declare to be a tollway:

(a) any road that is owned by the RTA and that is designed to facilitate the movement of motor traffic within the State or any part of the State; or

(b) any road proposed to be constructed on land owned or to be owned by the RTA.

5

(2) A road that is not a public road does not become a public road merely because it is declared to be a tollway.

(3) A tollway is not a public street for the purposes of any Act or law prescribed by the regulations for the purposes of this section.

#### **State works**

10

50. The Minister may, by order published in the Gazette, declare to be a State work any public road (other than a Crown road) or any other public work (including a bridge, tunnel and road-ferry) which, by reason of its nature, size, location or importance, the Minister considers should be a responsibility of the State.

15

#### **Metropolitan main roads**

51. (1) Each main road within the Sydney metropolitan area that is not a State highway, freeway or controlled access road is a metropolitan main road.

(2) Any other main road is a country main road.

20

(3) The Minister may, by order published in the Gazette, declare that a specified country main road, or a specified part of a country main road, is taken to be a metropolitan main road for the purposes of this Act.

(4) While such an order remains in force, the provisions of this Act relating to metropolitan main roads apply to the road or part to which the order relates instead of the provisions relating to country main roads.

25

#### **Restriction of access to freeways etc.**

52. (1) An order declaring a road to be a freeway or controlled access road may restrict access to or from the freeway or controlled access road.

(2) In that event, the order:

30

(a) must specify the means of access by which a person may enter or leave the freeway or controlled access road; and

(b) must, in addition to being published in the Gazette, be published in one or more newspapers circulating in the locality in which the freeway or controlled access road is located.

35



(3) If access to any land adjacent to a public road is restricted or denied as a result of the road becoming a freeway or controlled access road, the roads authority is liable to pay compensation under Part 13 to the owner of the land for any loss or damage arising from the loss of access.

- 5 (4) Compensation is not payable to the owner of any land merely because:
- (a) adjacent land is acquired by the RTA for the purpose of opening a new freeway or controlled access road or widening an existing freeway or controlled access road; and
  - 10 (b) access is restricted or denied between the owner's land and such part of the freeway or controlled access road as comprises the land so acquired.

**Separate classifications etc. of different lengths and levels of public road**

- 15 53. (1) The whole of a road, or part only of the length of a road or a single level only of a road, may be classified under this Division.
- (2) Different lengths and different levels of the same road may be differently classified under this Division.

**Variation of route of classified roads**

- 20 54. The variation of the boundaries of a classified road (arising, for example, from changes in the route or gradient of the road) does not affect the classification of the road and the road has the same classification within the new boundaries as it had between the old.

**RTA to recommend making of orders**

- 25 55. An order may not be made under this Division otherwise than on the recommendation of the RTA.

**Division 2—Consultation with roads authorities**

**Application of Division**

56. This Division applies to the following actions of the RTA:
- 30 (a) the recommendation by the RTA of the making, amendment or revocation of an order under Division 1 with respect to the declaration of a road as a main road;
  - (b) the refusal by the RTA of a roads authority's application for the recommendation of the making, amendment or revocation of such
  - 35 an order.



**Consultation with roads authorities**

**57.** (1) The RTA may not take any action to which this Division applies unless:

- (a) it has given written notice of the proposed action to each roads authority for the road concerned; and
- (b) it has given each such roads authority a reasonable opportunity to make submissions with respect to the proposed action.

5

(2) The RTA must notify any roads authority from which it has received a submission objecting to the taking of the proposed action if the RTA decides to proceed with the action.

10

(3) This section does not apply with respect to a roads authority that has requested the proposed action.

**Matters to be considered by RTA**

**58.** The RTA must take the following matters into consideration before deciding on what to recommend to the Minister:

15

- (a) the submissions made by any roads authority concerned with respect to the proposed action;
- (b) whether the main road or proposed main road is or may become a major route, whether for local or long-distance traffic;
- (c) the amount of money available or likely to become available for the construction and maintenance of the main road or proposed main road;
- (d) such other factors as are relevant to the decision.

20

**Roads authorities may appeal to Minister**

**59.** (1) Any roads authority that has made a submission with respect to the taking of any action to which this Division applies and that is aggrieved by the RTA's decision in connection with that action may appeal to the Minister against the decision.

25

(2) An appeal:

- (a) must be in writing; and
- (b) must specify the grounds of appeal; and
- (c) must be served on the RTA not later than 28 days after the roads authority is notified that the RTA has decided to proceed with the proposed action.

30

(3) The RTA must serve a copy of the notice of appeal on each other roads authority for the road concerned.

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(4) At the hearing of the appeal, the Minister may allow roads authorities other than the appellant to be heard.

(5) After hearing the appeal, the Minister:

- (a) may make, amend or revoke the relevant order; or
- 5 (b) may refuse to make, amend or revoke the relevant order.

### **Division 3—Effect of classification**

#### **Metropolitan main roads and State highways etc.**

60. (1) The making of a decision as to what road work is to be carried out on any metropolitan main road or State highway is exclusively the  
10 function of the RTA.

(2) The making of a decision as to what kind of road work is to be carried out on any other classified road on which the carrying out of road work of that kind is the responsibility of the RTA by virtue of an agreement or direction under this Division, is exclusively the function of  
15 the RTA.

(3) The construction and maintenance of State works are exclusively the functions of the RTA.

#### **Roads agreements between RTA and roads authorities**

61. (1) The RTA and a roads authority may enter into an agreement  
20 under which some or all of the functions of the roads authority with respect to a classified road are, to the extent provided by the agreement, to be exercised by the RTA.

(2) While an agreement under this section has effect, the functions of the roads authority with respect to the road are, to the extent provided by  
25 the agreement, to be exercised by the RTA.

(3) This section does not limit the power of the RTA to exercise any function conferred on it by or under any other provision of this Act with respect to a classified road.

#### **Ministerial directions**

30 62. (1) The Minister may, if of the opinion that special circumstances so require, direct that some or all of the functions of a roads authority with respect to a classified road are, to the extent provided by the direction, to be exercised by the RTA.

(2) While a direction under this section has effect, the functions of the  
35 roads authority with respect to the road are, to the extent provided by the direction, to be exercised by the RTA.



**Functions of roads authorities generally**

63. Except to the extent to which an agreement or direction under this Division otherwise provides, a roads authority has the following functions with respect to the roads for which it is the roads authority:

- (a) the function of carrying out road work; 5
- (b) the function of regulating traffic;
- (c) the function of controlling the carrying out of activities on those roads;
- (d) such other functions as are conferred on the roads authority by or under this or any other Act. 10

**RTA may exercise functions of roads authority with respect to classified roads**

64. (1) The RTA may exercise the functions of a roads authority with respect to any classified road, and with respect to any unclassified road outside a local government area, whether or not it is the roads authority for that road and, in the case of a classified road, whether or not that road is a public road. 15

(2) The roads authority for a classified road with respect to which the RTA is exercising a particular function may not exercise its functions with respect to the road in any manner that is inconsistent with the function exercised by the RTA. 20

(3) While exercising the functions of a roads authority under this section with respect to a road for which it is not the roads authority, the RTA has the functions and immunities of a roads authority with respect to that road. 25

**Geographical Names Board to be advised of proposed name of main road**

65. A roads authority must not name a main road, or alter the name of a main road, unless it has given the Geographical Names Board at least one month's notice of the proposed name. 30

**PART 6—ROAD WORK****Division 1—General****Powers of roads authority with respect to road work**

66. (1) A roads authority may carry out road work on any land under its control. 35



(2) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply to or in respect of road work carried out under this Act.

**RTA may carry out road work on unclassified roads**

5     **67.** (1) The RTA may carry out road work on a public road that is not a classified road:

- (a) if, in the opinion of the RTA, it is necessary to do so in connection with the carrying out of road work on an adjoining classified road; or
- 10   (b) if, in the opinion of the RTA, the carrying out of the work would be of benefit to classified roads in the vicinity of the road on which the work is being carried out; or
- (c) if the carrying out of the road work is funded by money appropriated by Parliament for that purpose; or
- 15   (d) if the carrying out of the road work has been requested by, and is to be funded by, some other public authority; or
- (e) if the road is not situated within a local government area.

(2) When carrying out road work on a public road under this section, the RTA has the functions and immunities of a roads authority with respect to that road.

20   **Local access roads etc.**

**68.** (1) The RTA may construct a road to connect with, or to pass over or under, a freeway or controlled access road and any such road, on being opened to the public, is taken to be a public road for the purposes of this Act.

25   (2) The RTA may construct a freeway or controlled access road over or under an existing public road.

**Roads authorities to notify RTA of proposal to carry out certain road work**

30   **69.** (1) A roads authority that proposes to carry out road work having an estimated cost of more than \$2,000,000 must cause particulars of the proposal to be forwarded to the RTA at least 28 days before the commencement of the work.

(2) If it appears that such a proposal may affect the development, or further development, of a main road or tollway, the RTA may, within a  
35   reasonable time after being provided with particulars of the proposal, notify the roads authority:

- (a) that amendments or alterations specified in the notification should be given effect to in the construction of the work; or
- (b) that the construction of the work should be deferred for a period specified in the notification.

**RTA may enter into interstate agreements for border roads, bridges, tunnels and ferries** 5

70. The RTA may enter into, and may perform its obligations under, any agreement with an appropriate roads authority in Victoria, Queensland, South Australia or the Australian Capital Territory:

- (a) for the construction, maintenance and repair of roads, bridges and tunnels; or 10
- (b) for the establishment, maintenance and repair of road-ferries, at the boundaries between New South Wales and that other State or Territory.

**Division 2—Bridges and tunnels across navigable waters** 15

**Roads authorities may construct bridges and tunnels**

71. (1) A roads authority may, in accordance with this Division, construct bridges and tunnels across navigable waters.

(2) A bridge or tunnel that is constructed across navigable waters is taken to constitute a lawful obstruction of those waters, but does not limit any person's right of action with respect to loss or damage arising from the construction of the bridge or tunnel except to the extent to which this Division provides. 20

**Notice of proposal to be given**

72. (1) Before constructing a bridge or tunnel across navigable waters, the roads authority must cause notice of the proposal to be published in a local newspaper. 25

(2) The notice:

- (a) must indicate the place at which, and the times during which, a plan of the proposed construction is available for inspection by members of the public; and 30
- (b) must state that any person is entitled to object to the proposal; and
- (c) must indicate the manner in which, and the period within which, any such objection should be made.



(3) The roads authority must ensure that copies of the proposal are available for inspection by members of the public at the place, and during the times, specified in the notice.

### **Objections**

- 5     **73.** Any person may object to the proposed construction of the bridge or tunnel across navigable waters on the ground that the person would suffer special damage, as specified in the objection, if the bridge or tunnel were constructed, being damage arising from the restriction of public rights of navigation of those waters.

10   **Decision on proposal**

**74.** (1) After considering any objections that have been duly made with respect to the proposal, the roads authority must decide whether or not to construct the bridge or tunnel.

(2) The roads authority must notify each objector of its decision.

15   **Limitation on right to seek injunction**

**75.** Proceedings for an injunction restraining the construction of the bridge or tunnel:

- 20   (a) may not be taken in any court unless the person by or on whose behalf the proceedings are taken has duly objected to the construction of the bridge or tunnel; and
- (b) may not in any case be taken after the expiration of 28 days from the date on which the person was notified of the decision to construct the bridge or tunnel; and
- 25   (c) may not be taken on any ground other than a ground specified in the objection.

### **Limitation on damages that may be awarded because of construction of bridge**

- 76.** In proceedings for damages claimed because of the adverse effects of a bridge on public rights of navigation, the court is required to take into account by way of mitigation:
- 30

- (a) whether it is reasonably practicable for vessels under construction, or likely to be constructed, to be so designed or re-designed that any part of the vessel likely to prevent its passage past the bridge may be lowered or otherwise altered in order to allow passage; and
- 35   (b) any refusal by the claimant to remove a boat-building business conducted by the claimant to a site provided by the appropriate roads authority downstream of the bridge; and



- (c) the age, condition and future useful life of buildings and equipment used for the purposes of such a business; and
- (d) any benefits that might accrue from a removal of such a business.

**No right of action in relation to bridges and tunnels constructed before 21.5.1986**

5

77. A bridge across navigable waters the construction of which was commenced or completed before 21 May 1986 (the date of commencement of the State Roads Act 1986) is taken not to be a public nuisance merely because of its effect on public rights of navigation of those waters.

10

**Division 3—Miscellaneous**

**Location of conduits for public utility services**

78. A roads authority that proposes to provide conduits across a public road for the carriage of utility services must consult, as to the location and construction of the conduits, with all persons:

15

- (a) who are providing utility services; or
- (b) who are, in the opinion of the roads authority, likely to provide utility services,

along or in the vicinity of the road.

**Functions of council in respect of private roads**

20

79. (1) A council may direct the owner of a private road to carry out such work as, in the opinion of the council, is necessary to prevent the road from becoming unsafe or unsightly or, if of the opinion that it is appropriate that the work should be carried out by the council at its own expense, may carry out any such work itself.

25

(2) If there is more than one owner of a public road, the respective owners are liable to pay those expenses in such proportions as the council decides.

(3) In deciding the proportion of expenses to be paid by the respective owners, the council must have regard to:

30

- (a) the benefit that any particular land will derive from the work; and
- (b) the amount and value of any work carried out in respect of the road by the respective owners or occupiers of the land.

**Traffic control facilities**

80. (1) The RTA may carry out traffic control work on all public roads and public streets.

5 (2) The appropriate roads authority may carry out traffic control work on any classified road, but only with the consent of the RTA.

(3) The appropriate roads authority may carry out traffic control work on any unclassified road, and on any public street that is not a public road, other than one in respect of which the RTA has notified the authority that the RTA proposes to carry out traffic control work.

10 (4) However, the construction, erection, installation, maintenance, repair, removal or replacement of a traffic control light may not be carried out otherwise than by or with the consent of the RTA.

**Tree felling**

15 81. A roads authority may remove or lop any tree that is on or overhanging a public road if, in its opinion, it is necessary to do so for the purpose of carrying out road work or removing a traffic hazard.

**Roads authorities not liable for damage by tar**

20 82. (1) A roads authority is not liable for any damage caused by moist or liquid tar that it applies to any portion of a road in the course of carrying out road work if:

(a) that portion of the road is closed to vehicular traffic while the tar is applied and for a reasonable time after it is applied; and

(b) the tarred portion of the road is covered with sand or road metal before it is re-opened to vehicular traffic.

25 (2) In this section, tar includes bitumen and bituminous compounds.

**PART 7—PROTECTION OF PUBLIC ROADS AND TRAFFIC****Division 1—Protection of public roads****Adjoining landowner to provide support for public road**

30 83. (1) The rule of law as to support applies in relation to land on which a public road is situated and land adjoining that land as if the land on which the public road is situated were private land and the appropriate roads authority were the owner of that land.

(2) The rule of law as to support also applies in relation to land on which a classified road is situated and land adjoining that land as if the



land on which the classified road is situated were private land and the RTA were the owner of that land.

**Roads authority may alter landform of land adjoining public road without acquiring land**

84. (1) A roads authority may alter the landform of land adjoining a public road so as to ensure the stability of the road.

5

(2) The roads authority is liable to pay compensation under Part 13 to the owner of the land for any loss or damage arising from the alteration.

**Roads authority may carry out drainage work across land adjoining public road etc.**

10

85. (1) A roads authority may, for the purpose of draining or protecting a public road, carry out drainage work in or on any land in the vicinity of the road.

(2) The powers conferred by this section may not be exercised in or on land that is owned by the State Rail Authority.

15

(3) The roads authority is liable to pay compensation under Part 13 to the owner of the land for any loss or damage arising from the exercise of any power under this section.

**Removal of windblown sand etc.**

86. (1) The appropriate roads authority may direct the occupier of land from which sand, soil or other such matter has blown onto a public road to take such action as is necessary to remove the obstruction and prevent its recurrence.

20

(2) The direction may specify the period within which the direction must be complied with.

25

**Fences and floodgates**

87. (1) For the purpose of preventing obstruction to the free flow of surface drainage from a public road, or to the free flow of a watercourse that crosses a public road, the appropriate roads authority may direct the occupier of any land in the vicinity of the public road:

30

- (a) to alter a fence (including a rabbit proof fence) on the land; or
- (b) to provide floodgates in any such fence; or
- (c) to repair any such fence or floodgates.

(2) The direction may specify:

- (a) the manner in which or the standard to which; and

35



(b) the period (being not less than 28 days) within which, the direction must be complied with.

(3) A person (other than a public authority) who fails to comply with a direction under this section is guilty of an offence.

5     Maximum penalty: 10 penalty units.

#### **Utility services to be located in conduits**

88. (1) The roads authority for a public road in which there are conduits for the carriage of utility services across the road may direct any person who is entitled to place utility services in, on or over the road:

- 10     (a) to locate any new or replacement services in any such conduit; and  
      (b) to pay to the roads authority such proportion as may be prescribed by the regulations of the costs incurred by the roads authority in connection with the construction of the conduit.

15     (2) The direction may specify the manner in which or the standard to which the direction must be complied with.

(3) A provision of an Act that authorises the provision of services in, on or over a public road does not authorise the provision of the services in contravention of this section.

#### **Roads authority may require alteration of work located in, on or over public roads**

89. (1) A roads authority may direct the person having control of any work or structure that is situated in, on or over a public road to alter the work or structure or the location of the work or structure.

(2) The direction may specify:

- 25     (a) the manner in which or the standard to which; and  
      (b) the period (being not less than 28 days) within which, the direction must be complied with.

(3) A person (other than a public authority) who fails to comply with a direction under this section is guilty of an offence.

30     Maximum penalty: 10 penalty units.

(4) If a person fails to comply with a direction under this section, the appropriate roads authority:

- (a) may make the alteration directed; and  
35     (b) must, if it makes the alteration, also make any necessary consequential alteration to any connecting branch work.

(5) In making any such alteration, the roads authority must ensure that it does not do anything that might cause permanent damage to the work or structure concerned or that might prejudicially affect its use.

(6) The cost of an alteration made by, or at the direction of, the appropriate roads authority must be borne by that authority. 5

(7) Subsection (6) is subject to the provisions of:

(a) any agreement between the roads authority and the person having control of the work or structure; or

(b) any Act or law.

#### **Directions to maintain or repair water supply work or drainage work 10**

90. (1) A roads authority may direct a private body established under the Water Act 1912, the Drainage Act 1939 or the Private Irrigation Districts Act 1973 to repair or maintain any water supply work or drainage work:

(a) that is situated in, on or over a public road; and 15

(b) that is controlled by that body.

(2) The direction may specify:

(a) the manner in which or the standard to which; and

(b) the period (being not less than 28 days) within which,

the direction must be complied with. 20

(3) The private body concerned may appeal to the Minister against the direction.

(4) The decision of the Minister on an appeal is final.

#### **Owner of private railway to maintain bridges, level crossings and roads under railway bridges 25**

91. (1) If a public road passes over, under or across a private railway by means of a bridge or level crossing, the owner of the railway:

(a) must, while the road remains open to traffic, maintain the bridge or level crossing (and, in the case of an overbridge, the road under the bridge) in a satisfactory state of repair; and 30

(b) must, if the appropriate roads authority so directs, repair or replace the bridge or level crossing (or, in the case of an overbridge, the road under the bridge) in accordance with the direction.

(2) A direction referred to in subsection (1) (b) may specify:

(a) the manner in which or the standard to which; and 35



(b) the period (being not less than 28 days) within which, the direction must be complied with.

(3) The owner of a private railway may appeal to the Minister against the direction.

5     (4) The decision of the Minister on an appeal is final.

**Restoration of public road following excavation etc.**

92. (1) A roads authority may direct any person by whom a public road is dug up to restore the road to its previous condition.

10   (2) If a public road is damaged as a result of a leakage from, or breaking or bursting of, any object or work placed on the road, the appropriate roads authority may direct the person:

(a) who was responsible for placing the object or work on the road; or

(b) who has the care or control of the object or work; or

(c) whose act or omission caused the leakage, breaking or bursting,

15   to restore the road to its previous condition.

(3) A direction under this section may specify:

(a) the manner in which or the standard to which; and

(b) the period (being not less than 14 days) within which,

the direction must be complied with.

20   (4) Instead of giving a direction under this section, a roads authority may take such action as is necessary to restore the road to its previous condition.

(5) The costs incurred by a roads authority in taking action under this section are recoverable from the person referred to in subsection (1) or

25   (2) as a debt in a court of competent jurisdiction.

(6) Nothing in this section authorises a roads authority to recover an amount greater than that necessary to restore the road to its previous condition.

**Prohibition of certain activities**

30   93. (1) A roads authority may, by order published in a local newspaper, prohibit the doing on a specified public road, or on all public roads under its control, of any specified act that, in the opinion of the roads authority, would be likely to cause damage in excess of the ordinary wear and tear which would be caused by reasonable use of the public  
35   road or roads concerned.



(2) Any person who, without reasonable excuse, contravenes an order under this section is guilty of an offence.

Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence.

#### **Liability for damage to public road** 5

94. (1) A person who causes damage to a public road, or to any road work on a public road, is liable to pay to the appropriate roads authority the cost incurred by that authority in making good the damage.

(2) If damage referred to in this section is caused by a motor vehicle or vessel, the owner and the driver of the motor vehicle or, as the case may be, the owner and the master of the vessel are jointly and severally liable for the damage. 10

(3) This section does not apply to ordinary wear and tear caused by reasonable use of a public road.

#### **Division 2—Off-road traffic hazards** 15

##### **Installation etc. of fences, lights etc. around dangerous premises**

95. (1) A roads authority may direct the owner or occupier of land to erect or install fences, lights or other equipment on or around any premises on the land that are, in the opinion of the roads authority, in a sufficiently dangerous condition to threaten the safety of persons or property on a public road in the vicinity of the premises. 20

(2) A direction under this section may specify:

(a) the manner in which or the standard to which; and

(b) the period within which,

the direction must be complied with. 25

##### **RTA may direct removal etc. of traffic hazards**

96. (1) The RTA may direct the owner or occupier of land on which is situated any work or structure that, in the opinion of the RTA, is a traffic hazard to remove or screen the work or structure.

(2) A direction under this section may specify: 30

(a) the manner in which or the standard to which; and

(b) the period within which,

the direction must be complied with.

(3) Such a direction may be given on the initiative of the RTA or at the request of another public authority. 35

- (4) For the purposes of this section:
- (a) the RTA may form an opinion on the basis of information received; and
  - 5 (b) a written statement under the seal of the RTA to the effect that a specified structure or thing is, in the opinion of the RTA, a traffic hazard is conclusive evidence of that opinion.

#### **Appeal against direction to Land and Environment Court**

10 97. (1) An occupier of land on whom a direction under this Division has been served (not being a public authority) may appeal against the direction to the Land and Environment Court.

(2) An appeal must be made, in accordance with rules of court, within 14 days after the direction was served on the person.

(3) The making of an appeal operates to suspend the direction to which it relates until the appeal is finally determined or is withdrawn.

15 (4) The Land and Environment Court may do any one or more of the following:

- (a) it may confirm or quash the direction;
- (b) it may vary the period within which the direction must be complied with;
- 20 (c) it may vary any of the requirements of the direction.

(5) The decision of the Land and Environment Court on an appeal is final.

#### **Land and Environment Court may vary etc. certain contracts**

25 98. (1) A person affected by a direction under this Division may make an application to the Land and Environment Court for an order under this section.

(2) The Land and Environment Court may, on hearing the application, make an order under this section if satisfied:

- 30 (a) that the applicant is a party to a contract relating to the premises, work or structure the subject of the direction; and
- (b) that, because of the operation of the direction, the performance of the contract has or is likely to become impossible or, so far as the applicant is concerned, has become inequitable or unduly onerous.

35 (3) An order under this section may do any one or more of the following:

- (a) it may cancel or suspend the operation of the contract;
- (b) it may vary the terms of the contract;



(c) it may direct the repayment of all or part of any money paid under the contract.

(4) The decision of the Land and Environment Court on any application under this section is final.

### **Division 3—Obstructions and encroachments**

5

#### **Obstructions and encroachments**

99. (1) A roads authority may direct:

(a) any person who causes an obstruction or encroachment on a public road; or

(b) the owner of any land that is used, or is able to be used, in connection with an obstruction or encroachment on a public road, to remove the obstruction or encroachment. 10

(2) A direction under this section may specify the period within which the direction must be complied with.

(3) In the case of an obstruction or encroachment that was created before the alignment of the road, or that is situated on a road that has not been aligned, the period specified in the direction must be at least 60 days. 15

(4) This section does not apply to an obstruction or encroachment on a public road if its presence on the road is authorised by or under another Act. 20

### **Division 4—Weight restrictions**

#### **Regulations may impose weight restrictions**

100. (1) The regulations may impose weight restrictions with respect to vehicles. 25

(2) A person must not cause any vehicle that contravenes the weight restrictions imposed by the regulations to be driven along a public road otherwise than in accordance with an excess weight permit.

Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence. 30

#### **Excess weight permits**

101. (1) The RTA may issue an excess weight permit in respect of a vehicle.



(2) An application for an excess weight permit must be accompanied by the fee prescribed by the regulations.

(3) An excess weight permit may exempt a vehicle, either unconditionally or subject to conditions, from any specified weight restrictions imposed by the regulations.

(4) In particular, an excess weight permit may be issued subject to any of the following conditions:

- (a) a condition imposing a maximum laden weight on the vehicle or any part of the vehicle;
- (b) a condition imposing a maximum unladen weight on the vehicle or any part of the vehicle;
- (c) a condition imposing a maximum weight on the vehicle's load;
- (d) a condition specifying any public road or class of public roads on which the vehicle may or may not be taken.

(5) An excess vehicle weight permit remains in force for the period specified in the permit.

#### **Excess weight charges**

102. (1) On being issued with an excess weight permit for a vehicle, the holder of the permit becomes liable to pay to the RTA an excess weight charge for the vehicle.

(2) The amount of the excess weight charge for a vehicle is the amount, calculated in accordance with the regulations, of the additional cost of maintaining public roads in New South Wales that is likely to result from the use of the vehicle as authorised by the permit.

(3) The factors to be used in the calculation of the excess weight charge for a vehicle must comprise:

- (a) an estimate of the distance likely to be travelled by the vehicle on public roads in New South Wales while the permit is in force; and
- (b) an estimate of the additional cost of maintaining public roads in New South Wales as a result of a vehicle having the maximum weight or weights allowed by the permit travelling on those roads for that distance.

(4) The holder of an excess weight certificate for a vehicle is entitled to a refund of the appropriate proportion of any excess weight charge paid if it is subsequently established that the vehicle has, during the term of the permit, travelled a shorter distance than that estimated for the purpose of calculating the charge.

**Excess weight charges to be held in RTA Fund**

103. (1) Any amount received in respect of the payment of excess weight charges must be paid into the RTA Fund.

(2) Money paid into the RTA Fund under this section may be used for the following purposes only: 5

- (a) the restoration by the RTA of public roads in New South Wales that have been damaged by vehicles in respect of which excess weight certificates have been issued;
- (b) the granting of financial assistance to other roads authorities in connection with the restoration by those authorities of public roads in New South Wales that have been damaged by vehicles in respect of which excess weight certificates have been issued; 10
- (c) the refund of excess weight charges.

**Weight restrictions on certain roads and bridges etc.**

104. (1) A roads authority may do either or both of the following things with respect to a public road within its area: 15

- (a) it may, by means of notices conspicuously displayed on or adjacent to the public road or any bridge or causeway forming part of the road, prohibit vehicles with a laden weight exceeding a maximum weight specified in the notice from passing along or over the road, bridge or causeway; 20
- (b) it may, by means of notices conspicuously displayed on or adjacent to the public road or any road-ferry, prohibit vehicles with a laden weight exceeding a maximum weight specified in the notice from using the road-ferry. 25

(2) Any person who fails to comply with the terms of a notice displayed for the purposes of this section is guilty of an offence.

Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence.

**PART 8—REGULATION OF TRAFFIC 30****Division 1—Regulation of traffic generally****Roads authority may regulate traffic for certain purposes**

105. (1) A roads authority may regulate traffic on a public road by means of notices conspicuously displayed on or adjacent to the public road. 35



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(2) The power conferred by this section may not be exercised by a roads authority otherwise than:

- 5 (a) for the purpose of enabling the roads authority to exercise its functions under this Act with respect to the carrying out of road work; or
- (b) for the purpose of protecting a public road from serious damage by vehicles or stock during wet weather; or
- (c) for the purpose of protecting earth roads from damage caused by heavy vehicles or by travelling stock; or
- 10 (d) for the purpose of protecting members of the public from any hazards on the public road; or
- (e) for the purpose of protecting vehicles and other property on the public road from damage; or
- 15 (f) for a purpose for which the roads authority is authorised or required, by or under this or any other Act or law, to regulate traffic.

(3) A roads authority may not restrict the passage of heavy vehicles or travelling stock along the roadway of an earth road unless clear side tracks have been provided for their passage.

- 20 (4) A person who, in wilful contravention of any such notice, passes along a length of public road, or causes any vehicle or animal to pass along a length of public road, is guilty of an offence.

Maximum penalty: 10 penalty units.

- 25 **Roads authority may prevent the passage of traffic for purpose of carrying out road work etc.**

106. (1) A roads authority may, for the purpose of exercising its functions under this Division, erect barriers on a public road to restrict or prevent the passage of traffic along the public road.

- 30 (2) The power conferred by this section may be exercised whether or not the roads authority has erected any notice.

(3) A person must not damage, remove or otherwise interfere with a barrier erected for the purposes of this section.

Maximum penalty: 10 penalty units.

**Removal of notices and barriers**

- 35 107. It is the duty of a roads authority by which a notice or barrier has been erected in accordance with this Division to remove the notice or



barrier if there is no longer any need to regulate traffic for the purpose for which the notice or barrier was erected.

#### **Restriction of access to freeways etc.**

**108. (1)** A person:

- (a) must not construct any means of access to or from a freeway, tollway or controlled access road otherwise than in accordance with the consent of the RTA; and 5
- (b) must not enter or leave a freeway, tollway or controlled access road except by a means of access or a route provided for that purpose; and 10
- (c) must not drive loose stock or other animals on or along a freeway, tollway or controlled access road.

Maximum penalty: 10 penalty units.

(2) If a person has started to construct a means of access to a freeway, tollway or controlled access road before its declaration as such and the consent of the RTA to its completion is refused, the roads authority is liable to pay compensation under Part 13 to the owner of the land for any loss or damage arising from the loss of access. 15

### **Division 2—Additional traffic regulating powers**

#### **Applications for consent 20**

**109. (1)** A roads authority may apply to the RTA for consent to:

- (a) the erection of any notice or barrier, the carrying out of any work or the taking of any other action for the purpose of regulating traffic for purposes other than those for which it may regulate traffic under Division 1; or 25
- (b) the removal of any notice or barrier, the demolition of any work or the ceasing of any action for which it has been given consent under this Division.

(2) This section does not apply to the erection of any notice, the carrying out of any work or the taking of any other action that the roads authority is required by Division 3 to erect, carry out or take. 30

#### **Notice of application**

**110. (1)** Before granting consent, the RTA must ensure that the roads authority has caused notice of the application to be published in a local newspaper. 35

(2) The notice:

- (a) must specify the specific action for which the roads authority is applying for consent; and
- 5 (b) must state that any person is entitled to object to the granting of consent; and
- (c) must indicate the manner in which, and the period within which, any such objection should be made.

(3) The roads authority must ensure that any objections received by the roads authority with respect to the application are forwarded to the RTA.

#### 10 **Decision on application**

111. (1) After considering any objections that have been duly made with respect to an application, the RTA may grant consent to the application, either unconditionally or subject to conditions, or may refuse the application.

- 15 (2) If the RTA grants consent, the roads authority must cause notice of that fact to be published in a local newspaper.

#### **Review of RTA's decision**

112. (1) A roads authority may request the Minister to review the decision of the RTA:

- 20 (a) to refuse an application under this Division; or
- (b) to impose conditions on a consent granted under this Division.
- (2) The request must be accompanied by copies of all objections made in connection with the original application.
- (3) The Minister, after taking into consideration any representations
- 25 made by the RTA with respect to the application, may deal with the application in any way in which the application could have been dealt with by the RTA.

#### **Division 3—Directions relating to traffic regulation by roads authorities**

#### 30 **Minister may direct roads authorities to exercise certain traffic regulation powers**

113. (1) The Minister may direct a roads authority to take such action with respect to the regulation of traffic on the public roads under the roads authority's control as may be specified in the order.

- 35 (2) In particular, the Minister may direct a roads authority to erect or to remove any notice or barrier.



(3) Such a direction may be given whether or not the roads authority is otherwise empowered to regulate traffic in the manner specified in the direction.

#### **Minister may regulate traffic in certain circumstances**

114. (1) If a roads authority fails to comply with a direction under this Division, the Minister may take such action with respect to the regulation of traffic on public roads as is necessary to give effect to the direction. 5

(2) The cost of taking action under this section is recoverable from the roads authority by the Minister as a debt in a court of competent jurisdiction. 10

### **PART 9—REGULATION OF WORKS AND STRUCTURES**

#### **Division 1—Footway restaurants**

##### **Approval to use footway for restaurant purposes**

115. (1) A council may grant an approval that allows a person who conducts a restaurant adjacent to a footway to use part of the footway for the purposes of the restaurant. 15

(2) An approval may be granted on such conditions as the council determines.

(3) An approval may not be granted in respect of a footway of a classified road except with the concurrence of the RTA. 20

(4) The term of an approval is to be such period (not exceeding 7 years) as is specified in the approval.

(5) An approval lapses at the end of its term or, if the part of the footway the subject of the approval ceases to be used for the purposes of a restaurant, when that use ceases. 25

##### **Authority to erect structures**

116. (1) A council:

(a) may authorise the holder of an approval to erect and maintain structures in, on or over any part of the footway the subject of an approval; or 30

(b) may, at the request and cost of the holder of the approval, erect and maintain any such structure.



(2) The council may erect and maintain structures in, on or over any part of the footway the subject of an approval for the protection of public health and safety.

- 5 (3) A council may not exercise its powers under this section except with the consent of the Minister given with the concurrence of the Director of Planning.

#### **Effect of approval**

117. While an approval is in force:

- (a) the use of the footway for the purposes of a restaurant; and  
10 (b) the erection and maintenance of structures on the footway in accordance with an authorisation given in respect of the approval,  
are taken not to constitute an obstruction of a public road and do not give rise to an offence against this Act.

### **Division 2—Public gates**

#### **15 Erection of public gates**

118. (1) The Minister may permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road intersects a boundary fence.

- 20 (2) The Minister must cause notice of the granting of the permit to be published in a local newspaper.

(3) The occupier of land in respect of which the permit has been granted may, at any time after the expiration of one month from the publication of the notice, erect a gate in accordance with the permit.

- 25 (4) The holder for the time being of the permit must ensure that a notice is attached to both sides of the gate bearing the words "PUBLIC GATE" in letters at least 75 millimetres high.

(5) The Minister may at any time revoke a permit under this section.

- 30 (6) The occupier of land on which a gate the subject of a revoked permit is situated must remove the gate within one month after notice of the revocation is served.

Maximum penalty: 10 penalty units.

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**Public gates to be kept closed when not in actual use**

**119.** (1) A person must not open a public gate otherwise than for the purpose of passing through it and must not fail to close the gate immediately after passing through.

Maximum penalty: 10 penalty units.

5

(2) A person who fails to close a public gate is also liable for any loss or damage suffered by the occupier of the land on which the gate is situated as a result of the gate having been left open.

**Damage to public gates etc.**

**120.** A person must not cause any damage to a public gate or to any notice attached to the gate in accordance with this Division.

10

Maximum penalty: 10 penalty units.

**Construction of by-pass around road gate**

**121.** (1) An occupier of land adjoining an unfenced public road across which a public gate is situated at the point where the road intersects a boundary fence:

15

- (a) must not, unless the appropriate roads authority so permits; and
- (b) must, if the appropriate roads authority so requires,

construct a by-pass for motor vehicles at the intersection of the road with the boundary fence.

20

(2) If the gate is part of a rabbit proof, dog proof or marsupial proof fence, the roads authority may not permit or require the construction of a by-pass except with the consent of the local rural lands protection board.

(3) A by-pass must consist of:

- (a) a ramp to allow motor vehicles to be driven over the top of the boundary fence; or
- (b) a cattle grid or sheep grid located beside the gate,

25

and must be constructed in accordance with such specifications as may be approved by the roads authority.

(4) If the appropriate roads authority so requires, the person permitted or required to construct a by-pass:

30

- (a) must construct the by-pass along the line of the road; and
- (b) must re-locate the gate beside the by-pass.



**Notice board to be erected at by-pass**

122. (1) A person who constructs a by-pass must exhibit near each end of the by-pass, on a readily visible notice board, a notice in the form required from time to time by the appropriate roads authority.

- 5     (2) The occupier of land on which a by-pass is constructed:
- (a) must keep the by-pass and notice boards in a condition satisfactory to the appropriate roads authority; and
  - (b) must effect such repairs to the by-pass and notice boards as the appropriate authority may require.
- 10    (3) If the appropriate roads authority requires a person to construct a by-pass, that authority may contribute to the cost of construction and erection of the notices.
- (4) A notice may prohibit vehicles having a laden weight exceeding that specified in the notice being driven over the by-pass.
- 15    (5) A person must not drive a vehicle over a by-pass in contravention of such a prohibition.
- Maximum penalty: 10 penalty units.
- (6) A person who causes damage to a by-pass as a result of driving a vehicle over the by-pass in contravention of such a prohibition is liable
- 20    for:
- (a) the cost of any repairs to the by-pass necessary as a result of the contravention; and
  - (b) any loss or damage suffered by any other person as a result of the damage to the by-pass.

25   **Closing of by-pass**

123. (1) A by-pass may be closed and the notices relating to the by-pass may be removed if:

- (a) the public gate in connection with which the by-pass was constructed is removed; or
  - 30   (b) the fence of which the by-pass forms part is made rabbit proof, dog proof or marsupial proof.
- (2) A person who closes a by-pass:
- (a) must give notice of the closure to the appropriate roads authority before or immediately after the closure; and
  - 35   (b) must take such steps as that authority directs to ensure the safety of persons using the road.



(3) If the appropriate roads authority serves a notice revoking permission to erect a by-pass on an occupier of land who erected the by-pass, or who is a successor in title of an occupier who erected the by-pass, the occupier must, within the time specified in the notice:

- (a) remove the by-pass and its notices; and
- (b) take such steps as are specified in the notice to ensure the safety of persons using the road.

5

### **Offences**

124. A person must not:

- (a) use a by-pass otherwise than by the passage of a motor vehicle; or
- (b) wilfully damage or remove a notice displayed in connection with a by-pass; or
- (c) intentionally obstruct or intentionally damage a by-pass.

10

Maximum penalty: 10 penalty units.

### **Effect of permit**

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125. While a permit under this Division is in force, the public gate to which the permit relates is taken not to constitute an obstruction of a public road and does not give rise to an offence against this Act.

## **Division 3—Other works and structures**

### **Works and structures**

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126. (1) A person must not:

- (a) erect a structure or carry out a work on a public road; or
- (b) remove or interfere with a structure or work on a public road or a tree on a public road; or
- (c) connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority and, in the case of a classified road, of the RTA.

25

Maximum penalty: 10 penalty units.

(2) A consent may not be granted by a roads authority other than the RTA in respect of a classified road except with the concurrence of the RTA.

30

(3) If the applicant is a public authority, the RTA must consult with the applicant before deciding whether or not to give its concurrence to the granting of a consent.

5 (4) This section applies to the appropriate roads authority and to any employee of that authority in the same way as it applies to any other person.

(5) This section applies despite the provisions of any other Act or law to the contrary, but does not apply to anything done under the provisions of the Pipelines Act 1967 or under any other provision of an Act that  
10 expressly excludes the operation of this section.

#### **Nature of consent**

127. A consent:

- (a) may be granted on the roads authority's initiative or on the application of any person; and
- 15 (b) may relate to a specific structure, work or tree or to structures, works or trees of a specified class; and
- (c) may be granted on such conditions as the appropriate roads authority thinks fit.

#### **Revocation of consents**

20 128. A roads authority may at any time and for any reason revoke a consent under this Division by notice in writing served on the person to whom the consent was granted.

#### **Effect of consent**

25 129. While a consent under this Division is in force, the erection and maintenance of a structure in accordance with the consent are taken not to constitute an obstruction of a public road and do not give rise to an offence against this Act.

#### **Roads authority may use public road in exercise of functions**

30 130. Nothing in this Division prevents a roads authority from using a public road in the exercise of a function conferred by this Act so long as the function is exercised in a way that will not unduly interfere with the rights of passage and access that exist with respect to the public road.

## PART 10—ANCILLARY FUNCTIONS WITH RESPECT TO PUBLIC ROADS ETC.

### Division 1—Sale etc. of land generally

#### Crown roads may not be sold etc.

131. (1) A Crown road may not be reserved, dedicated, sold, leased or otherwise dealt with under the Crown Lands Acts while it is a Crown road. 5

(2) This section does not prevent the Minister from granting an easement, licence or permit with respect to a Crown road, in accordance with the Crown Lands Acts, so long as it is not inconsistent with the rights of passage and access that exist with respect to the road. 10

#### Disposal of surplus Crown land

132. (1) Land that has been acquired by the Minister under this Act, but that is no longer required for the purposes of this Act, may be sold, leased or otherwise dealt with under the Crown Lands Acts or may be given in compensation for land acquired for the purposes of this Act. 15

(2) The provisions of:

(a) section 35 of the Crown Lands Act 1989; and

(b) Part 3 of that Act,

do not apply to the sale or lease of the land if it is sold or leased to the owner of other land adjoining the former public road. 20

#### Leasing of land above or below public road

133. (1) A roads authority may, with the approval of the Director of Planning, lease the air space above, or land below the surface of, any public road (other than a Crown road) that is owned by the authority. 25

(2) The term of the lease, together with any option to renew, must not exceed 99 years.

(3) The Director of Planning must not approve a lease under this section in respect of a public road if the granting of the lease would be inconsistent with the rights of passage and access that exist with respect to the road. 30

#### Granting of easements etc. over Crown roads

134. The Minister may, in accordance with the Crown Lands Acts, grant easements, licences, consents or permits over or in respect of a



Crown road so long as they are not inconsistent with the rights conferred by Part 1 with respect to a public road.

#### **Transfer of public road to other roads authority**

5     **135.** (1) The Minister may, by order published in the Gazette, transfer a public road (other than a Crown road) from one roads authority to another.

(2) On the publication of the order, the authority to which it is transferred becomes the owner of the road.

10    (3) An order under this section may not be made except with the consent of the roads authority from which, and the roads authority to which, the road is to be transferred.

(4) The Minister is to ensure that a copy of any order published under this section is lodged at the Land Titles Office.

#### **Transfer of Crown road to council**

15     **136.** (1) This section applies only to land within a local government area.

(2) The Minister may, by notice published in the Gazette, declare that a specified Crown road has ceased to be a Crown road.

(3) On the publication of the notice:

- 20    (a) the road ceases to be a Crown road; and  
      (b) the council of the local government area in which the road is situated becomes the owner of the road.

25    (4) If the road has been provided in a subdivision of Crown land for alienation, or has been reserved in the measurement of Crown land, the official plans of survey showing the road adjacent to the land subdivided or measured are evidence of the width, extent and position of the road.

#### **Transfer of ownership does not give rise to compensation**

30     **137.** (1) The transfer by this Act of the ownership of a public road does not confer any right to compensation on the person from whom the land is transferred.

(2) This section does not apply to land that is acquired by agreement or by compulsory acquisition.

## Division 2—Short-term leases of unused public roads

### Short-term leases of unused public roads

**138.** (1) A roads authority may lease land comprising a public road (other than a Crown road) to the owner or occupier of land adjoining the public road if, in its opinion, the road is not being used by the public. 5

(2) A lease granted under this section may be terminated by the roads authority at any time and for any reason.

(3) The functions conferred by this Division are to be exercised by the RTA, and not by any other roads authority, with respect to any public road that is a classified road. 10

(4) Subsection (3) applies only to land that has been acquired by the RTA under Division 3 of Part 12.

### Public notice to be given of proposed lease

**139.** (1) Before granting a lease under this Division, the roads authority must cause notice of the proposed lease: 15

- (a) to be published in a local newspaper; and
- (b) to be served on the owner of each parcel of land adjoining the length of public road concerned.

(2) The notice:

- (a) must identify the public road concerned; and 20
- (b) must state that any person is entitled to object to the proposed lease; and
- (c) must indicate the manner in which, and the period within which, any such objection should be made.

### Decision on proposed lease 25

**140.** (1) After considering any objections that have been duly made with respect to the proposal, the roads authority may grant the lease, either with or without alteration, or may refuse to grant the lease.

(2) If the roads authority grants a lease, the roads authority must cause notice of that fact to be published in a local newspaper. 30

### Special provisions with respect to short-term leases

**141.** (1) The term of the lease, together with any option to renew, must not exceed:

- (a) except as provided by paragraph (b), 5 years; or



(b) in the case of a lease of land that has been acquired by the roads authority under Division 3 of Part 12, 10 years.

(2) A person must not erect any structure on any land the subject of a lease under this section except with the consent of the roads authority.

5 (3) Such a consent may not be given unless the roads authority is satisfied that the proposed structure comprises a fence or a temporary structure of a kind that can easily be demolished or removed.

### **Division 3—Functions of RTA**

#### **Powers of RTA in relation to land**

10 142. (1) The RTA may, with the consent of the owner of any land, exercise in relation to the land any function that it could so exercise if it were the owner of the land.

(2) The RTA may exercise in relation to any land in which it holds an interest any function that a private individual could so exercise if the  
15 private individual were the holder of the interest.

#### **Declaration of public reserves**

143. With the approval of the Minister, the RTA:

(a) may, by notice published in the Gazette, declare any land owned by the RTA to be a public reserve for the purposes of the Local  
20 Government Act 1992; and

(b) may, by the same notice or by a subsequent notice so published, place the public reserve under the control of the council of the local government area within which the public reserve is situated.

#### **Reinstatement of buildings affected by acquisition of land**

25 144. (1) If land on which the whole of a building is situated is acquired under this Act, the RTA may do any one or more of the following:

(a) it may demolish the whole or any part of the building;

(b) it may repair, renew or extend any undemolished part of the  
30 building;

(c) it may sell any part of the land that is not required for the purposes of this Act, whether or not on condition that the purchaser of the land must demolish any part of the building that is situated on the land retained by the RTA.

35 (2) If land on which part only of a building is situated is acquired under this Act, the RTA may demolish that part of the building.



(3) If any part of a building is partially demolished under this section, the remainder of the building may be repaired, renewed or extended with materials of a similar quality and class to those used in the undemolished part of the building regardless of any other Act or law to the contrary.

(4) Subsection (3) allows a building to be extended only by so much as is necessary to enable it to provide an equivalent amount of accommodation to that provided by the building before the demolition took place.

5

#### **Development land**

**145.** (1) The Minister may, by notice published in the Gazette, declare that specified land owned by the RTA is development land for the purposes of this section.

10

(2) Such a notice may not be published except on the recommendation of the RTA.

(3) The RTA:

15

(a) may sell, lease or otherwise dispose of development land for the purpose of enabling a building to be erected, or a work to be carried out, on the land; or

(b) may erect a building, or carry out a work, on development land; or

(c) may sell, lease or otherwise dispose of development land on which it has erected a building or carried out a work; or

20

(d) may exercise on any development land (other than land which it has sold, leased or otherwise disposed of, or land on which it has erected a building or carried out a work) any of its functions in relation to land.

25

(4) The RTA:

(a) may, in, on or over any public road, construct, install, maintain, replace or renew any work or structure that, in its opinion, is reasonably necessary for or in connection with the exercise of its other functions with respect to development land; and

30

(b) may, for that purpose, remove soil from the public road and carry out any other work in, on or over the public road that, in its opinion, is reasonably necessary for or in connection with the exercise of its other functions with respect to development land.

(5) The powers conferred on the RTA by this section with respect to a public road are not exercisable otherwise than:

35

(a) by the RTA or a person authorised by the RTA for the purposes of this section; or

- (b) in accordance with any conditions imposed by the RTA with respect to the exercise of those powers.

**RTA may require roads authority to provide information**

- 5     **146.** The RTA may direct a council to furnish to the RTA such information relevant to the administration of this Act as is specified in the direction within such period (being not less than 28 days) as is so specified.

**PART 11—ENTRY TO LAND ETC.**

**Division 1—Entry to land**

10   **Power of entry**

**147.** (1) A roads authority may enter any land for the purposes of this Act.

      (2) The power of entry must not be exercised except by an authorised officer.

- 15   (3) Except in emergencies, the power of entry may be exercised only during daylight hours.

**Inspections and investigations**

**148.** An authorised officer:

- (a) may inspect the land; and  
20   (b) may dig up any ground and take such measures as are necessary to ascertain the character and condition of the land and of any building, structure or work that is situated in, on or over the land; and  
25   (c) may make surveys and take levels and, for those purposes, may dig trenches, break up the soil and set up any posts, stakes or marks; and  
      (d) may take samples or photographs in connection with any inspection.

**Notice of entry**

- 30   **149.** (1) Before an authorised officer exercises a power of entry under this Division, the roads authority must give the owner or occupier of the land written notice of the intention to enter the land.

      (2) The notice must specify the day on which the authorised officer intends to enter the land and must be given before that day.



- (3) This section does not require notice to be given:
- (a) if entry to the land is made with the consent of the owner or occupier of the land; or
  - (b) if entry is required in an emergency.

**Use of force**

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150. (1) Reasonable force may be used for the purpose of gaining entry to any land (other than such part of a building as is being used for residential purposes) under a power conferred by this Division, but only if authorised by the roads authority in accordance with this section.

- (2) The authorisation:
- (a) must be in writing; and
  - (b) must be given in respect of the particular entry concerned; and
  - (c) must specify the circumstances which are required to exist before force may be used.

10

**Notification of use of force or urgent entry**

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151. (1) An authorised officer:
- (a) who uses force for the purpose of gaining entry to the land; or
  - (b) who enters land in an emergency without giving written notice to the owner or occupier,

must promptly advise the roads authority of that fact.

20

(2) The roads authority must give notice of the entry to such persons (including public authorities) as appear to the roads authority to be appropriate in the circumstances.

**Care to be taken**

152. (1) In the exercise of a function under this Division, an authorised officer must do as little damage as possible.

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(2) The roads authority must provide, if necessary, other means of access in place of any taken away or interrupted by an authorised officer.

(3) As far as practicable, entry on to fenced land is to be made through an existing opening in the enclosing fence or, if entry by that means is not practicable, through a new opening in the enclosing fence.

30

(4) Any new opening is to be properly closed when the need for entry ceases.



(5) If, in the exercise of a function under this Division any pit, trench, hole or bore is made, the roads authority must, if the owner or occupier of the premises so requires:

- 5 (a) fence it and keep it securely fenced so long as it remains open or not sufficiently sloped down; and
- (b) without unnecessary delay, fill it up or level it or sufficiently slope it down.

#### **Recovery of cost of entry and inspection**

- 10 **153.** If an authorised officer enters any land for the purpose of making an inspection and, as a result of that inspection, the roads authority requires any work to be carried out on the land, the roads authority may recover the reasonable costs of the entry and inspection from the owner or occupier of the land.

#### **Compensation**

- 15 **154.** A roads authority is liable to pay compensation under Part 13 to the owner of the land for any loss or damage arising from the exercise of any power under this Division by an authorised officer, other than any loss or damage arising from work done for the purpose of an inspection which reveals that there has been a contravention of this or any other Act.

#### **20 Authority to enter land**

**155.** (1) A power of entry may not be exercised unless the authorised officer:

- (a) is in possession of a certificate of authority issued by the appropriate roads authority; and
  - 25 (b) produces the certificate when required to do so by the owner or occupier of the land.
- (2) The certificate of authority:
- (a) must state that it is issued under this Act; and
  - (b) must give the name of the person to whom it is issued; and
  - 30 (c) must describe the nature of the powers conferred and the source of the powers; and
  - (d) must state the date, if any, on which it expires; and
  - (e) must describe the kind of land to which the power extends; and
  - 35 (f) must be under the seal of the roads authority or must bear the signature of the general manager or other principal officer of the roads authority or the signature of any other officer of the authority of a class prescribed by the regulations.

**Entry to residential premises**

156. The powers of entry and inspection conferred by this Division are not exercisable in relation to such part of a building as is being used for residential purposes except:

- (a) with the permission of the occupier of that part of the premises; or 5
- (b) under the authority conferred by a warrant of entry.

**Warrants of entry**

157. (1) A roads authority may apply to an authorised justice if the roads authority is of the opinion that it is necessary for the authority to enter and inspect any land (including any building used for residential purposes) for the purposes of this Act. 10

(2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a warrant of entry authorising an authorised officer named in the warrant to enter and inspect the land for the purposes of this Act. 15

(3) Part 3 of the Search Warrants Act 1985 applies to a warrant of entry issued under this section in the same way as it applies to a search warrant issued under that Act.

(4) In this section, **authorised justice** has the same meaning as it has in the Search Warrants Act 1985. 20

**Division 2—Other powers with respect to land****Roads authority may take possession of land when constructing etc. public road**

158. (1) For the purpose of:

- (a) carrying out road work on a road or a proposed road; or 25
- (b) providing a temporary road to replace a public road that has become impassable,

the appropriate roads authority may use and occupy, for as long as may reasonably be necessary in the circumstances, any vacant land along or near the line of the road. 30

(2) However, the power may not be exercised unless the appropriate roads authority has given the occupier of the land at least 7 days' written notice of its intention to exercise the power.

(3) A person given a notice under this section may, within 7 days after receipt of the notice, appeal to the Minister against the proposed use and 35



occupation to which the notice relates by lodging with the Minister a written notice of appeal specifying the grounds of appeal.

(4) The decision of the Minister on such an appeal is binding on the appropriate roads authority and the appellant and is final.

5 (5) A notice under this section is not required:

- (a) if, in the opinion of the appropriate roads authority, it is necessary, as a matter of urgency, to use and occupy land that is more than 15 metres from a dwelling-house for the purpose of reconstructing or repairing a particular road; and
- 10 (b) if that authority gives the occupier of the land such notice (if any) as is practicable in the circumstances and, immediately after giving the notice, reports to the Minister the circumstances requiring such a notice to be dispensed with.

(6) The appropriate roads authority must not, under this section, use or  
15 occupy land within 15 metres of land on which there is a dwelling-house unless:

- (a) the occupier of the land has consented in writing to the use or occupation; or
- 20 (b) if that consent is not given—the Minister has given written authority for the use or occupation.

(7) The roads authority is liable to pay compensation under Part 13 to the owner of the land for any loss or damage arising from the exercise of any power under this section.

25 (8) While being used or occupied under this section for the purpose of providing a temporary road, the land so used or occupied is taken to be a public road for the purposes of this Act.

## **PART 12—ACQUISITION OF LAND**

### **Division 1—Acquisition of land generally**

#### **Power to acquire land generally**

30 **159.** (1) The Minister, the RTA or a council may acquire land for any of the purposes of this Act.

(2) Without limiting subsection (1), the Minister, the RTA or a council may acquire:

- 35 (a) land that is to be made available for any public purpose for which it is reserved or zoned under an environmental planning instrument;  
or



- (b) land which forms part of, or adjoins or lies in the vicinity of, other land proposed to be acquired for the purpose of opening, widening or constructing a road or road work.

(3) Without limiting subsection (1), the RTA may also acquire land in respect of which it proposes to exercise the functions conferred by section 145.

5

#### **Procedure for acquiring land**

160. (1) Land that is authorised to be acquired under this Division may be acquired by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

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(2) A council may not give a proposed acquisition notice under the Land Acquisition (Just Terms Compensation) Act 1991 without the approval of the Minister.

#### **Restriction on compulsory acquisition of land for resale**

161. (1) Land may not be acquired by compulsory process under this Division without the approval of the owner of the land if it is being acquired for the purpose of resale.

15

(2) However, the owner's approval is not required if the land forms part of, or adjoins or lies in the vicinity of, other land acquired at the same time under this Division for a purpose other than the purpose of resale.

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#### **Special provisions relating to land containing minerals**

162. Division 4 of Part 8 of the Public Works Act 1912 applies to the Minister, the RTA and a council and to land acquired by the Minister, the RTA or a council, in the same way as that Division applies to a Constructing Authority and to land acquired by a Constructing Authority.

25

### **Division 2—Acquisition of land on application of private landowner**

#### **Definitions**

163. In this Division:

**apparent owner of land** means any person:

30

- (a) who has a registered interest in the land; or
- (b) who is in lawful occupation of the land; or
- (c) who has, to the actual knowledge of the Minister, an interest in the land;

**application** means an application under this Division for the acquisition by the Minister of land (other than unoccupied Crown land) for the purposes of a public road;

5 **claim of interest** means a claim that a person has an interest in land to be acquired under this Division.

**Private individuals etc. may request Minister to acquire land**

164. (1) Any person who is not empowered to compulsorily acquire land may make an application to the Minister for the acquisition under this Division of land (other than unoccupied Crown land) for the purposes  
10 of a public road.

(2) The Minister may, by notice published in the Gazette, acquire the whole or any part of the land to which such an application relates.

(3) Land may not be acquired under this Division unless the provisions of this Division have been complied with.

15 **Minister may require information and advance payments**

165. (1) The Minister may from time to time, by notice in writing served on the applicant, require the applicant to lodge with the Minister:

- (a) any fee required to cover the cost of processing the application; and
- 20 (b) any sum of money necessary to defray a cost incurred by the Minister or any other person with respect to the proposed acquisition; and
- (c) particulars, relevant to the application, of the financial resources available to the applicant; and
- 25 (d) further information that the applicant has relevant to the application; and
- (e) a plan of survey, in a form approved by the Minister, of the land proposed to be acquired in connection with the application.

(2) Such a notice may be served either before or during the consideration of the application.

30 (3) An application is taken to have been abandoned if any such requirement is not complied with within the period specified in the notice.

**Decision on whether to deal with application**

166. (1) The Minister:

- 35 (a) must decide whether to deal with the application or whether to refuse to deal with the application; and



- 
- (b) must cause notice to be given to the applicant of the decision and, if the Minister decides to refuse to deal with the application, of the reasons for the decision.
- (2) If the Minister decides to deal with the application, the Minister must cause notice of that fact: 5
- (a) to be published in a local newspaper; and
- (b) to be served on each person who is an apparent owner of the land (or of the interest in land) affected by the proposed acquisition.
- (3) The notice:
- (a) must state that the Minister is considering whether to acquire the land for the purposes of a public road; and 10
- (b) must identify the land; and
- (c) must indicate the place at which, and the times during which, a plan of the land is available for inspection by members of the public; and 15
- (d) must state that any person is entitled to object to the proposed acquisition of the land; and
- (e) must state that any person having an interest in the land is entitled to compensation if the land is acquired; and
- (f) must state that any person who claims to have an interest in the land should lodge a claim of interest with the Minister; and 20
- (g) must indicate the manner in which, and the period (being at least 28 days) within which, any such objection or claim should be made or lodged.
- (4) The Minister must ensure that copies of the plan of the land are available for inspection by members of the public at the place, and during the times, specified in the notice. 25
- (5) A claim of interest:
- (a) must contain the full name and residential address of the claimant, the claimant's address for service of notices and particulars of title of the land in respect of which the claim is made; and 30
- (b) must specify the interest that the claimant claims to have in the land; and
- (c) must state whether the claimant is aware of any other person who has an interest in the land and, if so, must also state, to the extent to which the claimant is aware of them, the name and residential address of that person and particulars of the interest. 35



**Decision on whether to continue with proposed acquisition**

167. (1) After considering any objections that have been duly made with respect to the proposed acquisition of land, the Minister:

- 5 (a) must decide whether to continue with, or whether to abandon, the proposed acquisition; and
- (b) if the Minister decides to abandon the proposed acquisition, must give notice to the applicant of the decision and of the reasons for the decision.

10 (2) If the Minister decides to continue with the proposed acquisition, the Minister:

- (a) must determine each claim of interest that has been duly made by accepting it or by rejecting it; and
- 15 (b) must give notice to the claimant of the determination and, if the Minister decides to reject the claim, of the reasons for the determination.

(3) Any claim that has not been determined within 60 days after it was lodged with the Minister is, for the purposes of any appeal proceedings, taken to have been rejected.

(4) This section does not prevent the Minister:

- 20 (a) from determining a claim that is lodged after the due date for lodgment of claims; or
- (b) from determining a claim that is taken to have been rejected.

**Appeal against rejection of claims of interest**

25 168. (1) A person who claims an interest in land may, in accordance with rules of court, appeal to the Land and Environment Court against the rejection of the person's claim.

(2) Such an appeal must be made within 90 days after the date on which the claim is rejected.

30 (3) The Land and Environment Court is to determine the appeal by declaring whether or not the claimant has an interest in the land and may, with the consent of the parties to the appeal, make a determination as to the compensation (if any) payable to the claimant.

(4) For the purposes of this section, the parties to the appeal are the Minister, the claimant and the applicant.

**Notice to be sent to holders of interests in land**

**169.** (1) After determining the claims of interest, the Minister must cause notice of the decision to continue with the proposed acquisition of the land to be given to:

- (a) the applicant; and 5
- (b) each person who is an apparent owner of the land.

(2) Such a notice may be given to a person even if the person has not claimed an interest in the land.

(3) The notice:

- (a) must invite the applicant and each such person to agree on the amount of compensation payable in respect of that person's interest; and 10
- (b) must notify the applicant and each such person that any agreement for compensation does not have effect unless it is approved by the Minister; and 15
- (c) must notify the applicant and each such person that either of them, or the Minister, may apply to the Land and Environment Court for a determination of the amount of compensation payable if an agreement is not made or approved within 90 days after service of the notice. 20

(4) Notice is not required under this section if the applicant and each person who is an apparent owner of the land have reached agreement on the compensation payable.

(5) An agreement for compensation does not have effect unless it is approved by the Minister. 25

**Entitlement to compensation**

**170.** (1) Any person from whom an interest in land is acquired under this Division is entitled to be paid compensation by the Crown for the land acquired.

- (2) Compensation is not payable with respect to: 30
  - (a) any right, licence, permit, permissive occupancy or yearly lease of Crown land; or
  - (b) any authority, mineral claim or opal prospecting licence under the Mining Act 1992; or
  - (c) any petroleum title under the Petroleum (Onshore) Act 1991. 35

(3) The provisions of sections 49, 50, 52 and 53, and Division 4 of Part 3, of the Land Acquisition (Just Terms Compensation) Act 1991 apply to



compensation payable for the acquisition of land under this Division as if references in those provisions to an authority of the State were references to the Minister.

- 5 (4) The applicant is liable to pay to the Crown any costs incurred by the Crown in providing compensation under this Division.

#### **Determination of compensation**

171. (1) The parties to an agreement for compensation may lodge the agreement with the Minister for the Minister's approval.

(2) The Minister:

- 10 (a) must decide whether to approve the agreement for compensation or whether to refuse approval; and  
(b) must cause notice to be given to each of the parties of the decision and, if the Minister decides to refuse approval, of the reasons for the decision.

- 15 (3) The Minister is taken to have approved an agreement for compensation if no notice under this section has been served on any of the parties by the end of the period of 28 days after the agreement was lodged with the Minister.

- 20 (4) If, within 90 days after service on the claimant and the applicant of the relevant notice, no agreement has been approved, the claimant, the applicant or the Minister may, in accordance with rules of court, apply to the Land and Environment Court to determine that compensation.

(5) Such an application must be made within 180 days after service on the claimant and the applicant of the relevant notice.

- 25 (6) At the hearing of the application, the Minister, the claimant and the applicant are entitled to appear and be heard.

(7) The Valuer-General is to determine the compensation payable to the owner of an interest in land if the owner's identity or whereabouts cannot be ascertained.

#### **30 Payment of compensation**

172. (1) As soon as practicable after compensation has been determined under this Division, the Minister:

- (a) must require the applicant to pay to the Minister the amount of the compensation so determined; and  
35 (b) must pay any such amount received from the applicant into a trust account for payment to the persons entitled to the compensation; and



- 
- (c) must, on acquiring the land, pay the compensation to each person entitled to compensation in respect of that land.
- (2) The Minister may require the person to whom any compensation is to be paid out of the trust account:
- (a) to release the Minister from any liability to that person with respect to the interest in land for which the compensation is to be paid; and 5
  - (b) to indemnify the Minister from any liability to any other person with respect to that interest; and
  - (c) to produce any relevant documents of title.
- (3) The compensation money must be refunded to the applicant if the proposed acquisition is abandoned. 10
- (4) Any money remaining in the trust account after 6 years from the date of acquisition of the land is to be paid to the Treasurer for payment into the Consolidated Fund, there to be dealt with as unclaimed money within the meaning of the Unclaimed Money Act 1982. 15
- (5) The Minister is relieved from further liability with respect to any amount paid into the Consolidated Fund in accordance with subsection (4).
- Agreement or determination to lapse if land is not acquired within 90 days** 20
173. (1) If land for which compensation has been agreed to or determined under this Division is not acquired under this Part within 90 days after the date of the agreement or determination, the agreement or determination ceases to have effect.
- (2) A person entitled to compensation may ratify such an agreement or determination, whether or not it has lapsed under this section, but no later than 12 months after the date on which the agreement was entered into or the determination was made. 25
- (3) An agreement or determination ratified under this section continues in force for 90 days from the date of ratification and then lapses unless within that period the land to which it relates is acquired under this Division. 30
- (4) If an agreement or determination made in respect of a claim for compensation has lapsed under this section and no ratification of the agreement or determination under this section is currently in force, the provisions of this Division apply to the claim as if no such agreement or determination had been made. 35

**Abandonment of applications etc.**

174. (1) An applicant may, at any time, withdraw an application for the acquisition of land under this Division.

(2) The Minister:

- 5 (a) may at any time and for any reason; and  
(b) must if the relevant application is withdrawn,  
abandon the proposed acquisition of land under this Division.

10 (3) If the Minister decides to abandon the proposed acquisition of land otherwise than because the application is withdrawn, the Minister must cause notice to be given to the applicant of the decision and of the reasons for the decision.

15 (4) The applicant is entitled to be refunded all money paid by the applicant to the Minister with respect to the proposed acquisition, other than such amounts as the Minister considers appropriate to compensate the Minister and any other persons who have incurred costs with respect to the proposed acquisition.

20 (5) If a proposed acquisition of land is abandoned, no further application with respect to that land is to be considered by the Minister during the period of 12 months after the acquisition is abandoned unless the Minister is satisfied that the special circumstances of the case justify the consideration of the further application within that period.

**Waiver of claims**

175. (1) Any person may, by notice in writing served on the Minister, waive that person's entitlement to compensation under this Division.

25 (2) The Minister may, by notice in writing served on a person who has, or who in the opinion of the Minister may have, an entitlement to compensation, require the person to give notice to the Minister as to whether or not the person intends to claim compensation.

30 (3) A person on whom such a notice is served is taken to have waived the person's entitlement to compensation (if any) if the person has not claimed compensation within 28 days after service of the notice.

**Effect of acquisition of land**

35 176. (1) On the acquisition of land under this Division, the land becomes free of all trusts, restrictions, dedications, reservations, obligations and interests and, subject to this section, becomes Crown land.

(2) There may be excepted from an acquisition effected under this Division:



- 
- (a) any easement which is specified in the notice effecting the acquisition and to which the land was subject immediately before the acquisition; and
  - (b) any easement specified in that notice which is appurtenant to an easement referred to in paragraph (a). 5
  - (3) If:
    - (a) in accordance with subsection (2), an easement is excepted from the acquisition; and
    - (b) immediately before the acquisition, the benefit of a restriction as to user was annexed to the easement, 10
- then, unless otherwise specified in the notice by which the acquisition is effected, the restriction continues to have effect as if the acquisition had not taken place.
- (4) The provisions of sections 33–36 of the Land Acquisition (Just Terms Compensation) Act 1991 apply to land acquired under this Division as if references in those provisions to an authority of the State were references to the Minister. 15

### **Division 3—Acquisition of land for road widening**

#### **Acquisition of land for purposes of road widening**

- 177. (1) A roads authority may compulsorily acquire land the subject of a road widening order by means of an acquisition notice under the Land Acquisition (Just Terms Compensation) Act 1991 without the need for a proposed acquisition notice under that Act. 20
- (2) An acquisition notice may not be issued unless the acquiring authority is satisfied that the land is clear of any building or structure. 25
- (3) However, an acquisition notice is not invalid merely because of the existence on the land of any building or structure as at the time the notice is given.
- (4) Nothing prevents an acquisition notice being given under this Division at the same time as notice of the road widening order is given to the owner of the land. 30
- (5) The special value of land, any loss attributable to disturbance and solatium (as referred to in Part 3 of the Land Acquisition (Just Terms Compensation) Act 1991) need not be taken into account in connection with an acquisition of land under this Division, despite anything to the contrary in Part 3 of that Act. 35



**Division 4—Crown to compensate councils for compulsorily acquired public roads**

**Council entitled to compensation if Crown compulsorily acquires public road**

- 5     **178.** (1) A council is entitled to compensation under this Division for a public road owned by the council that is acquired by the Crown by compulsory process.

- 10    (2) The provisions of this Division apply in place of the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 with respect to compensation.

**Compensation where council has to construct new road**

15     **179.** (1) This section applies if it is necessary for the council to construct a new public road to replace an existing public road that has been acquired by the Crown by compulsory process.

- 20    (2) The amount of the compensation to which a council is entitled under this section is the sum of:

- (a) the cost of acquiring land for the purposes of a new road; and
- (b) the cost of constructing the new road; and
- (c) the cost of erecting or constructing, in, on or over the new road, new conduits, poles or structures to replace those that are situated on the road acquired by the Crown and can no longer reasonably continue to be used by the council.

- 25    (3) Any compensation received by a council under this section is to be paid into the council's trust fund pending its being spent on constructing the new road and erecting or constructing new conduits, poles and structures.

**Compensation where council is not required to construct new road**

- 30     **180.** (1) This section applies except if it is necessary for the council to construct a new public road to replace an existing public road that has been acquired by the Crown by compulsory process.

(2) The amount of the compensation to which a council is entitled under this section is the sum of:

- (a) the money (if any) that the council paid for the acquisition of the land; and
- 35   (b) the money that the council has spent on the construction of the road; and

- (c) the money that the council has spent in erecting or constructing, in, on or over the road, any conduits, poles or structures for use in connection with any water, sewerage or drainage work of, or any trading undertaking carried on by, the council, which, at the time of the acquisition by the Crown, were owned and used by that council in connection with any such work or trading undertaking, 5

but does not include any money spent on the maintenance, replacement or repair of the road or any such conduits, poles or structures.

- (3) Compensation is not payable under subsection (2) (c) to the extent to which any such conduits, poles or structures can reasonably continue to be used by the council in connection with any such work or trading undertaking. 10

### PART 13—COMPENSATION

#### Division 1—Compensation for loss of access to a freeway or controlled access road 15

##### Claims for compensation

181. (1) Compensation for loss of access to a freeway or controlled access road is payable under this Part only if a claim for compensation is made within 12 months after the land concerned has been declared to be a freeway or controlled access road. 20

(2) If a question as to whether compensation is payable under this Part, or a question as to the amount of compensation so payable, is not resolved by agreement, the Land and Environment Court is required to determine the question.

##### Amount of compensation payable 25

182. (1) The amount of compensation payable under this Part is an amount equal to the difference between the market value of the land immediately before, and the market value of the land immediately after, the right of access was restricted or denied.

- (2) In determining the amount of compensation: 30

- (a) the assessment of the market value of the land at the time it became subject to the restrictions must take into account any modifications of the restrictions that are attributable to any consent given by the RTA and any conditions attached to such a consent, or that are attributable to any undertaking that the RTA has given or promised; 35  
and



- 5 (b) there must be taken into consideration any benefit that may accrue to any other land in which the claimant has an interest because of the construction or improvement (whether by the RTA or any other person) on land adjacent to that in respect of which the compensation is claimed of any road after the restrictions took effect or because of the effect of the restrictions; and
- 10 (c) no account may be taken of the fact that, since the land became subject to the restrictions, the interest of the claimant has become, or ceased to be, the same as the interest of the claimant in other land.

### **Division 2—Compensation generally**

#### **Claims for compensation may be referred to arbitration**

15 **183.** (1) If a person wishes to claim compensation under a provision of this Act conferring an entitlement to receive compensation from a roads authority and the authority disputes the claim:

- (a) the claim may, by agreement between that authority and the claimant, be referred to arbitration under the Commercial Arbitration Act 1984; or
- 20 (b) if there is no such agreement, either that authority or the claimant may, not earlier than 28 days after notice of the claim is given to that authority, refer the claim to the Land and Environment Court for arbitration in accordance with rules of court of that Court.

(2) The Commercial Arbitration Act 1984 does not apply to arbitration by the Land and Environment Court.

25 (3) Rules of court may be made under the Land and Environment Court Act 1979 for the purpose of enabling arbitration to be conducted under this section.

30 (4) When conducting an arbitration under this section, a Judge of the Land and Environment Court has the same powers of procuring the attendance of witnesses and the production of documents as the Judge would have if the arbitration were ordinary proceedings before the Court.

(5) The decision of the Land and Environment Court in respect of an arbitration conducted under this section is final.

#### **Roads authority may carry out work instead of paying compensation**

35 **184.** A roads authority may enter into and implement an agreement to carry out work in satisfaction or partial satisfaction of a claim for compensation under this Act.



## PART 14—FINANCE

### Division 1—Financial assistance to roads authorities

#### **RTA may provide financial and other assistance to roads authorities for road work on classified roads**

**185.** (1) The RTA may enter into an arrangement with a roads authority under which the RTA agrees to provide financial or other assistance to the roads authority to enable it: 5

- (a) to carry out specified road work or specified traffic control work on a specified classified road; or
- (b) to carry out road work or traffic control work generally. 10

(2) Under an arrangement of the kind referred to in subsection (1) (a), the RTA is liable to pay to the roads authority:

- (a) the whole of the cost of the road work or traffic control work, in the case of work to be carried out on a main road; or
- (b) no less than half of the cost of the road work or traffic control work, in the case of work to be carried out on a secondary road; or 15
- (c) such part of the cost of the road work or traffic control work as the RTA determines, in the case of work to be carried out on a tourist road,

unless the roads authority notifies the RTA that it is prepared to accept a lesser amount. 20

#### **RTA may provide financial and other assistance to roads authorities for by-passes etc. around classified roads**

**186.** The RTA may grant financial assistance to a roads authority for the purpose of meeting costs incurred, or to be incurred: 25

- (a) in carrying out road work on an unclassified road that adjoins a classified road; or
- (b) in restoring an unclassified road that has suffered damage because of its use as a by-pass or detour in order to avoid a classified road; or 30
- (c) in carrying out road work on an unclassified road if, in the opinion of the RTA, the carrying out of the work would be of benefit to classified roads in the vicinity of the road on which the work is being carried out.

**Apportionment of cost of road work on public road forming boundary between local government areas**

5     **187.** (1) The cost of carrying out road work on a classified road forming the boundary between local government areas is to be apportioned between the councils of those areas:

- (a) by agreement between the councils; or
  - (b) if the councils are unable to reach agreement within 90 days after being requested by the RTA to do so, in such manner as the RTA determines.
- 10     **(2)** Before making a determination under this section, the RTA:
- (a) must notify each council that it proposes to make a determination; and
  - (b) must give each council a reasonable opportunity to make submissions to the RTA with respect to the proposed determination;
- 15     (c) must take into consideration any submission that is duly made with respect to the proposed determination.

**Financial and other assistance for classified road forming boundary between local government areas**

- 20     **188.** If a classified road forms the boundary between local government areas:
- (a) the RTA may allot the whole of any financial or other assistance provided by it in respect of the road to the council of either of those areas; or
- 25     (b) the RTA may divide the financial assistance between the councils of both of those areas in such manner as the RTA considers will result in the road work being carried out most efficiently.

**Contributions to RTA by State Rail Authority and State Transit Authority**

- 30     **189.** The State Rail Authority and the State Transit Authority must each pay to the RTA such amounts as the RTA determines from time to time as contributions in relation to the carriage by those Authorities of passengers across the Sydney Harbour Bridge.

**Administration of Commonwealth grants etc.**

- 35     **190.** The RTA may administer financial assistance that is provided, whether by Commonwealth or State grant or otherwise, for the purpose of funding the carrying out of road work by other roads authorities.



## Division 2—Tolls and charges for bridges, tunnels and ferries

### Tolls and charges for bridges, tunnels and ferries

191. (1) This section applies to a bridge, tunnel or road-ferry that forms part of a metropolitan main road or a State highway and that is under the control of the RTA. 5

(2) The RTA may, with the approval of the Minister, levy tolls and charges in connection with traffic that uses a bridge, tunnel or road-ferry.

(3) The RTA may, on such terms as it may decide:

(a) lease the running of a road-ferry; or

(b) lease the collection of tolls and charges on a bridge, tunnel or road-ferry. 10

(4) A lease may not be entered into under this section unless tenders have been called inviting applications for the lease.

(5) The amount of any toll or charge must not exceed the amount prescribed by or in accordance with the regulations. 15

### Tolls and charges for the Sydney Harbour Bridge

192. (1) The RTA may, by order published in the Gazette, fix the amount of the tolls and charges to be levied in connection with traffic that uses the Sydney Harbour Bridge.

(2) Such an order takes effect: 20

(a) on the date on which it is published in the Gazette; or

(b) on such later date as may be specified in the order.

(3) In fixing the amount of the tolls and charges to be levied in connection with traffic that uses the Sydney Harbour Bridge, the RTA must have regard to movements in the Consumer Price Index, being: 25

(a) the index known as the "Weighted Average of Eight Capital Cities: All Groups Consumer Price Index" that is published quarterly by the Australian Bureau of Statistics; or

(b) if the Australian Bureau of Statistics no longer publishes that index—such other index as may be prescribed by the regulations for the purposes of this paragraph. 30

### Tolls and charges for tollways

193. (1) The RTA may levy and collect tolls and charges for traffic using a tollway.



(2) The amount of any toll or charge must not exceed the amount prescribed by or in accordance with the regulations.

**Roads authorities may levy tolls on road-ferries**

5     **194.** (1) This section applies to a road-ferry that forms part of a public road (other than a metropolitan main road or a State highway) and that is under the control of a roads authority other than the RTA.

(2) The appropriate roads authority may levy and collect tolls and charges for traffic using a road-ferry to which this section applies.

10    (3) The amount of any toll or charge must not exceed the amount prescribed by or in accordance with the regulations.

**Division 3—Kerbing and guttering etc. by councils**

**Council may recover cost of paving, kerbing and guttering footways**

15    **195.** (1) The owner of land adjoining a public road is liable to contribute to the cost incurred by a council in constructing or paving any kerb, gutter or footway along the side of the public road adjacent to the land.

(2) The amount of the contribution is to be such amount (not exceeding half of the cost) as the council may determine.

20    (3) The owner of land the subject of such a determination becomes liable to pay the amount determined on receiving notice of that amount.

(4) This section does not apply to the renewal or repair of any paving, kerb or gutter in respect of which contributions have previously been paid and does not apply to the Crown as regards public open space.

25    (5) In this section, a reference to a gutter includes, in the case of a roadway that is laid to the kerb in a permanent manner, a reference to such part of the roadway as is within 450 millimetres of the kerb.

**Council may recover cost of constructing or repairing a special crossing**

30    **196.** (1) The owner of land adjoining a public road is liable to pay to the appropriate council the cost incurred by the council in constructing or repairing any special crossing over a footway in the public road for the traffic of vehicles across the footway to or from the land.

35    (2) If the crossing has been constructed or repaired at the request of the occupier of the land concerned, any amount paid to the council by the owner of the land may be recovered by the owner from the occupier.

**Recovery of costs incurred**

197. (1) A council that gives notice of a determination under this Division to the owner of any land is required, on application by that person, to give the person particulars of the work to which the determination relates and of the costs incurred by the council in carrying out that work. 5

(2) In any proceedings for the recovery of an amount determined under this Division, the costs incurred by the council in carrying out the work to which the determination relates may not be called into question unless the owner of the land has given reasonable written notice to the council of the owner's intention to do so. 10

(3) The amount of any unpaid judgment under this Division may be recovered as if it were an unpaid rate under the Local Government Act 1992.

**Division 4—Payment by roads authorities to RTA for work carried out by RTA** 15

**RTA may require roads authorities to contribute to costs of road work**

198. (1) The RTA may require the appropriate roads authority to pay to the RTA the whole, or such part as the RTA may determine, of the costs incurred by the RTA: 20

(a) in constructing drainage, kerbs and gutters; or

(b) in constructing, widening and paving footways,

in connection with a metropolitan main road.

(2) A council may be required to make a contribution towards the construction of drainage even if part of the land drained is outside the area of the council. 25

(3) A contribution that a roads authority is required to pay under this section must not exceed:

(a) in the case of the work of constructing drainage—the proportion of the cost of the work which the discharge of stormwater from the area of the roads authority outside the classified road bears to the total discharge of stormwater from the total area to be served by the work; or 30

(b) in the case of the work of constructing kerbs and gutters on the same side of the road as adjoining privately owned land where there were previously no kerbs and gutters or where the only kerbs and gutters were those in respect of which a contribution had not 35



previously been paid by an owner of the land—75 per cent of the cost of the work; or

5 (c) in the case of the work of constructing kerbs and gutters on the same side of the road as, and adjacent to, public open space where there were previously no kerbs and gutters—50 per cent of the cost of the work; or

(d) in the case of the work of constructing and paving footways—100 per cent of the cost of the work.

10 (4) A contribution that a roads authority is required to pay under this section may be recovered by the RTA as a debt in a court of competent jurisdiction.

#### **Plans and specifications**

15 **199.** (1) Before carrying out any work for which it proposes to require a roads authority to pay the whole or any part of the cost, the RTA:

(a) must provide the roads authority with plans and specifications of the work; and

(b) must serve notice on the roads authority of its proposal and of its estimate of the cost of the work.

20 (2) If, within 90 days after service of the notice, the roads authority makes written submissions to the RTA in relation to the matters specified in the notice, the RTA must give the roads authority written notice of the RTA's decision in relation to the submissions:

25 (a) if the roads authority has indicated that it wishes to be heard and to call evidence in relation to the matter—within 28 days after hearing the roads authority; or

(b) in any other case—within 28 days after receiving the submissions.

#### **Review by Land and Environment Court**

30 **200.** (1) If a dispute arises between the RTA and a roads authority as to any matter arising under this Division, either the RTA or the roads authority may refer the dispute to the Land and Environment Court.

(2) The dispute is to be determined by arbitration.

(3) The Commercial Arbitration Act 1984 does not apply to the arbitration.



(4) Rules of court may be made under the Land and Environment Court Act 1979 for the purpose of enabling arbitration to be conducted under this section.

(5) When conducting an arbitration under this section, a Judge of the Land and Environment Court has the same powers of procuring the attendance of witnesses and the production of documents as the Judge would have if the arbitration were ordinary proceedings before the Court. 5

(6) The decision of the Land and Environment Court in respect of an arbitration conducted under this section is final.

(7) No award may be made for the payment of costs in respect of such an arbitration. 10

#### **Payment by instalments**

201. An amount required to be paid to the RTA by a roads authority under this Division is payable:

- (a) if the amount exceeds \$2,000—by instalments of such amounts, payable over such period, as may be agreed on between the RTA and the roads authority; or 15
- (b) in any other case—within 90 days after demand by the RTA or within such further time as the RTA allows.

#### **Division 5—Miscellaneous 20**

##### **Roads authorities may charge fees for services**

202. (1) A roads authority may charge such fees as are appropriate for the provision of services by the authority.

(2) The amount of a fee must not exceed the amount prescribed in respect of any such fee by or in accordance with the regulations. 25

##### **RTA may allow costs to roads authorities that carry out road work on classified roads**

203. If a roads authority carries out road work on a classified road to the satisfaction of the RTA, the RTA may allow to the roads authority in assessing the cost of the work: 30

- (a) 2.5 per cent of the cost of the work if the working plans and specifications for the work have been prepared by the roads authority in accordance with the standards approved by the RTA; or
- (b) 1.5 per cent of the cost of the work in any other case.

**Certain fines to be paid into RTA Fund**

204. There is appropriated for payment out of the Consolidated Fund into the RTA Fund all amounts paid into the Consolidated Fund in respect of penalties recovered with respect to offences under this Act or the regulations committed on or in connection with classified roads, including amounts recovered by means of penalty notices under this Act or the Traffic Act 1909.

**PART 15—ENFORCEMENT OF ACT ETC.****Division 1—Production of information****10 Authorised officer may require production of information**

205. (1) If an authorised officer suspects on reasonable grounds that the driver of a vehicle has committed an offence against this Act or the regulations, the officer may require the owner of the vehicle or the person in charge of the vehicle to produce immediately to the officer:

- 15 (a) the name and residential address of the driver of the vehicle, the weight and description of the vehicle's load and the unladen weight of the vehicle, as at the time of commission of the suspected offence; and
- 20 (b) such documents as are in the person's possession or control and as relate to the vehicle or its load; and
- (c) such other information relevant to the suspected offence as it is in the power of the person to give,

and may also require the driver of the vehicle to produce to the officer the driver's licence to drive the vehicle.

- 25 (2) The officer may require the information to be given either orally or by a signed statement.

- (3) The officer may also require any other person to give immediately, either orally or by a signed statement, such information relevant to a suspected offence against this Act or the regulations as it is in the power of the other person to give.

(4) A requirement under this section may be made orally or by notice in writing served on the person concerned.

(5) A person must not fail to comply with a requirement of an authorised officer made under this section.

- 35 Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence.



## Division 2—Enforcement of excess weight limits

### Weighing of vehicles

**206.** (1) An authorised officer may direct the driver of any vehicle to do any one or more of the following:

- (a) to hold the vehicle stationary; 5
- (b) to drive the vehicle (to any point further along the route being travelled by the vehicle or to any other point not more than 5 kilometres from the place) to a specified place;
- (c) to do such things as the authorised officer may reasonably require, to enable the vehicle to be inspected, measured or weighed. 10

(2) For the purpose of exercising the powers conferred by this section, an authorised officer may, by means of a notice displayed in the manner and form prescribed by the regulations, direct the driver of any vehicle to stop the vehicle.

(3) A person must not, without reasonable excuse, fail to comply with a direction under this section. 15

Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence.

(4) The regulations may provide for the manner in which a vehicle is to be measured or weighed and the manner in which a vehicle's weight is to be ascertained. 20

### Vehicles exceeding maximum weight limits

**207.** (1) If it is established that a vehicle (together with its load, if any) has a weight of more than 10 per cent above the maximum permitted by the regulations in respect of that class of vehicle, an authorised officer: 25

- (a) may prohibit the person in charge of the vehicle from driving the vehicle on a public road until the vehicle's weight no longer exceeds the maximum so permitted; or
- (b) may require the person in charge of the vehicle to remove or adjust the whole or any part of the vehicle's load; or 30
- (c) may prohibit the person in charge of the vehicle from depositing any part of the vehicle's load in or on any specified place; or
- (d) may require the person in charge of the vehicle to drive the vehicle (not more than 20 kilometres or such other distance as is reasonable in the circumstances) to a specified place for the purpose of removing the vehicle from a public road. 35



(2) A direction under this section may specify the manner in which, and the time within which, the direction must be complied with.

(3) A person must not fail to comply with a direction under this section.

5     Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence.

(4) It is a defence to a prosecution for an offence arising from a failure to comply with a direction under subsection (1) (b) if the defendant establishes that it was impossible to comply, or to secure compliance,  
10     with the direction.

#### **Powers of authorised officer if direction not complied with**

**208.** An authorised officer:

- (a) may take possession of any vehicle in respect of which a direction under this Division is not complied with; and
- 15     (b) may drive the vehicle (not more than 20 kilometres or such other distance as is reasonable in the circumstances) to a place determined by the authorised officer; and
- 20     (c) may detain the vehicle until the vehicle's laden weight has been ascertained or (if it is established that the vehicle's laden weight is more than 10 per cent above the maximum weight permitted by the regulations in respect of that class of vehicle) until the vehicle's laden weight no longer exceeds the maximum weight so permitted.

#### **Care of detained vehicle**

25     **209.** (1) Access to a vehicle that has been detained in accordance with this Division must not be unreasonably withheld.

(2) It is the duty of an authorised officer by whom a vehicle is detained under this section to take all reasonable steps to cause the driver of the vehicle, and such other persons as appear to the authorised officer to be appropriate in the circumstances, to be promptly informed of the place  
30     where the vehicle is for the time being located.

(3) A person must not, without the consent of an authorised officer, remove a detained vehicle from the place where it is for the time being located.

35     Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence.

### Exemption from liability

**210.** Neither the Crown nor any other person is liable to the driver of a vehicle, or to any other person, for any loss or damage arising from the exercise or purported exercise in good faith of a power conferred by this Division.

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### Owners and drivers etc. of vehicles are strictly liable for certain offences

**211.** (1) This section applies to an offence against Division 4 of Part 7 or against any regulation made for the purposes of that Division.

(2) If an offence to which this section applies is committed with respect to a particular vehicle, the owner of the vehicle and the person in charge of the vehicle are each guilty of an offence.

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Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence.

(3) A reference in subsection (2) to the owner or person in charge of a vehicle includes, if the vehicle consists of a prime mover and a trailer, a reference to the owner or person having custody of either the prime mover or the trailer.

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(4) A person charged with an offence under this section is entitled to be acquitted if the person satisfies the court:

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- (a) that the person did not know, and could not reasonably be expected to have known, of the contravention; or
- (b) that the person did know of the contravention but had taken all reasonable steps to prevent the contravention.

(5) If the person charged with an offence under this section is a corporation, then, in order to satisfy the court that the corporation did not know and could not reasonably be expected to have known of the relevant contravention, the corporation must satisfy the court that:

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- (a) no director of the corporation; and
- (b) no person having management functions in the corporation in relation to activities in connection with which the contravention occurred,

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knew of the contravention or could reasonably be expected to have known of it.

(6) If the relevant contravention resulted from the fact that the weight of the vehicle or part of the vehicle (together with the weight of any load on the vehicle or part of the vehicle) exceeded any limit prescribed by or under this Act, then the court is not entitled to be satisfied that the person

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charged took all reasonable steps to prevent the contravention unless it is satisfied that the person took all reasonable steps to cause the weight of the load carried on the vehicle to be ascertained at the start of the journey during which the contravention occurred.

- 5 (7) The court is not entitled to be satisfied that the person charged took all reasonable steps to cause the weight of a load to be ascertained unless it is satisfied that either:

- (a) the load had been weighed; or  
10 (b) the defendant, or the driver of the vehicle, was in possession of sufficient and reliable evidence from which that weight was calculated.

- (8) Subsections (6) and (7) do not apply if the person charged satisfies the court that at all material times that person did not, either personally or through any agent or employee, have custody or control of the vehicle  
15 concerned.

### **Division 3—Enforcement of certain directions**

#### **Directions generally**

- 20 212. (1) A direction under this Act must be in writing, may be served personally or by post and may be varied or revoked by a further direction in writing so served.

(2) A direction under section 86, 95, 96 or 99 may instead be given orally in cases of emergency.

#### **Failure to comply with certain directions**

- 25 213. (1) A roads authority may take such action as is necessary to give effect to a direction under this Act if the direction is not complied with in accordance with its terms.

(2) The costs incurred by a roads authority in taking action under this section are recoverable from the person to whom the direction was given as a debt in a court of competent jurisdiction.

- 30 (3) The costs incurred by an authorised officer in exercising any function under Division 2 as a result of the failure of any person to comply with a direction with respect to a vehicle are recoverable as a debt in a court of competent jurisdiction from the owner of the vehicle.

- 35 (4) Nothing in this section authorises a roads authority to recover an amount greater than that necessary to give effect to the direction.

**Division 4—Miscellaneous offences****Failure to comply with directions**

**214.** A person must not, without reasonable excuse, fail to comply with a direction given to the person under this Act.

Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence (in the case of an offence arising under Division 4 of Part 7 or Division 2 of this Part) and 10 penalty units (in any other case). 5

**Obstruction of authorised officers**

**215. (1)** A person must not: 10

(a) intentionally or recklessly obstruct or hinder an authorised officer in the exercise of a function under this Act; or

(b) assault or resist an authorised officer in the exercise of such a function; or

(c) incite a person to obstruct, hinder, assault or resist an authorised officer in the exercise of such a function. 15

Maximum penalty: 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence (in the case of an offence with respect to an authorised officer exercising functions under Division 4 of Part 7 or Division 2 of this Part) and 20 penalty units (in any other case). 20

**(2)** A person is not guilty of an offence under this section unless the prosecution establishes:

(a) that the person purporting to exercise the function concerned identified himself or herself at the relevant time as an authorised officer who had that function; or 25

(b) that the defendant otherwise knew that the person was an authorised officer empowered to exercise that function.

**Damage to or obstruction of public road**

**216.** A person must not, without lawful authority, intentionally or recklessly: 30

(a) damage or cause damage to a public road (otherwise than by fair wear and tear); or

(b) obstruct a public road or cause a public road to be obstructed.

Maximum penalty: 50 penalty units.



**Interference with survey marks**

217. A person must not, without lawful authority, remove, alter or interfere with a stake, mark or trench installed or constructed in connection with the exercise by a roads authority of a function under this Act.

Maximum penalty: 10 penalty units.

**Division 5—Legal proceedings****Proceedings for offences**

218. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

**Penalty notices for certain offences**

219. (1) An authorised officer may serve a penalty notice on a person if it appears to the authorised officer that the person has committed (or is, by virtue of section 211, guilty of) an offence against this Act or the regulations, being an offence prescribed by the regulations for the purposes of this section.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter dealt with by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this section.

(3) If the penalty prescribed for an alleged offence is paid in accordance with this section, no person is liable to any further proceedings for the alleged offence.

(4) Payment in accordance with this section is not to be regarded as an admission of liability for the purposes of, nor is in any way to affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(5) The regulations:

(a) may prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and

(b) may prescribe the penalty payable for the offence if dealt with under this section; and

(c) may prescribe different penalties for different offences or classes of offences.

(6) The penalty prescribed for an offence is not to exceed the maximum penalty provided by this Act or the regulations with respect to the offence.

(7) This section does not limit the operation of this or any other Act in relation to proceedings that may be taken in respect of offences.

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#### **Owner of vehicle liable for offence committed by driver**

220. (1) This section applies to any offence against this Act or the regulations:

(a) that arises from a failure or refusal to pay any toll or charge in respect of vehicles using any bridge, road-ferry, tunnel or tollway; or

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(b) that is prescribed by the regulations for the purposes of this section, in this section referred to as a **driving offence**.

(2) The owner of a vehicle with respect to which a driving offence is committed is, by virtue of this section, guilty of the offence as if the person were the actual offender, unless:

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(a) if the offence is dealt with by penalty notice, the owner satisfies an authorised officer that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used; or

(b) in any other case, the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

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(3) Nothing in this section affects the liability of an actual offender in respect of a driving offence but, if a penalty has been imposed on, or recovered from, any person in relation to a driving offence, no further penalty can be imposed on or recovered from any other person in relation to the offence.

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(4) The owner of a vehicle is not, by virtue of this section, guilty of an offence if, where the offence is dealt with by penalty notice:

(a) within 21 days after service on the owner of the penalty notice in respect of the offence, the owner gives notice to the authorised officer (verified by statutory declaration) of the name and address of the person who was in charge of the vehicle at all relevant times relating to the driving offence concerned; or

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(b) the owner satisfies the authorised officer that the owner did not know, and could not with reasonable diligence have ascertained, that name and address.

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(5) The owner of a vehicle is not, by virtue of this section, guilty of an offence if, in any other case:



5 (a) within 21 days after service on the owner of a summons in respect of the offence, the owner gives notice to the informant (verified by statutory declaration) of the name and address of the person who was in charge of the vehicle at all relevant times relating to the driving offence concerned; or

(b) the owner satisfies the court that the owner did not know, and could not with reasonable diligence have ascertained, that name and address.

10 (6) If a statutory declaration supplying the name and address of a person for the purposes of this section is produced in any proceedings against the person in respect of the driving offence to which the declaration relates, the declaration is evidence that the person was, at all relevant times relating to that offence, in charge of the vehicle involved in the offence.

15 (7) A statutory declaration that relates to more than one driving offence is taken not to be a statutory declaration supplying a name and address for the purposes of subsection (6).

20 (8) The provisions of this section are supplementary to any other provision of this Act or the regulations or any other Act or statutory rule under any other Act.

**Directors and managers etc. liable for offences committed by corporations**

221. (1) If a corporation contravenes a provision of this Act or the regulations, each person who:

25 (a) is a director of the corporation; or

(b) is concerned in the management of the corporation,

is to be treated as having contravened the same provision if the person knowingly authorised or permitted the contravention.

30 (2) A person may, under this section, be proceeded against and convicted for a contravention of a provision of this Act or the regulations whether or not the corporation has been proceeded against or convicted for a contravention of the same provision.

35 (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

**Rectification of damage etc.**

**222.** (1) A roads authority may:

- (a) before or after or instead of prosecuting a person for a contravention of a provision of this Act or the regulations; and
- (b) after having given the person reasonable notice of its intention to do so,

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take such action as is necessary to rectify the contravention.

(2) The costs incurred by the roads authority in taking any such action are recoverable from the person as a debt in a court of competent jurisdiction.

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**Recovery of debts**

**223.** Any money that is owed to a roads authority under this Act may be recovered by the roads authority, as a debt, in a court of competent jurisdiction.

**Division 6—Evidentiary provisions**

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**Evidentiary certificates**

**224.** (1) A certificate that is issued on behalf of a roads authority by a person prescribed by the regulations, or by a person belonging to a class of persons so prescribed, being a certificate that states that:

- (a) on a date or during a period specified in the certificate a specified person was or was not an authorised officer for that authority for the purposes of this Act or for the purposes of a specified provision of this Act or the regulations; or
- (b) on a date or during a period specified in the certificate a specified work or structure was or was not the subject of a consent given by the roads authority; or
- (c) on a date or during a period specified in the certificate a specified part of a footway was or was not the subject of a specified approval for a footway restaurant; or
- (d) on a date or during a period specified in the certificate a specified toll or charge was in force with respect to a specified bridge, tunnel or road-ferry; or
- (e) on a date or during a period specified in the certificate a specified gate was or was not the subject of a public gate permit; or
- (f) on a date or during a period specified in the certificate a specified notice was or was not erected in a specified location; or

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- (g) on a date or during a period specified in the certificate a specified vehicle was or was not the subject of a specified excess weight permit; or
- 5 (h) on a date or during a period specified in the certificate a specified vehicle had a specified laden or unladen weight or had a load of a specified mass; or
- (i) on a date or during a period specified in the certificate a specified part of a vehicle or a specified part of a vehicle's load had a specified mass; or
- 10 (j) a specified amount represents the costs incurred by the roads authority in carrying out specified work or in taking any specified action; or
- (k) a specified amount represents the costs incurred by the roads authority in relation to the exercise by an authorised officer of a function under Division 2,
- 15 is admissible in any legal proceedings and is evidence of the fact or facts so stated.
- (2) A certificate that is issued on behalf of a roads authority by a person prescribed by the regulations, or by a person belonging to a class of persons so prescribed, being a certificate that states that a specified plan of levels is the plan of levels referred to in an order made under Division 3 of Part 3 is admissible in any legal proceedings and is conclusive evidence of that fact.
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#### **Judicial notice etc. of certain orders and notices**

- 25 **225.** The provisions of sections 44 and 45 of the Interpretation Act 1987 apply to any order or notice published in the Gazette in accordance with this Act in the same way as they apply to instruments made by the Governor.

### **PART 16—ADMINISTRATION**

#### **30 Appointment of authorised officers**

**226.** A roads authority may appoint authorised officers for the purposes of this Act and the regulations or for the purposes of any specified provision of this Act or the regulations.

#### **Delegation of functions**

- 35 **227.** The Minister may delegate to any person any of the Minister's functions under this Act, other than this power of delegation.

**Roads authority may act through employees, agents and contractors**

**228.** A roads authority may exercise a function under this Act by its employees (including Crown employees) or agents or by independent contractors.

**Service of documents on persons generally**

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**229.** (1) Any document that is authorised or required by or under this Act to be given to or served on any person (other than a corporation) may be given or served:

(a) personally; or

(b) by means of a letter addressed to the person and sent by post to the person's residential address; or 10

(c) by means of a letter addressed to the person and left at the person's residential address with a person who appears to be of or above the age of 16 years and to reside at that address.

(2) Any document that is authorised or required by or under this Act to be given to or served on any person (being a corporation) may be given or served: 15

(a) by means of a letter addressed to the corporation and sent by post to the address of any of the corporation's registered offices; or

(b) by means of a letter addressed to the corporation and left at the address of any of the corporation's registered offices with a person who appears to be of or above the age of 16 years and to be employed at that address. 20

(3) Without limiting subsections (1) and (2), any document that is authorised or required by or under this Act to be given to or served on the owner or occupier of land may be given or served by means of a letter addressed to the owner or occupier and affixed to some conspicuous part of the land. 25

(4) Any direction or notice that is required to be served on the owner or occupier of land is taken to be duly served if, where there is more than one owner or occupier, it is served on any one of the owners or occupiers. 30

(5) Without limiting subsections (1) and (2), any penalty notice issued under section 219 with respect to a vehicle may be served on the person to whom it is addressed by leaving it on or attaching it to the vehicle.

**Service of documents on roads authorities**

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**230.** If provision is made by or under this Act for the lodging of a notice or other document with a roads authority, it is sufficient if the



notice or other document is sent by post to, or lodged at, an office of that authority.

### **Liability**

- 5     **231.** No matter or thing done by a member of staff of a roads authority, by an authorised officer or by a person acting under the direction of a roads authority or authorised officer subjects the member, officer or person so acting personally to any action, liability, claim or demand if the matter or thing was done in good faith for the purpose of executing this Act.

### **10   Correction of defective orders**

**232.** (1) The Minister may, by notice published in the Gazette, limit, correct or alter any order or notice published for the purposes of this Act.

- 15   (2) A notice published under this section has effect on and from the date of the original order or notice unless otherwise specified in the notice.

      (3) This section does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of publication of the notice; or  
20   (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication of the notice.

### **Single order or notice may relate to more than one matter**

- 25   **233.** A roads authority may, by the same order or notice published in the Gazette, do 2 or more things that the roads authority is, by or under the provisions of this or any other Act, required or permitted to do by such an order or notice, subject to compliance with the requirements of those provisions for the doing of each of those things.

### **Exercise of certain functions may be limited to stratum**

- 30   **234.** Any function that may be exercised under this Act with respect to land may be restricted to:  
      (a) land down to a specified depth below the surface of the land; or  
      (b) airspace up to a specified height above the surface of the land; or  
      (c) land lying between specified depths below the surface; or  
35   (d) airspace between specified heights above the surface of the land; or

- (e) land and airspace between a specified depth below, and a specified height above, the surface of the land.

#### **Reference of certain matters to local land board**

**235.** (1) A roads authority may refer to the appropriate local land board, or to the chairperson of that board sitting alone, for inquiry and report any matter that has arisen in connection with: 5

- (a) the opening or proposed opening of a road under this Act; or
- (b) the closure or proposed closure of a road under this Act; or
- (c) the exercise or proposed exercise of any function conferred on any person by or under this Act in relation to a road or proposed road or land that is included in a former road that has been closed under this Act, 10

or any other matter arising out of the administration of this Act.

(2) As soon as practicable after receiving a reference under this section, the local land board concerned: 15

- (a) must hold an inquiry into the matter that is the subject of the reference; and
- (b) must prepare a report in writing of its findings with respect to the matter; and
- (c) must submit that report to the roads authority. 20

(3) No appeal lies to the Land and Environment Court from any matter arising out of a report made under this section.

(4) This section does not apply to a matter in respect of which the Land and Environment Court has jurisdiction under this Act.

#### **Resolution of disputes between public authorities** 25

**236.** (1) Any dispute arising under this Act between 2 or more public authorities is to be resolved by agreement between the Ministers responsible for those public authorities or, if agreement cannot be reached, by the Premier.

(2) A public authority must comply with any direction arising out of the resolution of the dispute under this section. 30

(3) For the purposes of this section:

- (a) the Minister for Local Government is taken to be the Minister responsible for the council of a local government area; and
- (b) the regulations may declare that a specified Minister is the Minister responsible for a public authority for which no other Minister is the responsible Minister. 35



**PART 17—MISCELLANEOUS****Act binds Crown**

237. This Act binds the Crown, not only in right of New South Wales, but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

**Administration of Act**

238. (1) The Minister for Conservation and Land Management is to administer:

- (a) the provisions of Parts 2 and 4 (Opening and closing of public roads); and
- (b) the remaining provisions of this Act to the extent to which they apply to Crown roads,

except as provided by subsection (2).

- (2) The Minister for the Environment is to administer the provisions of this Act in their application to Lord Howe Island.

**Lord Howe Island**

239. (1) For the purposes of this Act:

- (a) Lord Howe Island is taken to be a local government area; and
- (b) the Lord Howe Island Board is taken to be the council of that area.

- (2) The Lord Howe Island Board is the responsible authority for all roads on Lord Howe Island.

**Regulations**

240. (1) 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 and, in particular, for or with respect to:

- (a) the care, control and management of roads; and
- (b) the regulation of traffic for the purpose of protecting roads from damage; and
- (c) the provision and use of service centres and rest centres; and
- (d) the making of applications for the purposes of this Act.

- (2) A regulation may create an offence punishable by a maximum penalty not exceeding 15 penalty units for a first offence or 30 penalty units for a second or subsequent offence.

**Repeal of other Acts etc.**

241. (1) The following Acts are repealed:

Public Gates Act 1901 No. 11.

Width of Streets and Lanes Act 1902 No. 39.

Traffic Safety (Lights and Hoardings) Act 1951 No. 7. 5

State Roads Act 1986 No. 85.

Crown and Other Roads Act 1990 No. 54.

(2) The following instruments are repealed:

Ordinance No. 59 under the Local Government Act 1919.

Crown and Other Roads Regulation 1992. 10

**Amendment of other Acts**

242. Each Act specified in Schedule 1 is amended as set out in that Schedule.

**Savings, transitional and other provisions**

243. Schedule 2 has effect. 15

**Review of Act**

244. (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act. 20

(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

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**SCHEDULE 1—AMENDMENT OF OTHER ACTS**

(Sec. 242)

**Albury-Wodonga Development Act 1974 No. 47****Section 13 (Dedication of land):**

- 5           From section 13 (2), omit "the Crown and Other Roads Act 1990", insert instead "section 15 of the Roads Act 1992".

**Children (Criminal Proceedings) Act 1987 No. 55****Section 3 (Definitions):**

- 10           From paragraph (b) of the definition of "traffic offence" in section 3 (1), omit "Local Government Act 1919", insert instead "Roads Act 1992".

**Community Land Development Act 1989 No. 201****Section 3 (Definitions):**

- 15           From the definition of "public road" in section 3 (1), omit "Local Government Act 1919", insert instead "Roads Act 1992".

**Community Land Management Act 1989 No. 202****(1) Section 3 (Definitions):**

- 20           From the definition of "public road" in section 3 (1), omit "Local Government Act 1919", insert instead "Roads Act 1992".

**(2) Section 116 (Open and private access ways):****(a) Omit section 116 (1) (c), insert instead:**

(c) Division 2 of Part 7 of the Roads Act 1992; and

- 25           (b) From section 116 (3), omit "private thoroughfare for the purposes of section 241A of the Local Government Act 1919 but", insert instead "private road for the purposes of the Roads Act 1992 and".

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SCHEDULE 1—AMENDMENT OF OTHER ACTS—*continued*

**Conveyancing Act 1919 No. 6**

- (1) Section 88B (Creation of easements, profits a prendre and restrictions as to user by plans):  
     From section 88B (1), omit "Local Government Act 1919", insert instead "Roads Act 1992". 5
- (2) Section 195D (Signatures and consents):  
     Omit section 195D (1) (a), insert instead:  
     (a) to dedicate specified land as a public road or a temporary public road under section 11 or 12 of the Roads Act 1992; 10

**Crown Lands Act 1989 No. 6**

- Section 74 (Public gates):  
     From section 74 (c), omit "under the Public Gates Act 1901", insert instead "within the meaning of the Roads Act 1992". 15

**Darling Harbour Authority Act 1984 No. 103**

- (1) Section 3 (Definitions):  
     Omit the definitions of "main road" and "public road", insert instead: 20  
     **"main road"** has the same meaning as it has in the Roads Act 1992;  
     **"public road"** has the same meaning as it has in the Roads Act 1992, but does not include a main road;
- (2) Section 23J (Application of certain legislation): 25  
     Omit section 23J (1) (l), insert instead:  
     (l) Division 2 of Part 7 of the Roads Act 1992;

**Electricity Act 1945 (1946 No. 13)**

- (1) Section 19A (Definitions):  
     Omit the definition of "Traffic route", insert instead: 30  
     **"Traffic route"** means a public road within the meaning of the Roads Act 1992 that is:



*Roads 1992*

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**SCHEDULE 1—AMENDMENT OF OTHER ACTS—*continued***

- (a) a main road or secondary road within the meaning of that Act; or
- 5 (b) a road in respect of which the Director has, by reason of the volume of vehicular or pedestrian traffic that it carries, determined that lighting, to a standard approved by the Director, should be provided.
- (2) Section 19G (**Director may direct council to remove structure**):
- 10 From section 19G (1), omit "Local Government Act 1919", insert instead "Roads Act 1992".
- (3) Section 19H (**Payments of subsidies for removal etc. of electricity structures out of Traffic Route Lighting Subsidy Account**):
- 15 From section 19H (1), omit "Local Government Act 1919", insert instead "Roads Act 1992".

**Environmentally Hazardous Chemicals Act 1985 No. 14**

- Section 3 (**Definitions**):
- 20 From paragraph (a) of the definition of "public place" in section 3 (1), omit "section 4 of", insert instead "the Roads Act 1992 and".

**Geographical Names Act 1966 No. 13**

- Section 13 (**Naming of main roads**):
- Omit the section.

**25 Growth Centres (Development Corporations) Act 1974 No. 49**

- Section 12 (**Dedication of land**):
- From section 12 (2) (b), omit "the Crown and Other Roads Act 1990", insert instead "section 15 of the Roads Act 1992".

*Roads 1992***SCHEDULE 1—AMENDMENT OF OTHER ACTS—*continued*****Hunter Valley Flood Mitigation Act 1956 No. 10****Section 52 (Roads rendered incapable of use by Constructing Authority to be replaced etc.):**

From section 52 (3), omit “the Crown and Other Roads Act 1990”, insert instead “Part 2 of the Roads Act 1992”. 5

**Inclosed Lands Protection Act 1901 No. 33****Section 5 (Penalty on leaving gate open):**

Omit “as defined in the Public Gates Act 1901”, insert instead “within the meaning of the Roads Act 1992”. 10

**Irrigation Act 1912 No. 73****(1) Section 11I (Special provisions relating to portions of irrigation areas included in local government areas):**

From section 11I (3), omit “sections 240 to 274 (both inclusive) and section 277 of the Local Government Act 1919”, insert instead “the Roads Act 1992”. 15

**(2) Section 17AB (Liability for damage to bridges, culverts etc.):**

From section 17AB (1), omit “Local Government Act 1919”, insert instead “Roads Act 1992”.

**Justices Act 1902 No. 27**

20

**Section 100I (Definitions):**

From paragraph (a) of the definition of “penalty notice” in section 100I (1), omit “State Roads Act 1986, section 100B (1);”, insert instead, in alphabetical order, “Roads Act 1992, section 219;”. 25

**Land Acquisition (Just Terms Compensation) Act 1991 No. 22****Section 6 (Acquisition of land to which Act does not apply):**

Omit section 6 (a).



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**SCHEDULE 1—AMENDMENT OF OTHER ACTS—*continued*****Land and Environment Court Act 1979 No. 204**

- (1) Section 18 (Class 2: local government and miscellaneous appeals):

5           After section 18 (a), insert:

          (a1) appeals under section 97 and applications under section 98 of the Roads Act 1992;

- (2) Section 19 (Class 3: land tenure, valuation, rating and compensation matters):

10           From section 19 (a), omit "the Crown and Other Roads Act 1990", insert instead "Division 2 of Part 12 of the Roads Act 1992".

- (3) Section 24 (Claim for compensation in compulsory acquisition cases):

15           From section 24 (1) (a), omit "the Crown and Other Roads Act 1990", insert instead "Division 2 of Part 12 of the Roads Act 1992".

**Land Development Contribution Management Act 1970 No. 22**

Section 3 (Definitions):

20           From the definition of "public road" in section 3 (1), omit "section 4 of the Local Government Act 1919", insert instead "the Roads Act 1992".

**Landlord and Tenant (Amendment) Act 1932 No. 67**

Section 26A (Rates in certain cases):

25           From section 26A (6), omit "the Main Roads Act, 1924–1931", insert instead "Division 3 of Part 14 of the Roads Act 1992".

**Local Government Act 1919 No. 41**

Part 9 (Public roads):

30           Omit the Part (Division 13A excepted).

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**SCHEDULE 1—AMENDMENT OF OTHER ACTS—*continued***

**Mount Panorama Motor Racing Act 1989 No. 108**

Section 12 (Suspension and application of certain legislation etc.):

- (a) From section 12 (1), omit "Parts 9, 10", insert instead "Parts 10". 5
- (b) At the end of section 12 (1) (d), insert:  
; and
- (e) the Roads Act 1992,

**Noise Control Act 1975 No. 35** 10

Section 4 (Definitions):

From paragraph (a) of the definition of "public place" in section 4 (1), omit "section 4 of", insert instead "the Roads Act 1992 and".

**Real Property Act 1900 No. 25** 15

Schedule 2:

From Schedule 2, omit "Crown and Other Roads Act 1990", insert instead "Roads Act 1992".

**Recreation Vehicles Act 1983 No. 136**

Section 4 (Definitions):

From the definition of "public road" in section 4 (1), omit "section 4 of the Local Government Act 1919", insert instead "the Roads Act 1992". 20

**Road Improvement (Special Funding) Act 1989 No. 95**

Section 5 (Increased revenue subject to statutory trust for road funding): 25

- (a) From section 5 (2) (a), omit "toll work within the meaning of the State Roads Act 1986", insert instead "tollway within the meaning of the Roads Act 1992".
- (b) From section 5 (2) (c), omit "(as defined in the State Roads Act 1986)", insert instead "(within the meaning of the Roads Act 1992)". 30



SCHEDULE 1—AMENDMENT OF OTHER ACTS—*continued***Rural Lands Protection Act 1989 No. 197**(1) Section 94 (**Temporary grazing permits**):

5                   From section 94 (3), omit "State Roads Act 1986", insert instead "Roads Act 1992".

(2) Section 152 (**Rabbit proof, dog proof or marsupial proof fence may be erected across a road with the board's permission**):

- 10                   (a) From section 152 (6), omit "Public Gates Act 1901", insert instead "Roads Act 1992".
- (b) From section 152 (7), omit "Section 251A of the Local Government Act 1919 (By-passes for motor vehicles)", insert instead "Division 2 of Part 9 of the Roads Act 1992".

**Search Warrants Act 1985 No. 37**Section 10 (**Definitions**):

- 15                   In the definition of "search warrant", insert, in appropriate order:
- section 157 of the Roads Act 1992;

**Stock Diseases Act 1923 No. 34**Section 15A (**Definitions**):

- 20                   Omit the definition of "road", insert instead:
- "road" means a public road within the meaning of the Roads Act 1992;

**Strata Titles Act 1973 No. 68**Section 27 (**Dedication of common property**):

- 25                   In the definition of "public road" and "public reserve" in section 27 (1), after "have in the", insert "Roads Act 1992 and the".

**Strata Titles (Leasehold) Act 1986 No. 219**Section 31 (**Dedication of common property**):

- 30                   At the end of the definition of "public reserve" and "public road" in section 31 (1), insert "and the Roads Act 1992".

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SCHEDULE 1—AMENDMENT OF OTHER ACTS—*continued*

**Sydney Cove Redevelopment Authority Act 1968 No. 56****(1) Section 3 (Definitions):**

From the definitions of "public road" and "road" in section 3 (1), omit "Local Government Act 1919" wherever occurring, insert instead "Roads Act 1992". 5

**(2) Section 20 (Dedication of land for public purposes or as a road):**

From section 20 (2) (b), omit "the Crown and Other Roads Act 1990", insert instead "section 15 of the Roads Act 1992". 10

**Sydney Harbour Tunnel (Private Joint Venture) Act 1987 No. 49****Section 14 (Sydney Harbour Tunnel not a public road or public street):**

Omit section 14 (1) (a), insert instead: 15  
(a) the Roads Act 1992; or

**Traffic Act 1909 No. 5****Section 18B (Penalty notices for certain offences):**

From section 18B (1) (h), omit "section 100A of the State Roads Act 1986", insert instead "section 220 of the Roads Act 1992". 20

**Transport Administration Act 1988 No. 109****(1) Section 46 (Constitution of the RTA):**

From section 46 (2) (a), omit "State Roads Act 1986", insert instead "Roads Act 1992". 25

**(2) Section 80 (Expenditure on certain State works):**

From section 80 (2), omit "State Roads Act 1986, but does not include a road or work deemed by section 4 (5) of that Act to be a State work", insert instead "Roads Act 1992".



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SCHEDULE 1—AMENDMENT OF OTHER ACTS—*continued*

**Water Act 1912 No. 44**(1) Section 5 (**Definitions**):

5                   From paragraph (b) of the definition of “occupier” in section 5 (1), omit “under the Local Government Act 1919”, insert instead “within the meaning of the Roads Act 1992”.

(2) Section 148C (**Liability for damage to bridges, culverts etc.**):

                  From section 148C (1), omit “Local Government Act 1919”, insert instead “Roads Act 1992”.

10       (3) Section 165 (**Definitions**):

                  From the definition of “occupier” in section 165 (1), omit “the Local Government Act 1919”, insert instead “the Roads Act 1992”.

## SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

15

(Sec. 243)

**PART 1—PRELIMINARY****Savings and transitional regulations**

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

20       this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect on and from the date of commencement of this clause or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not  
25       operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

30       (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of its publication.

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SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER  
PROVISIONS—*continued*

PART 2—PROVISIONS CONSEQUENT ON THE ENACTMENT OF THIS  
ACT

Division 1—General

5

**Definitions**

2. In this Division:

**relevant commencement**, in relation to a provision of this Act, means the day on which that provision commences;

**repealed enactment** means:

10

- (a) the State Roads Act 1986; or
- (b) the Crown and Other Roads Act 1990; or
- (c) Part 9 (Division 13A excepted) of the Local Government Act 1919; or
- (d) the Traffic Safety (Lights and Hoardings) Act 1951; or
- (e) the Public Gates Act 1901; or
- (f) the Width of Streets and Lanes Act 1902.

15

**Regulations**

3. (1) The following ordinances and regulations are taken to be regulations under this Act and may be amended and repealed accordingly:

State Roads (Excess Vehicle Weight Permit) Regulation 1987 (under the State Roads Act 1986).

20

State Roads (Toll Works) Regulation 1988 (under the State Roads Act 1986).

Ordinance No. 30C (formerly under the Local Government Act 1919 and subsequently deemed to be a regulation under the State Roads Act 1986).

Ordinance No. 30 (under the Local Government Act 1919).

25

Ordinance No. 30D (under the Local Government Act 1919).

Ordinance No. 33 (under the Local Government Act 1919).

(2) A reference in any such ordinance or regulation to a provision of the Act under which it was in force is taken to extend to the corresponding provision (if any) of this Act.

30

**References in other Acts etc.**

4. In any other Act, or in any instrument under any other Act:

- (a) a reference to a repealed enactment is taken to extend to this Act; and
- (b) a reference to a provision of a repealed enactment is taken to extend to the corresponding provision of this Act.

35



*Roads 1992*

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SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER  
PROVISIONS—*continued*

**Application of section 184**

- 5     5. Section 184 applies to matters arising before the relevant commencement in the same way as it applies to matters arising after that commencement.

**Application of section 203**

6. Section 203 applies to matters arising before the relevant commencement in the same way as it applies to matters arising after that commencement.

**Application of section 210**

- 10    7. Section 210 applies to matters arising before the relevant commencement in the same way as it applies to matters arising after that commencement.

**Application of section 211**

8. Section 211 applies to matters arising before the relevant commencement in the same way as it applies to matters arising after that commencement.

15    **Application of section 222**

9. Section 222 applies to matters arising before the relevant commencement in the same way as it applies to matters arising after that commencement.

**Application of section 232**

- 20    10. Section 232 applies with respect to orders and notices published before the relevant commencement in the same way as it applies to orders and notices published after that commencement.

**Existing alignments**

- 25    11. The boundaries of a public road as fixed immediately before the relevant commencement are taken to be the boundaries of the public road on and after that commencement until they are varied in accordance with this Act.

**Existing levels**

12. The levels of a public road as fixed immediately before the relevant commencement are taken to be the levels of the road on and after that commencement until they are varied in accordance with this Act.

30    **Existing Crown roads**

13. Any road that, immediately before the commencement of this Act, was a Crown road is declared to be a public road for the purposes of this Act.

*Roads 1992*


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**SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER  
PROVISIONS—continued**

**General saving**

14. (1) If any thing done under a repealed enactment still has effect immediately before the repeal of that enactment and that thing could have been done under a provision of this Act if it had been in force at the time when the thing was done, the thing continues to have effect after that repeal as if it had been done under that provision.

5

(2) This clause does not apply to any thing in relation to which other provision has been made by this Part and is subject to the regulations (if any) in force under clause 1.

10

**Division 2—State Roads Act 1986****Definitions**

15. In this Division:

relevant commencement, in relation to a provision of this Act, means the day on which that provision commences;

15

repealed enactment means the State Roads Act 1986.

**Existing classifications**

16. Any road or work that, immediately before the commencement of this provision, was a main road, a State highway, a freeway, a controlled access road, a secondary road, a tourist road, a toll work, a State work, a metropolitan main road or a country main road is declared to be a main road, a State highway, a freeway, a controlled access road, a secondary road, a tourist road, a tollway, a State work, a metropolitan main road or a country main road for the purposes of this Act.

20

**Sydney Harbour Bridge**

17. The Sydney Harbour Bridge is declared to be a main road for the purposes of this Act.

25

**Section 4 orders**

18. An order under section 4 (3) of the repealed enactment is taken to be an order under section 52 of this Act.

**Section 13 agreements**

30

19. An agreement in force under section 13 (4) of the repealed enactment is taken to be a roads agreement for the purposes of this Act.

**Section 19 notices**

20. A notice under section 19 (2) of the repealed enactment is taken to be a road widening order under this Act.

35

SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER  
PROVISIONS—*continued*

## Section 23 requirements

- 5 21. A requirement under section 23 (3) of the repealed enactment is taken to be a direction under section 88 of this Act.

## Section 32 permissions and requirements

22. A permission or requirement under section 32 (1) of the repealed enactment is taken to be a permission or requirement under section 121 of this Act.

## Section 34 directions

- 10 23. A direction under section 34 (1) of the repealed enactment is taken to be a direction under section 89 of this Act.

## Section 35 leases and orders

24. (1) A lease under section 35 (3) of the repealed enactment is taken to be a lease under section 191 of this Act.
- 15 25. (2) An order under section 35 (5) of the repealed enactment is taken to be an order under section 192 of this Act.

## Section 57 land and leases

25. (1) Land which was land to which section 57 of the repealed enactment applied is taken to be development land for the purposes of section 145 of this Act.
- 20 26. (2) A lease or other dealing under section 57 of the repealed enactment is taken to be a lease or dealing under section 145 of this Act.

## Section 60 consents

26. A consent under section 60 (2) of the repealed enactment is taken to be a consent under Division 3 of Part 9 of this Act.

## 25 Section 61 and 62 notices

27. (1) A notice under section 61 or 62 of the repealed enactment is taken to be a direction under section 96 of this Act.
- (2) An appeal under section 61 (2) or 62 (3) of the repealed enactment may be disposed of under that enactment as if that enactment had not been repealed, and any decision on the appeal is taken to be the decision of the Land and Environment Court under section 97 of this Act.
- 30



*Roads 1992*


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**SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER  
PROVISIONS—*continued***

**Section 66 directions**

28. A direction under section 66 of the repealed enactment is taken to be a direction under section 86 of this Act.

5

**Section 67 directions**

29. A direction under section 67 (1) of the repealed enactment is taken to be a direction under section 99 of this Act.

**Section 67: pre-1907 obstructions etc.**

30. The provisions of section 67 (5) of the repealed enactment continue to apply in respect of an obstruction or encroachment that first arose before 1 January 1907 (the date on which the Local Government Act 1906 commenced) as if those provisions had not been repealed.

10

**Section 70 directions**

31. A notice under section 70 of the repealed enactment is taken to be a direction under section 90 of this Act.

15

**Section 71 directions**

32. A direction under section 71 (1) of the repealed enactment is taken to be a direction under section 91 of this Act.

**Section 72A permits**

20

33. An excess vehicle weight permit under section 72A of the repealed enactment is taken to be an excess weight permit under section 101 of this Act.

**Section 100B penalty notices**

34. A penalty notice under section 100B of the repealed enactment is taken to be a penalty notice under section 219 of this Act.

25

**Division 3—Part 9 of the Local Government Act 1919****Definitions**

35. In this Division:

relevant commencement, in relation to a provision of this Act, means the day on which that provision commences;  
repealed enactment means Part 9 of the Local Government Act 1919.

30

*Roads 1992*

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**SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER  
PROVISIONS—*continued*****Section 224 appeals**

- 5     36. (1) An appeal under section 224 of the repealed enactment that has not been finally disposed of is to be finally disposed of in accordance with that section as if that enactment had not been repealed.

(2) A decision of a district court judge under that section has the same effect as the decision of the Supreme Court under section 18 of this Act.

**Section 233A notices**

- 10    37. A notice under section 233A of the repealed enactment is taken to be a direction under section 91 of this Act.

**Section 241 orders**

38. An order made by the Minister for Local Government under section 241 of the repealed enactment is taken to be a direction under section 236 of this Act.

- 15    Section 241A, 243, 244 and 245 expenses

39. Sections 241A, 243, 244 and 245 of the repealed enactment continue to apply to work begun under those sections, and to the recovery of the cost of carrying out that work, as if that enactment had not been repealed.

**Section 249E orders**

- 20    40. An order under section 249E of the repealed enactment is taken to be a direction under section 95 of this Act.

**Section 251A by-passes**

41. A permission or requirement under section 251A (1) of the repealed enactment is taken to be a permission or requirement under section 121 of this Act.

- 25    Section 262 notices

42. (1) A notice served on the owner of land under section 262 of the repealed enactment is taken to be a road widening order within the meaning of this Act.

- 30    (2) A lease in force immediately before the relevant commencement under section 262 (8) of the repealed enactment is taken to be a lease referred to in section 141 (1) (b) of this Act.

**Section 267 orders**

43. An order under section 267 (1) of the repealed enactment is taken to be a direction under section 99 of this Act.

*Roads 1992*


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SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER  
PROVISIONS—*continued*

**Section 268 orders**

44. An order under section 268 of the repealed enactment is taken to be a direction under section 86 of this Act. 5

**Section 269A consents**

45. (1) A consent given by the RTA for the purposes of section 269A (7) of the repealed enactment is taken to be a consent given by the RTA for the purposes of Division 2 of Part 8 of this Act.
- (2) An application made for the purposes of such a consent is taken to be an application made under section 109 of this Act. 10
- (3) An approval given under section 269A (10) of the repealed enactment is taken to be a decision given under section 112 of this Act.

**Section 271 notices**

46. A notice given under section 271 of the repealed enactment is taken to be a direction given under section 90 of this Act. 15

**Section 276A leases**

47. A lease in force immediately before the relevant commencement under section 276A of the repealed enactment is taken to be a lease referred to in section 141 (1) (a) of this Act. 20

**Division 4—Crown and Other Roads Act 1990****Definitions**

48. In this Division:
- relevant commencement, in relation to a provision of this Act, means the day on which that provision commences; 25
- repealed enactment means the Crown and Other Roads Act 1990.

**Section 5 applications**

49. (1) Any application that had been made under section 5 of the repealed enactment but has not been finally disposed of is to be finally disposed of in accordance with the repealed enactment as if that enactment had not been repealed. 30
- (2) Any Crown road opened in accordance with this clause is declared to be a public road.



*Roads 1992*

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**SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER  
PROVISIONS—*continued*****Surplus land**

- 5 50. Land acquired under Part 2 of the repealed enactment is taken to have been acquired under Division 2 of Part 12 of this Act and, to the extent to which it is not required for the purposes of a road or for compensation, may be disposed of accordingly.

**Section 40 and 41 notices**

- 10 51. A notice under section 40 or 41 of the repealed enactment is taken to be a road widening order under Division 2 of Part 3 of this Act.

**Section 43 applications**

- 15 52. (1) Any application that had been made under section 43 of the repealed enactment but that has not been finally disposed of is to be finally disposed of in accordance with the repealed enactment as if that enactment had not been repealed.  
15 (2) Land that formed a public road that has been closed in accordance with this clause may be disposed of in accordance with Division 5 of Part 4 of this Act.

**Section 47 and 48 orders**

53. An order in force under section 47 or 48 of the repealed enactment continues to have effect as if that enactment had not been repealed.

20 **Section 59, 60 and 68 appeals and references**

54. Sections 59, 60 and 68 of the repealed enactment continue to have effect for the purposes of the disposal of applications in accordance with this Division.

**Quarter sessions roads**

- 25 55. Any road that, immediately before the commencement of this provision, was a quarter sessions road within the meaning of the repealed enactment is declared to be a public road.

**Division 5—Public Gates Act 1901****Definitions**

- 30 56. In this Division:  
relevant commencement, in relation to a provision of this Act, means the day on which that provision commences;  
repealed enactment means the Public Gates Act 1901.

*Roads 1992*

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**SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER  
PROVISIONS—*continued*****Section 4 permissions**

57. Any permission in force under section 4 of the repealed enactment immediately before the relevant commencement is taken to be a public gate permit under section 118 of this Act. 5

**Division 6—Traffic Safety (Lights and Hoardings) Act 1951****Definitions**

58. In this Division:
- relevant commencement, in relation to a provision of this Act, means the day on which that provision commences; 10
- repealed enactment means the Traffic Safety (Lights and Hoardings) Act 1951.

**Section 3 notices**

59. (1) Any notice in writing in force immediately before the relevant commencement under section 3 (1) of the repealed enactment is taken to be a direction under section 96 of this Act and may be enforced accordingly. 15
- (2) Any appeal under section 3 (1) of the repealed enactment that has not been finally disposed of is to be disposed of as if that enactment had not been repealed and any decision on the appeal is final.

**Section 5 directions 20**

60. Any direction in force immediately before the relevant commencement under section 5 (2) of the repealed enactment is taken to be a direction under section 236 of this Act and may be enforced accordingly.

**Section 6 applications**

61. Any application under section 6 (1) of the repealed enactment that has not been finally disposed of is to be disposed of as if that enactment had not been repealed and any decision on the application is final. 25
-

## DICTIONARY

(Sec. 4)

**authorised officer**, in relation to this Act or any provision of this Act, means:

- 5 (a) an employee in the service of the RTA who is authorised by the RTA to exercise the functions of an authorised officer under this Act or that provision; or
- 10 (b) an employee of any other roads authority who is authorised by the roads authority or by the RTA to exercise the functions of an authorised officer under this Act or that provision; or
- (c) a person of a class prescribed by the regulations who is authorised by the RTA or any other roads authority to exercise the functions of an authorised officer under this Act or that provision; or
- 15 (d) a police officer,

and, for the purposes of Division 2 of Part 15, includes a special constable.

**bridge** includes any gate, pier, fender, dolphin or platform or any other thing incidental to the use or protection of the bridge.

20 **classified road** means any of the following:

- (a) a main road;
- (b) a State highway;
- (c) a freeway;
- (d) a controlled access road;
- 25 (e) a secondary road;
- (f) a tourist road;
- (g) a tollway;
- (h) a State work.

30 **controlled access road** means a road that is declared to be a controlled access road by an order in force under section 46.

**council** means the council of a local government area.

**country main road** means a main road that is not a metropolitan main road, State highway, freeway or controlled access road.

35 **Crown land** has the same meaning as it has in the Crown Lands Act 1989.



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 DICTIONARY—*continued*

**Crown Lands Acts** has the same meaning as it has in the Crown Lands Act 1989 but with the addition of the Irrigation Act 1912 and the Western Lands Act 1901.

**Crown road** means a public road that is declared to be a Crown road for the purposes of this Act. 5

**excess weight permit** means a permit in force under section 101.

**fence** has the same meaning as it has in the Dividing Fences Act 1991.

**footway** means that part of a road as is set aside or formed as a path or way for pedestrian traffic (whether or not it may also be used by bicycle traffic). 10

**footway restaurant** means a restaurant the subject of an approval in force under section 115.

**freeway** means a road that is declared to be a freeway by an order in force under section 45. 15

**function** includes power, duty and authority, **confer a function** includes impose a duty and **exercise a function** includes perform a duty.

**interest in land** means:

- (a) any legal or equitable estate or interest in the land; or 20
- (b) any easement, right, charge, power or privilege over, or in connection with, the land.

**isolated road** means a road that gives vehicular access to a public road (other than an isolated road or temporary public road) by means only of a temporary public road. 25

**land** includes any interest in land, and includes any stratum of the land or of any airspace above the land.

**land affected by a road widening order** means land that lies between:

- (a) the boundary of a public road as it is before the order is made; and 30
- (b) the boundary of the road as it is after the order is made.

**local land board**, in relation to a particular locality, means the local land board constituted under the Crown Lands Act 1989 or the Western Lands Act 1901, as the case may be, for that locality.

**local newspaper**, in relation to a particular locality, means a newspaper circulating in the locality at intervals of not more than 14 days. 35

**main road** means a road that is declared to be a main road by an order in force under section 43.

DICTIONARY—*continued*

**metropolitan main road** means a main road within the Sydney metropolitan area that is not a State highway, freeway or controlled access road.

5 **occupier of land** has the same meaning as it has in the Local Government Act 1992.

**owner of a vehicle** does not include a lessor of the vehicle, but does include the following:

- 10 (a) a joint or part owner of the vehicle;
- (b) a lessee of the vehicle;
- (c) the registered owner of the vehicle under the Traffic Act 1909;
- 15 (d) in the case of a vehicle to which a trader's plate (within the meaning of the Traffic Act 1909) is attached, the person to whom the trader's plate is issued.

**owner of land** has the same meaning as it has in the Local Government Act 1992.

**person in charge of a vehicle** includes the driver of the vehicle.

**private road** means any road that is not a public road.

20 **public authority** means a public or local authority constituted by or under an Act or a statutory body representing the Crown, and includes a Minister and any body or class of bodies prescribed by the regulations for the purposes of this definition.

**public gate** means a gate the subject of a public gate permit.

25 **public gate permit** means a permit in force under section 118.

**public open space** means:

- (a) a public reserve within the meaning of the Local Government Act 1992; or
- 30 (b) a common within the meaning of the Commons Management Act 1989.

**public road** means a road that is dedicated to the public, and includes any road that is declared to be a public road for the purposes of this Act.

**public street** has the same meaning as it has in the Traffic Act 1909.

35 **regulate traffic** means restrict or prohibit the passage along a road of persons, vehicles or animals.

**restaurant** means premises in which food is regularly supplied on sale to the public for consumption on the premises.



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 DICTIONARY—*continued*

**road** includes:

- (a) the soil beneath the surface of the road; and
- (b) any bridge, tunnel, causeway, road-ferry, ford or other work or structure forming part of the road. 5

**road widening order** means an order in force under section 24.

**road work** includes any kind of work, building or structure (such as a roadway, footway, road-ferry, rest area, bridge or tunnel) that is constructed or installed on or in the vicinity of a road for the purpose of facilitating the use of the road as a road, the regulation of traffic on the road or the carriage of utility services across the road, but does not include a traffic control facility, and **carry out road work** includes carry out any activity in connection with the construction, erection, installation, maintenance, repair, removal or replacement of a road work. 10 15

**roads agreement** means an agreement between the RTA and a roads authority in force under section 61.

**roads authority** means a person or body that is, by or under this Act, declared to be a roads authority and, in relation to a particular public road, means the roads authority for that road. 20

**RTA Fund** means the Roads and Traffic Authority Fund established under the Transport Administration Act 1988.

**RTA** means the Roads and Traffic Authority constituted under the Transport Administration Act 1988.

**secondary road** means a road that is declared to be a secondary road by an order in force under section 47. 25

**State highway** means a road that is declared to be a State highway by an order in force under section 44.

**State work** means a road or work that is declared to be a State work by an order in force under section 50. 30

**Sydney metropolitan area** means the area comprising:

- (a) the County of Cumberland; and
- (b) the City of Blue Mountains; and
- (c) the part of the City of Wollongong that is within the zig-zag section of State Highway No. 1—Princes Highway at Bulli Pass; and 35



DICTIONARY—*continued*

- (d) the part of the Shire of Hawkesbury that comprises Main Road No. 184 and the land lying between that main road and the City of Blue Mountains.

5 **temporary public road** means a public road that has been dedicated by means of a plan of subdivision that bears a statement of intention that the public road is to be a temporary public road.

**tollway** means a road that is declared to be a tollway by an order in force under section 49.

10 **tourist road** means a road that is declared to be a tourist road by an order in force under section 48.

**traffic** includes vehicular, pedestrian and all other kinds of traffic.

**traffic control facility** means:

- (a) any traffic control light; or  
15 (b) any sign, marking, structure or device that is used for the purpose of giving traffic directions under the Traffic Act 1909; or  
(c) any sign, marking, structure or device that is used for the purpose of indicating parking meter zones or metered parking spaces under the Traffic Act 1909; or  
20 (d) any sign, marking, structure or device that is used for the purpose of promoting safe or orderly traffic movement or to warn, advise or inform persons on public roads and public streets of any matter relating to traffic or road conditions or hazards; or  
25 (e) any bridge, subway or other facility for use by pedestrians over, under, across or along a public road or public street,

and **carry out traffic control work** includes carry out any activity in connection with the construction, erection, installation, maintenance, repair, removal or replacement of a traffic control facility.  
30

**traffic hazard** means a structure or thing that is likely:

- (a) to obscure or limit the view of the driver of a motor vehicle on a public road; or  
35 (b) to be mistaken for a traffic control device; or  
(c) to cause inconvenience or danger in the use of a public road; or  
(d) to be otherwise hazardous to traffic.

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 DICTIONARY—*continued*

**unclassified road** means a public road that is not a classified road.

**unoccupied Crown land** means Crown land other than:

- (a) Crown land that is the subject of a contract of sale under the Crown Lands Acts but for which the Crown has not received the sale price; or 5
  - (b) Crown land that is held under a lease in perpetuity or for a term of years under those Acts; or
  - (c) Crown land that is included in a travelling stock reserve under the control of a rural lands protection board; or 10
  - (d) Crown land that is included in a reserve in respect of which a reserve trust is established in accordance with Part 5 of the Crown Lands Act 1989; or
  - (e) Crown land that is included in a common within the meaning of the Commons Management Act 1989; or 15
  - (f) Crown land that is subject to the Trustees of Schools of Arts Enabling Act 1902; or
  - (g) Crown land that is subject to an easement,
- and includes Crown land held under a yearly lease.

**weight** includes mass. 20

**yearly lease** means a tenure listed in Part 4 of Schedule 1 to the Crown Lands (Continued Tenures) Act 1989.

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