



New South Wales

# Roads Amendment (Incomplete Crown Road Purchases) Regulation 2018

under the

Roads Act 1993

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Roads Act 1993*.

PAUL TOOLE, MP  
Minister for Lands and Forestry

## Explanatory note

The objects of this Regulation are:

- (a) to prescribe additional authorities that must be notified for the closure of a council public road, and
- (b) to make provisions for the sales of Crown roads by the payment of purchase price instalments.

This Regulation is made under the *Roads Act 1993*, including sections 32B (1) (definition for *notifiable authority*), 152G (2) and 264 (the general regulation-making power).

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### **1 Name of Regulation**

This Regulation is the *Roads Amendment (Incomplete Crown Road Purchases) Regulation 2018*.

### **2 Commencement**

This Regulation commences on the day on which Schedule 3 to the *Crown Land Legislation Amendment Act 2017* commences and it is required to be published on the NSW legislation website.

## Schedule 1 Amendment of Roads Regulation 2008

### [1] Clause 83A Notification of proposal to close council public roads

Omit clause 83A (1). Insert instead:

- (1) For the purposes of paragraph (j) of the definition of *notifiable authority* in section 32B (1) of the Act, the following are prescribed:
  - (a) a major utility or water supply authority within the meaning of the *Water Management Act 2000* (if the council public road concerned is located wholly or partly within the utility's or authority's area of operations),
  - (b) Forestry Corporation,
  - (c) Local Land Services,
  - (d) National Parks and Wildlife Service.

### [2] Schedule 2

Insert after Schedule 1:

## Schedule 2 Crown road purchases by instalment

### 1 Definitions

In this Schedule:

*General Register of Deeds* means the General Register of Deeds kept under Division 1 of Part 23 of the *Conveyancing Act 1919*.

*incomplete Crown road purchase* means a purchase of a Crown road, or part of a Crown road, under the Act where the purchase price is payable by instalments and the payment of the purchase price or any other amount to the Crown in respect of the purchase is not complete.

*Torrens Register* means the Register kept under the *Real Property Act 1900*.

### 2 Application of Schedule

This Schedule applies to an incomplete Crown road purchase if the purchase price is \$1,000 or more.

### 3 Instalment plan

- (1) The purchase price for an incomplete Crown road purchase is payable by 3 equal instalments.
- (2) Each instalment must be paid to the roads authority on or before the due date.  
**Note.** The roads authority for a Crown road is the Minister administering the *Crown Land Management Act 2016*—see section 7 (2) of the Act.
- (3) The due date for each instalment is as follows:
  - (a) 1 month from the day on which the roads authority issues an invoice to the purchaser (the *first instalment*),
  - (b) 12 months from the day on which the first instalment is due (the *second instalment*),
  - (c) 24 months from the day on which the first instalment is due (the *third instalment*).

- (4) All money owing (including any charge, cost, duty or fee) in relation to an incomplete Crown road purchase, other than the second and third instalments of the purchase price, must be paid on the due date for the first instalment.
- (5) This clause does not prevent any money owing in relation to an incomplete Crown road purchase being paid before it is due.
- (6) **Interest on debt**  
Interest accrues on a daily basis at a rate of 8% per year plus the Bank Accepted Bill rate rounded to the second decimal place (rounding 0.005 upwards) on any money that remains unpaid after it becomes due in relation to an incomplete Crown road purchase.
- (7) In this clause:  
**Bank Accepted Bill** rate has the same meaning as in section 22 (4) of the *Taxation Administration Act 1996*.

#### 4 Transfer of title

- (1) The purchaser of an incomplete Crown road purchase has an estate in fee simple in the land to which the purchase relates subject to any recordings in the folio of the Torrens Register or in the General Register of Deeds created in respect to the land, and to the provisions of the Act and this Regulation (the ***incomplete purchase interest***).
- (2) As soon as is reasonably practicable after the transfer date, the roads authority must lodge the relevant documents with the Registrar-General to effect the registration or recording of the incomplete purchase interest.
- (3) In this clause:  
**transfer date** means:
  - (a) the date agreed to in the contract of sale on which the documents are to be lodged, or
  - (b) if no date is agreed to in the contract of sale—the date on which the first instalment is paid.

**Note.** The road will cease to be a Crown road on the registration or recording of the purchaser or transferee's interest in the Torrens Register or General Register of Deeds under section 152H of the Act.

#### 5 Conditions included in a contract of sale

The contract of sale for an incomplete Crown road purchase is taken to include the following conditions without limiting any other terms or conditions that may apply:

- (a) until all instalments are paid, the purchaser must not do any of the following:
  - (i) sell, exchange, transfer or in any other way dispose of the land to which the purchase relates,
  - (ii) mortgage, subdivide or consolidate the land to which the purchase relates,
  - (iii) except with the consent of the roads authority—create an easement, profit à prendre, or restriction on use in relation to the land to which the purchase relates,
- (b) on the payment of the third instalment, the roads authority must apply to the Register-General for the removal of conditions of the kind referred to in paragraph (a) recorded in the folio of the Torrens Register

or in the General Register of Deeds for the land to which the purchase relates,

- (c) on the completion of the sale, conditions under paragraphs (a) and (b) do not merge in the transfer of title to the land to which the purchase relates.

## 6 Obligations of purchasers

Until all instalments are paid, a purchaser of an incomplete Crown road purchase must:

- (a) comply with any provisions, restrictions, conditions or covenants recorded in the folio of the Torrens Register or in the General Register of Deeds created in respect to the land to which the purchase relates, and
- (b) comply with any conditions and terms of the contract of sale to which the purchase relates, and
- (c) comply with the requirements of any law relating to the use or management of the land to which the purchase relates, and
- (d) if there are any improvements on the land to which the purchase relates:
  - (i) maintain those improvements in good order and repair, and
  - (ii) if required by the roads authority to do so—keep the improvements insured against fire and any other risks with an insurer approved by the roads authority, and
- (e) pay the balance of the purchase price in the instalments and at the times required by this Regulation, and
- (f) not do (or permit or allow another person to do) anything that will materially degrade the land to which the purchase relates, and
- (g) not transfer the land to which the purchase relates to any person.

## 7 Forfeiture

### (1) Roads authority may declare forfeiture of an incomplete Crown road purchase

The roads authority may, by notice published in the Gazette, declare that an incomplete Crown road purchase is forfeited if:

- (a) the roads authority has issued a letter of demand for an overdue payment to the purchaser, and
  - (b) the purchaser has failed to make the overdue payment within 30 days after the date on which the letter of demand was issued.
- (2) The acceptance of money by the Crown in respect of a forfeited incomplete Crown road purchase does not operate as a waiver of the forfeiture.

### (3) Forfeiture takes effect when notice given

The forfeiture of an incomplete Crown road purchase takes effect on the day on which notice of the declaration of forfeiture is published in the Gazette.

### (4) Effect of forfeiture

When an incomplete Crown road purchase is forfeited:

- (a) if the land to which the purchase relates is not already vested in the Crown—the land vests in the Crown, and
- (b) all money (including any charge, cost, duty, fee or interest) paid to the Crown in connection with the purchase, except any payment of the purchase price, is forfeited to the Crown.

- (5) The roads authority may request the Registrar-General to alter the Torrens Register or the General Register of Deeds to reflect the change of ownership (if any) of the land to which the forfeited purchase relates.
- (6) The forfeiture of an incomplete Crown road purchase does not operate to release the purchaser from any obligation to comply with a condition or provision that, by its nature, is required to be complied with after the incomplete Crown road purchase is forfeited.
- (7) In this clause:  
*overdue payment* means a payment of any money (including any instalment, duty, charge, cost, fee or interest) owing in relation to an incomplete Crown road purchase that is not made within 30 days after it is due in accordance with the Act, this Regulation or the contract of sale.