



ANNO VICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1978

No. 43 of 1978

[Assented to 13th April, 1978]

**An Act to amend the Roads (Opening and Closing) Act,
1932-1975.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Roads (Opening and Closing) Act Amendment Act, 1978". Short titles.

(2) The Roads (Opening and Closing) Act, 1932-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Roads (Opening and Closing) Act, 1932-1978".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 3 of the principal Act is amended by striking out the definitions of "council", "district" and "road" and inserting in lieu thereof the following definitions:— Amendment of principal Act, s. 3— Interpretation.

"council" means a municipal council or a district council:

"district" means a municipality or a district council district:

"road" means—

(a) within a district, any public street or road as defined by section 301 of the Local Government Act, 1934, as amended;

(b) outside a district, any public road as defined by section 27ca of the Highways Act, 1926, as amended:.

4. Section 5 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 5 of principal Act and enactment of section in its place—

5. The Commissioner or a council may, subject to, and in accordance with, the Land Acquisition Act, 1969-1972, acquire land for the purposes of this Act. Acquisition of land.

Amendment of
principal Act,
s. 6—
Vesting of
roads.

5. Section 6 of the principal Act is amended by striking out from subsection (3) the passage “of Lands under section 9 of the Crown Lands Act, 1929” and inserting in lieu thereof the passage “for the time being administering the Crown Lands Act, 1929, as amended, under section 9 of that Act”.

Amendment of
principal Act,
s. 7—
Exemption of
gardens, parks,
etc.

6. Section 7 of the principal Act is amended—

(a) by striking out from subsection (2) the passage “of Lands”;

and

(b) by striking out from subsection (3) the passage “of Lands”.

Amendment of
principal Act,
s. 11—
Proceedings to
open, alter, add
to, close, sell,
etc., roads.

7. Section 11 of the principal Act is amended—

(a) by striking out paragraphs II and III from subsection (1) and inserting in lieu thereof the following paragraph:—

II. At the time of depositing the survey plan, a statement in the prescribed form showing the names and the last or most usual known places of residence of—

(a) the owners and occupiers of any land affected by the proposal;

and

(b) all persons registered as the holders of, or as being entitled to, any mortgage, charge, easement or other encumbrance upon any land affected by the proposal,

shall be deposited with the Surveyor-General by the Commissioner or council;

(b) by striking out subsection (3);

(c) by striking out the second sentence from subsection (5);

and

(d) by striking out from subsection (6) the passage “Surveyors Act, 1935” and inserting in lieu thereof the passage “Surveyors Act, 1975”.

Amendment of
principal Act,
s. 12—
Duties of
Surveyor-
General on
receiving
plans.

8. Section 12 of the principal Act is amended by striking out from subsection (2) the passage “subdivision III” and inserting in lieu thereof the passage “subdivision II”.

Amendment of
principal Act,
s. 14—
Proceedings if
openings,
alterations,
additions, etc.,
allowed.

9. Section 14 of the principal Act is amended—

(a) by striking out from subsection (2) the passage “, district clerk, Garden Suburb Commissioner, or secretary of the Renmark Irrigation Trust” and inserting in lieu thereof the passage “or the district clerk”;

- (b) by striking out from subsection (3) the last sentence thereof;
 - (c) by striking out from subsection (4) the passage “of Lands”;
 - (d) by striking out from subsection (4) the passage “by the Governor” first occurring;
 - (e) by striking out from subsection (4) the passage “by the Surveyor-General”;
- and
- (f) by striking out from subsection (4) the passage “confirmed by the Governor”, twice occurring, and inserting in lieu thereof, in each case, the passage “confirmed by the Minister”.

10. Section 15 of the principal Act is amended by striking out from subsection (1) the word “Governor” and inserting in lieu thereof the word “Minister”.

Amendment of principal Act, s. 15—
Publication of notice of confirmation.

11. Section 16 of the principal Act is amended by striking out from subsection (1a) the passage “of Lands”.

Amendment of principal Act, s. 16—
Right of adjoining owner to acquire closed road.

12. Section 17 of the principal Act is repealed.

Repeal of s. 17 of principal Act.

13. Section 18 of the principal Act is amended—

- (a) by striking out the passage “of Lands” twice occurring;

and

- (b) by inserting after the present contents (which are hereby designated subsection (1) thereof) the following subsection:—

(2) If any road or part thereof is ordered to be closed subject to any easement, the certificate of title therefor issued pursuant to this Act shall be issued subject to the easement.

Amendment of principal Act, s. 18—
Issue of certificate of title by Minister.

14. Section 20a of the principal Act is amended—

- (a) by striking out the passage “of Lands” wherever it occurs;
- (b) by striking out from paragraph I the passage “or reservation” twice occurring;

- (c) by striking out from paragraph III the word “reservations”;

and

- (d) by inserting after paragraph III the following paragraph:—

iv. Those easements that are appurtenant to the contiguous land shall be appurtenant to the land comprised in the certificate of title issued under paragraph II of this section and the certificate of title shall be appropriately endorsed by the Registrar-General.

Amendment of principal Act, s. 20a—
Consolidation of certificates of title to be issued.

Amendment of principal Act, s. 20b—
Consolidation of existing title to closed roads.

15. Section 20b of the principal Act is amended by striking out from subsection (3) the passage “paragraph III” and inserting in lieu thereof the passage “paragraphs III and IV”.

Amendment of principal Act, s. 20d—
Provision where owner of closed road is unknown.

16. Section 20d of the principal Act is amended—

(a) by striking out from subsections (1), (2) and (3) the passage “Minister of Lands”, wherever it occurs, and inserting in lieu thereof, in each case, the passage “Surveyor-General”;

and

(b) by striking out from subsection (4) the passage “the Minister of Lands may” and inserting in lieu thereof the passage “the Minister may, upon the recommendation of the Surveyor-General.”.

Amendment of principal Act, s. 22—
Compensation.

17. Section 22 of the principal Act is amended—

(a) by striking out from subsection (3) the passage “the Director of Lands” and inserting in lieu thereof the passage “the Minister or his nominee”;

and

(b) by striking out from subsection (4) the passage “Compulsory Acquisition of Land Act, 1925” and inserting in lieu thereof the passage “Land Acquisition Act, 1969-1972”.

Amendment of principal Act, s. 23—
Closing of certain roads.

18. Section 23 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “of Lands”;

(b) by striking out the second sentence of subsection (3);

(c) by inserting after subsection (3) the following subsection:—

(3a) The Surveyor-General shall forward any representations made to him by the Commissioner or the council in relation to the proposal together with his recommendation thereupon.;

(d) by striking out from subsection (4) the passage “representations the Minister of Lands” and inserting in lieu thereof the passage “representation and recommendation, the Minister”;

and

(e) by striking out from the third sentence of subsection (4) the passage “of Lands” wherever it occurs.

Amendment of principal Act, s. 24—
Width of roads.

19. Section 24 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “sixty-six feet”, twice occurring, and inserting in lieu thereof, in each case, the passage “twenty-one metres”;

and

(b) by striking out from subsection (2) the passage "forty feet", twice occurring, and inserting in lieu thereof, in each case, the passage "twelve metres".

20. Section 27 of the principal Act is repealed.

Repeal of
s. 27 of
principal Act.

21. The second schedule to the principal Act is amended by striking out the forms "No. 4—Notice of Confirmation, No. 5—Order by the Minister of Lands" and inserting in lieu thereof the following forms:—

Amendment of
second
schedule of
principal Act.

No. 4—Notice of Confirmation

Notice is hereby given that by order, dated the _____ day of _____, 19____, the [here describe how the order has been made] that [give a general description of the nature and effect of the order]: The Honourable the Minister [here insert description of Minister] has been pleased to confirm the said order, and to direct that, upon application by the person entitled to the lands mentioned in the said order, a certificate of title shall issue to such person.

Dated the _____ day of _____, 19____.

No. 5—Order by the Minister

The Honourable the Minister [here insert description of Minister] in pursuance of the powers conferred on him by the Roads (Opening and Closing) Act, 1932-1975, hereby closes the road (or portion of road) described in the schedule hereunder.

Dated the _____ day of _____, 19____.

22. The fourth schedule to the principal Act is repealed and the following schedule is enacted and inserted in its place:—

Repeal of
fourth schedule
of principal
Act and
enactment of
schedule in its
place.

THE FOURTH SCHEDULE
SOUTH (Royal Arms) AUSTRALIA
Certificate of Title under Road Order
[In Duplicate]

I, _____ Minister of the State of South Australia, in confirming a road order made by _____, dated the _____ day of _____, 19____, do hereby certify that _____ is (or are) now seized of an estate in fee simple in that [here describe land].

23. The fifth schedule to the principal Act is repealed and the following schedule is enacted and inserted in its place:—

Repeal of
fifth schedule
of principal
Act and
enactment of
schedule in
its place.

THE FIFTH SCHEDULE
SOUTH (Royal Arms) AUSTRALIA
Certificate of Title under Road Order made under section 23 of the Roads (Opening and Closing) Act, 1932-1978

I, _____ Minister [here insert description of Minister] in pursuance of an order under section 23 of the Roads (Opening and Closing) Act, 1932-1978, do hereby certify that _____ is now seized of an estate in fee simple in that [here describe land].

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. SEAMAN, Governor