

CLAUSE NOTES

Roads and Jetties Amendment (Validation) Bill 2019

Clause 1 Short Title

This clause provides that, once passed, the Bill will be cited as the *Roads and Jetties Amendment (Validation) Act 2019*.

Clause 2 Commencement

This clause provides for commencement on the day on which the Act receives Royal Assent.

Clause 3 Principal Act

This clause provides that the *Roads and Jetties Act 1935* is the Principal Act.

Clause 4 Section 52AA amended (Interpretation of Part)

This clause:

- Omits the definition of *licence* and substitutes a new definition.

The current definition of *licence* does not adequately describe licences issued both prior to and subsequent to a 1994 amendment to the Principal Act, and the new definition will ensure the validity of those licences previously issued and those issued in the future.

- Inserts a definition for a proclaimed place of access.

Whilst mentioned elsewhere in this Part of the Principal Act, there is currently no definition of this term.

- Corrects punctuation as a result of an omission of a definition.
- Omits the definition of *subsequent owner*.

This definition is no longer deemed necessary as a result of the proposed amendments to the Principal Act.

Clause 5 Section 52A amended (Proclamation of Limited Access)

This clause amends section 52A(8) by omitting “shall” and substituting “is to”.

Currently, the Minister is to notify the Recorder of Titles, and/or the Registry of Deeds, and/or the Director-General of Lands of any limited access proclamation amendment or revocation. There are circumstances, however,

where an amendment proclamation has no effect on the lands subject to the initial proclamation, and where, in the case of a revocation proclamation, the proclamation is not registered on a title. In these circumstances, such notification creates unnecessary work for the Department of State Growth, who supplies the information for the notification advice, the Office of the Crown Solicitor, who prepares the notification advice, the Recorder of Titles, Registry of Deeds, and/or Director-General of Lands. The substitution will give the Minister the discretion to not issue notification where it is deemed unnecessary.

Clause 6 Section 52C amended (Compensation)

This clause amends subsection (6) by omitting and inserting wording that clarifies a licence is issued in relation to the land.

Clause 7 Section 52CA amended (Application for licence)

This clause:

- Omits and substitutes wording in subsections (1) to:
 - (a) Reflect the insertion of new subsections (5A) and (5B), and
 - (b) clarifies wording in relation to access by amending “loses an” to “does not have”.
- Omits and substitutes subsections (2) and (3) to clarify on what grounds a landowner is entitled to apply for a licence.
- Inserts new subsections (5A) and (5B) to clarify on what grounds the Minister may refuse to grant an application for a licence.

Clause 8 Section 52CB amended (Issue of licence)

This clause omits and substitutes subsections (2) and (3), and provides for clarification of the grounds upon which the Minister may issue a licence, that the licence is for the land, and that the issued licence may be subject to conditions.

Clause 9 Section 52CC amended (Authority of licence)

This clause:

- Amends subsection (3) by inserting the words “in respect of land”.
- Omits subsection (3)(a) and substitutes a new subsection (3)(a).
- Inserts a new subsection (4).

These amendments ensure that the licence relates to the land, and clarifies the validity of a licence upon transfer of ownership of the land.

Clause 10 Section 52CD amended (Conditions of licence)

This clause:

- Omits subsection (d) and substitutes a new subsection (d).
- Amends subsection (e), by changing “granted” to “issued”.

This clause clarifies the conditions to which a licence may be subject, and provides correct wording.

Clause 11 Section 52CF amended (Variation of conditions of licence by owner)

- This clause amends subsection (1) by omitting “A licensee” and substituting “An owner”.

This amendment provides consistency of terminology.

Clause 12 Section 52CG amended (Revocation of licence)

- This clause amends subsection (6) by omitting “licensee” and substituting “owner”.

This amendment provides consistency of terminology.

Clause 13 Section 52D amended (Effect on building laws)

This clause amends subsection (1) by substituting “under section 52A or section 52CC” with “by virtue of a licence”.

This clause provides for simplified terminology.

Clause 14 Section 52G inserted (Validation of certain limited access licences)

This clause provides for the validation of licences issued under current and previous versions of the Principal Act.

Clause 15 Repeal of Act

This clause repeals this amendment Act 365 days after the date on which it commences.