

LOCAL GOVERNMENT (AMENDMENT) ACT, 1984, No. 125

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 125, 1984.

An Act to amend the Local Government Act, 1919, so as to make further provision with respect to the classification and width of public roads, the widening of public roads by realignment, the regulation of the use by traffic of public roads and the control and eradication of noxious plants. [Assented to, 4th December, 1984.]

See also Main Roads (Amendment) Act, 1984; Public Roads (Amendment) Act, 1984; Motor Traffic (Amendment) Act, 1984.

Local Government (Amendment) 1984

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Local Government (Amendment) Act, 1984".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) The several provisions of Schedules 1 and 3 and section 5, in its application to those provisions, shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Local Government Act, 1919, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CLASSIFICATION AND WIDTH OF PUBLIC ROADS.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE WIDENING OF PUBLIC ROADS BY REALIGNMENT.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REGULATION OF TRAFFIC ON PUBLIC ROADS.

Local Government (Amendment) 1984

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONTROL AND ERADICATION OF NOXIOUS PLANTS.

SCHEDULE 5.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 41, 1919.

5. The Principal Act is amended in the manner set forth in Schedules 1–4.

Savings, transitional and other provisions.

6. Schedule 5 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CLASSIFICATION AND WIDTH OF PUBLIC ROADS.

(1) (a) Section 226 (2)—

Omit the subsection, insert instead:—

(2) The classification shall be as follows:—

- (a) main roads, being roads proclaimed as main roads under the Main Roads Act, 1924;
- (b) secondary roads, being roads declared as secondary roads under the Main Roads Act, 1924;
- (c) tourist roads, being roads proclaimed as tourist roads under the Main Roads Act, 1924;
- (d) distributor roads, being roads other than those referred to in paragraphs (a)–(c) or (e)–(g);

Local Government (Amendment) 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CLASSIFICATION
AND WIDTH OF PUBLIC ROADS—*continued.*

- (e) local roads, being roads primarily for access to premises;
 - (f) pathways, being roads exclusively for foot passengers and such classes of vehicles as may be prescribed; and
 - (g) lanes, being roads primarily for supplementary access to premises.
- (b) Section 226 (3)—
After “roads”, insert “, secondary roads and tourist roads”.
- (c) Section 226 (4)—
Omit the subsection, insert instead:—
(4) A classification made by the council—
(a) shall be effected by a notification published in the Gazette and take effect upon the publication of the notification in the Gazette; and
(b) shall be notified in a newspaper.
- (d) Section 226 (5)—
Omit the subsection.
- (2) Section 227 (1), (2)—
Omit the subsections.
- (3) (a) Section 228—
After “road” where firstly occurring, insert “at any point”.

Local Government (Amendment) 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CLASSIFICATION
AND WIDTH OF PUBLIC ROADS—*continued.*

(b) Section 228—

After "road" where secondly occurring, insert "at that point".

(4) Section 229—

Omit the section, insert instead:—

Width of new roads.

229. (1) Subject to this Act, a new public road—

(a) shall not be opened before it is classified; and

(b) shall be opened—

(i) to not less than the width or widths determined by the council, in accordance with subsection (2), to be applicable to the road; and

(ii) in the case of a road other than a pathway, with not less than the width or widths of carriage-way determined by the council, in accordance with subsection (3), to be applicable to the road.

(2) The council shall determine the width or widths applicable to a proposed road and, in so doing, shall take into consideration the following matters in so far as they relate to the road:—

(a) the width or widths of carriage-way determined under subsection (3) to be applicable to the road;

(b) whether there is a need to provide one or more separate footpaths or cycleways and, if so, the width of the footpaths or cycleways to be provided;

(c) the manner in which electricity, gas, water and sewerage are to be provided in the area and any requirements of the authorities responsible for the provision of those services;

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CLASSIFICATION
AND WIDTH OF PUBLIC ROADS—*continued.*

- (d) whether there is a need for space for tree-planting, recreation and landscaping within the road;
- (e) the provision proposed to be made for the drainage of the area;
- (f) whether there is a need to provide off-carriage-way space for—
 - (i) the parking and standing of vehicles; and
 - (ii) bus bays;
- (g) the existing and future amenity of the neighbourhood;
- (h) any representations made by any statutory authority; and
- (i) any guidelines relating to the determination of the widths of roads notified for the purposes of this subsection by the Minister in the Gazette.

(3) The council shall determine the width or widths of carriage-way applicable to a proposed road and, in so doing, shall take into consideration the following matters in so far as they relate to the carriage-way of the road:—

- (a) the function of the proposed road in relation to the general hierarchy of roads;
- (b) the nature and volume of the traffic likely, in the opinion of the council, to use the road;
- (c) the proposed operating and design speeds of the road;
- (d) the geometric design of the road;
- (e) the design and location of—
 - (i) proposed intersections with other roads; and
 - (ii) driveways providing access to properties to be served by the road;

Local Government (Amendment) 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CLASSIFICATION
AND WIDTH OF PUBLIC ROADS—*continued.*

- (f) whether there is need for and, if so, whether adequate provision has been made for—
 - (i) bus bays;
 - (ii) passing and turning areas; and
 - (iii) cycleways;
- (g) whether there is a need for and, if so, the nature of kerbs to be provided;
- (h) whether there is a need to provide space on the carriage-way for the parking and standing of vehicles;
- (i) any representations made by any statutory authority; and
- (j) any guidelines relating to the determination of the width of carriage-ways of roads notified for the purposes of this subsection by the Minister in the Gazette.

(4) In this section, “guideline” includes any code, rule, specification and provision relating to road or carriage-way widths.

(5) Section 235 (1) (f)—

Omit the paragraph, insert instead:—

- (f) widen a public road to or beyond the width or widths applicable to the road under section 229 (2) or to a width or widths less than that width or those widths.

(6) Section 237 (2A)—

After section 237 (2), insert:—

(2A) Before giving its consent under subsection (2), the council shall determine whether the width or widths of the road and of the carriage-way of the road are adequate and, in so doing, shall take into consideration such of the matters set out in section 229 (2) and (3) as are relevant.

Local Government (Amendment) 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CLASSIFICATION
AND WIDTH OF PUBLIC ROADS—*continued.*

(7) Sections 269 (3), 276B—

Omit “residential road” wherever occurring, insert instead “local road”.

(8) Section 269 (3)—

Omit “residential roads”, insert instead “local roads”.

(9) Section 324—

Omit “residential road” wherever occurring, insert instead “local road”.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE WIDENING
OF PUBLIC ROADS BY REALIGNMENT.

(1) Section 262 (1)—

After “the road”, insert “and may apply under that Act for the rescission or variation under section 27 of that Act of any such realignment”.

(2) Section 262 (3A)—

After section 262 (3), insert:—

(3A) Where notice with respect to a realignment has been served under subsection (3) and the realignment has been varied under section 27 (6) of the Public Roads Act, 1902, subsequently to service of the notice, the notice shall be deemed to have been so served with respect to the realignment as so varied.

Local Government (Amendment) 1984

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE WIDENING
OF PUBLIC ROADS BY REALIGNMENT—*continued.*

(3) Section 262 (4B)—

After section 262 (4A), insert:—

(4B) The rescission, under section 27 of the Public Roads Act, 1902, of a realignment does not affect the application of subsections (4) and (4A) to or in respect of land vested in the council for a public road pursuant to subsection (4) before the rescission of the realignment.

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REGULATION
OF TRAFFIC ON PUBLIC ROADS.

(1) Section 269A (1) (b)—

Omit the paragraph, insert instead:—

- (b) controlling or regulating the use by traffic of a public road includes—
 - (i) a reference to placing or maintaining, or directing or permitting to be placed or maintained, obstructions or barriers in or on a public road which prevent or restrict the passage of vehicles, or vehicles of a

Local Government (Amendment) 1984

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REGULATION
OF TRAFFIC ON PUBLIC ROADS—*continued.*

prescribed class, along the public road, or the access by a particular route of vehicles, or vehicles of a prescribed class, to the public road; and

- (ii) a reference to erecting or exhibiting, or directing or permitting to be erected or exhibited, notices in, on or in the immediate vicinity of a public road for the purpose of prohibiting or restricting the passage of vehicles, or vehicles of a prescribed class, along the public road, or the access by a particular route of vehicles, or vehicles of a prescribed class, to the public road, or for the purpose of permitting that passage or access subject to such directions, conditions or limitations as may be specified in the notices;

(2) Section 269A (1) (c)—

Omit “placed in a public road”, insert instead “placed or maintained in or on a public road, or any notice erected or exhibited in, on or in the vicinity of a public road”.

(3) Section 269A (15)—

After section 269A (14), insert:—

(15) Any person who—

- (a) without lawful authority, interferes with or removes an obstruction or barrier placed or maintained in or on, or a notice erected or exhibited in, on or in the immediate vicinity of a public road by, or in accordance with the direction or permission of, the council in the exercise of a power conferred on it by this Division; or

Local Government (Amendment) 1984

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REGULATION
OF TRAFFIC ON PUBLIC ROADS—*continued.*

- (b) in using a vehicle on a public road, without lawful excuse fails to comply with or contravenes a direction, condition or limitation specified in a notice erected or exhibited as referred to in paragraph (a),
shall be guilty of an offence under this Act.
-

SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONTROL AND
ERADICATION OF NOXIOUS PLANTS.

- (1) Section 475J (1) (d)—

After "disposal", insert ". transporting".

- (2) Section 475J (1) (da)—

After section 475J (1) (d), insert:—

- (da) the disposal, transporting or sale of turf or soil removed from land within which there are or, immediately before removal, were noxious plants;

- (3) Section 475J (1) (m)—

After "noxious plant", insert "or any part of a noxious plant that is capable of propagation".

Local Government (Amendment) 1984

SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONTROL AND
ERADICATION OF NOXIOUS PLANTS—*continued.*

(4) Section 475J (1) (n)—

Omit the paragraph, insert instead:—

- (n) the inspection of stock, hay, chaff, fodder, grain, turf or soil and the granting of certificates as to the freedom thereof from seeds of noxious plants and other parts of noxious plants that are capable of propagation:

SCHEDULE 5.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. In this Schedule, "public road" has the same meaning as in section 4 of the Principal Act.

Re-classification of certain roads.

2. A public road classified under section 226 (3) of the Principal Act, or deemed by section 226 (5) of that Act to be classified, immediately before the commencement of Schedule 1 (1), as—

- (a) a secondary road (not being a road declared as a secondary road under the Main Roads Act, 1924) shall be deemed, on that commencement, to be classified as a distributor road; or
- (b) a residential road shall be deemed, on that commencement, to be classified as a local road.

under section 226 (3) of the Principal Act, as amended by this Act.

Local Government (Amendment) 1984

SCHEDULE 5—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***References to former class of road.**

3. Except as provided by clause 2, a reference in any other Act, or in any statutory instrument or other document (whether of the same or of a different kind) enacted, made or prepared before the commencement of Schedule 1 (1) to a main road, secondary road, residential road, pathway or lane, within the meaning of section 226 (2) of the Principal Act, shall be read and construed as a reference to a main road, secondary road, local road, pathway or lane, respectively, within the meaning of section 226 (2) of the Principal Act, as amended by this Act.

Erection and exhibition of certain notices.

4. The erection or exhibition of a notice in, on or in the vicinity of a public road in the purported exercise of a power conferred by section 269A of the Principal Act shall not be regarded as an invalid or unlawful exercise of that power by reason only that the erection or exhibition of the notice was carried out or occurred before the commencement of Schedule 3.

Saving of certain ordinances.

5. Any ordinance made under section 475J (1) (n) of the Principal Act and in force immediately before the commencement of Schedule 4 shall, on that commencement, be deemed to have been made under section 475J (1) (n) of the Principal Act, as amended by this Act.
