

PUBLIC WORKS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Public Works Act 1928.

Clause 1 relates to the Short Title to the Bill.

Clause 2 amends the definition of the term "public work" in section 2 of the principal Act so as to include a Government centre.

Clause 3 rewrites paragraph (d) of subsection (1) of section 22 of the principal Act, which relates to objections to the execution of works or the taking of lands, so as to remove the requirement that objections shall be "well grounded". Persons affected will be free to make any objections they wish to make, not being objections to the amount or payment of compensation. The clause consequentially amends paragraph (f) of the subsection.

Clause 4 makes provision for a State highway to be declared a limited access road, and for land to be taken, purchased, set apart, or proclaimed as a limited access road. Such a road has some of the features of a motorway as regards restrictions on access, though the restrictions (which are imposed by *subclause (5)*) are not so severe. Under the clause an existing State highway will not be able to be declared to be a limited access road, unless—

- (a) Each parcel of land that adjoins or has legal access to that State highway or part (being a parcel of land that can legally be transferred to a person other than an owner of adjoining land without the dedication of any further land as a public road or street and without the deposit of any further plan) also has reasonably practicable alternative legal access to some other road or street; or
- (b) For each such parcel of land that does not have such reasonably practicable alternative legal access, the National Roads Board has authorised at least one sufficient specified crossing place at which vehicles are permitted to proceed to and from the limited access road from and to that parcel of land.

The clause takes the place of section 9 of the Public Works Amendment Act 1956 (1957 Reprint, Vol. 12, p. 574), which section relates to limited traffic roads and streets. No such roads or streets have been declared.

Clause 5 amends section 29 of the Finance Act (No. 3) 1944, which relates to the assessment of compensation for land taken or injuriously affected, by removing certain spent provisions relating to comprehensive public works and schemes of development. All such existing works and schemes have expired or been cancelled, and similar cases are now being dealt with under the provisions of the Town and Country Planning Act 1953.

Clause 6 amends section 81 of the principal Act by removing certain spent provisions relating to comprehensive public works and schemes of development.

Clause 7 amends section 3 of the Public Works Amendment Act 1948 so as to make it permissible for an access way to connect two service lanes or a service lane and a road or reserve.

Clause 8 provides for Government roads to be stopped by an Order in Council instead of a Proclamation, thereby enabling roads to be declared Government roads and stopped by the one document instead of two. It also provides for the repeal of the requirement that documents issued under section 149 of the principal Act are to be laid before Parliament.

Clause 9 repeals section 176 of the principal Act relating to offences on roads. The matters to which this section relate can be more appropriately dealt with under the Police Offences Act 1927.

Hon. Mr Goosman

PUBLIC WORKS AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Public Works Act 1928

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Public Works Amendment Act 1963, and shall be read together with and deemed part of the Public Works Act 1928* (hereinafter referred to as the principal Act).

35 **2. Interpretation**—Section 2 of the principal Act is hereby amended by inserting in the definition of the terms “public work” and “work”, after paragraph (f), the following paragraph:

“(ff) Any Government centre.”

*1957 Reprint, Vol. 12, p. 475
Amendments: 1958, No. 28; 1960, No. 105; 1961, No. 32; 1962, No. 41

3. Objections—(1) Section 22 of the principal Act is hereby amended by repealing paragraph (d) of subsection (1), and substituting the following paragraph:

“(d) Shall in the notice call upon very person affected to set forth in writing any objection he may wish to make to the execution of the works or to the taking of the lands, not being an objection to the amount or payment of compensation, and to send the written objection within forty days from the first publication of the notice to the Minister or to the local authority, as the case may be; and”.

(2) Section 22 of the principal Act is hereby consequentially further amended by omitting from paragraph (f) of subsection (1) the word “well-grounded”.

4. Limited access roads—(1) The National Roads Board may from time to time, by notice published in the *Gazette* and publicly notified, declare any road, or part thereof, that is a State highway to be a limited access road.

(2) No State highway, or part thereof, shall be declared to be a limited access road, unless—

(a) Each parcel of land that adjoins or has legal access to that State highway or part (being a parcel of land that can legally be transferred to a person other than an owner of adjoining land without the dedication of any further land as a public road or street and without the deposit of any further plan) also has reasonably practicable alternative legal access to some other road or street; or

(b) For each such parcel of land that does not have such reasonably practicable alternative legal access, the National Roads Board has authorised at least one sufficient specified crossing place at which vehicles are permitted to proceed to and from the limited access road from and to the parcel of land.

(3) The Governor-General, on the advice of the Minister given at the request of the National Roads Board, is hereby empowered to take, purchase, set apart, or otherwise acquire land for a limited access road, and to proclaim any land (whether Crown land or not) as a limited access road; and, subject to the provisions of this section, the provisions of the principal Act and of every other enactment relating to roads shall, so far as they are applicable and with the necessary modifications, apply to—

- (a) All limited access roads, whether declared under subsection (1) of this section or taken, purchased, set apart, acquired, or proclaimed pursuant to this subsection; and
- 5 (b) The taking, purchasing, and acquisition of land for limited access roads, and the setting apart or proclamation of land as a limited access road.
- (4) The National Roads Board may from time to time,—
- 10 (a) By notice to the owner of the parcel of land affected,—
- (i) Authorise, subject to such conditions (if any) as it may specify, any specified crossing place at which vehicles may proceed to and from any limited access road from and to any specified parcel of land:
- 15 (ii) Cancel any such authorisation if the parcel of land will still have reasonably practicable legal access to some other road or street or will still have some other such authorised crossing place:
- (iii) Cancel or vary any such conditions or impose further conditions:
- 20 (b) Construct any access road that it may be expedient to construct to give access, whether additional or not, to any land adjoining or near the limited access road:
- (c) By notice published in the *Gazette*, declare any limited access road or any part thereof to be a State highway.
- 25 (5) Without restricting any provision of any other Act, it is hereby declared that no person shall drive or move any vehicle or cattle, or permit any vehicle or cattle to be driven or moved, onto or from any limited access road, except,—
- 30 (a) In a case where a State highway or part thereof has been declared under subsection (1) of this section to be a limited access road, at a motorway, road, street, or service lane from which vehicles might lawfully be driven or moved onto the State highway or part thereof immediately before that declaration;
- 35 or
- (b) In any case to which paragraph (a) of this subsection does not apply, at a motorway, road, street, or service lane from which vehicular access to the limited access road has been authorised by the National Roads Board, and subject to such conditions as may be approved and publicly notified by the National Roads Board; or
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(c) At a specified crossing place authorised by the National Roads Board, and subject to such conditions as are for the time being specified by the National Roads Board in accordance with subsection (4) of this section. 5

(6) Where any provision of any enactment makes any person's right to erect or use a building of any kind on any land, or to subdivide any land, conditional upon the land having a frontage or access to a road or street, or in any other way conditional upon the existence of a road or street, for the purposes of that provision a limited access road shall be deemed not to be a road or street. 10

(7) Every limited access road shall be clearly marked at each entrance thereto by such traffic signs as may from time to time be prescribed under the Transport Act 1962. 15

(8) Every person who acts in contravention of or fails to comply in any respect with any provision of this section commits an offence, and is liable on summary conviction to a fine not exceeding ten pounds for each such offence.

(9) The following provisions shall apply in respect of the declaration under subsection (1) of this section of a limited access road: 20

(a) Every such declaration shall refer to a plan showing:
 (i) The road or part thereof to which the declaration relates: 25

(ii) Any authorised crossing places:

(iii) The boundaries of all road and street frontages of each parcel of land adjoining the road or part thereof to which the declaration relates:

(iv) The boundaries of all other types (if any) of legal access (whether rights of way, roadlines, private roads, or any other types whatsoever) connecting the road or part thereof to any other parcel of land: 30

(v) The title references to every parcel of land to which subparagraph (iii) or subparagraph (iv) of this paragraph applies: 35

(b) Every such declaration shall indicate where the plan is held and may be inspected:

(c) The Minister shall cause a copy of the declaration as gazetted, together with a statement signed by the District Commissioner of Works setting out by sufficient descriptions and title reference all the said parcels of land, to be delivered to the District 40

Land Registrar of the district in which the land is situated, and the District Land Registrar shall record it against the titles to all the parcels of land therein described:

5 (d) A copy of every such declaration as gazetted shall be served on the owner and occupier of the land adjoining or having legal access to the road or part thereof to which the declaration relates so far as they can be ascertained.

10 (10) In every case where the Governor-General, under subsection (3) of this section, takes, purchases, sets apart, or otherwise acquires land for, or proclaims any land as, a limited access road, the Minister shall cause to be forwarded to the District Land Registrar of each district in which that limited
15 access road or any part thereof is situated a certificate by the District Commissioner of Works that the land referred to therein by sufficient description and title references comprises every parcel of land that is affected by that limited access road, either by reason of the parcel of land adjoining the
20 limited access road or by reason of the legal access of the parcel of land to any other road or street being lost or adversely affected as a result of the creation of the limited access road; and the District Land Registrar shall record the certificate against the titles specified therein.

25 (11) Where the exercise of any power given by this section gives rise to any claim for compensation under section 42 of the principal Act—

(a) The claim shall not be made after a period of five years from the date of the exercise of the power:

30 (b) Section 29 of the Finance Act (No. 3) 1944 shall be read as if the term “specified date” meant the date of the exercise of the power:

(c) The Land Valuation Court shall take into account, by way of deduction from the total amount of compensation that would otherwise be awarded, any
35 increase in the value of the parcel of land in respect of which compensation is claimed that has occurred in consequence of the exercise by the National Roads Board of any power under subsection (4) of this
40 section.

(12) Section 9 of the Public Works Amendment Act 1956 is hereby consequentially repealed.

5. Assessment of compensation—Section 29 of the Finance Act (No. 3) 1944 is hereby amended—

- (a) By omitting from paragraph (d) of subsection (1) the words “or by the existence or prospect of any more comprehensive public work or scheme of development or reconstruction of which the work forms part and concerning which a notice is in force under the next succeeding subsection at the time of the taking of the land”:
- (b) By omitting from paragraph (e) of subsection (1) all words following the words “or the prospect of the work”:
- (c) By repealing subsection (2).

6. Claimants acts making execution of work more costly—Section 81 of the principal Act is hereby amended—

- (a) By omitting from subsection (3), as substituted by subsection (2) of section 21 of the Public Works Amendment Act 1948, the words “in the case of land which is subject to a notice in respect of a comprehensive public work or scheme or development or reconstruction under section twenty-nine of the Finance Act (No. 3) 1944 which has remained continuously in force since the first publication of the notice, the date of that publication, and where no such notice under that section is in force”:
- (b) By omitting the word “means” in each place where it appears in paragraphs (a), (b), and (c) of the said subsection (3):
- (c) By repealing subsection (5).

7. Access ways and service lanes—Section 3 of the Public Works Amendment Act 1948 is hereby amended by inserting, after the word “street” in each place where it appears in subsections (1) and (2), the words “service lane”.

8. Closing roads—(1) Section 149 of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

- “(c) The Governor-General may, by Order in Council publicly notified, stop or alter the course of any Government road or any part thereof, and the land occupied by the road or part of the road so stopped, or no longer required for the road so altered, may be disposed of or otherwise dealt with as land no longer required for a public work in manner provided by section 25 or section 35 of this Act.”

(2) Section 149 of the principal Act is hereby further amended by repealing paragraph (d).

9. Offences on roads—Section 176 of the principal Act is hereby repealed.