

TASMANIA

**NEIGHBOURHOOD DISPUTES ABOUT PLANTS
AMENDMENT BILL 2019**

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NEIGHBOURHOOD DISPUTES ABOUT PLANTS AMENDMENT BILL 2019

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
29 October 2019

*(Brought in by the Minister for Justice, the Honourable Elise
Nicole Archer)*

A BILL FOR

An Act to amend the *Neighbourhood Disputes About Plants Act 2017*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Neighbourhood Disputes About Plants Amendment Act 2019*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Principal Act

In this Act, the *Neighbourhood Disputes About Plants Act 2017** is referred to as the Principal Act.

4. Section 13 amended (Right to enter land)

Section 13 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “entry, in a branch removal notice under section 20(1)” and substituting “entry”;
- (b) by omitting subsection (2) and substituting the following subsection:
 - (2) Subsection (1)(b) does not apply in relation to an entry in accordance with –
 - (a) a notice given for the purposes of section 20(2)(b); or
 - (b) an interim order made under section 33(4).

5. Section 26 amended (Attempts to resolve dispute to be made before hearing of application)

Section 26(2) of the Principal Act is amended as follows:

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- (a) by omitting from paragraph (b)(ii) “land.” and substituting “land; and”;
- (b) by inserting the following paragraph after paragraph (b):
 - (c) any other matter that the Appeal Tribunal considers relevant.

6. Section 33A inserted

After section 33 of the Principal Act, the following section is inserted in Division 2:

33A. Completion order

- (1) If –
 - (a) an order is made by the Appeal Tribunal under section 33 (the *original order*); and
 - (b) the work required by the original order has not been completed within the time specified in the order –

the affected landholder to whom the original order relates may apply to the Appeal Tribunal, not less than 14 days after the time specified in the original order for completion of the work, for an order under subsection (2).

- (2) On application under subsection (1) by an affected landholder, the Appeal Tribunal, if it is satisfied that the work

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required by the original order to which the application relates has not been completed within the time specified in the order, may –

- (a) order that the affected landholder, and any employee, agent or contractor of the affected landholder, may enter onto the land on which is situated the plant to which the original order relates and carry out any work necessary to give effect to the original order; and
 - (b) order that the affected landholder may recover as a debt, from the owner of the land on which the plant to which the original order relates is situated, the reasonable expenses of carrying out the work and the costs of making the application under this section.
- (3) An application made under subsection (2) is to be accompanied by –
- (a) a copy of the original order; and
 - (b) the prescribed fee, if any.
- (4) The chairperson of the Appeal Tribunal may waive, reduce or refund all or part of the fee payable under subsection (3)(b) by a person if the chairperson is satisfied that paying all or part of the fee may cause financial hardship to the person.

7. Section 34 amended (Effect of orders)

Section 34 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) A person must not fail to comply with an order made by the Appeal Tribunal for the purposes of this Act.

Penalty: Fine not exceeding 100 penalty units.

8. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commenced.