



1941.

ANNO QUINTO

GEORGII VI. REGIS.

No. 41.

ANALYSIS.

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| <p>1. Short title.</p> <p>2. Repeal.</p> <p>3. Amendment of 25 Geo. V. No. 47.</p> <p style="padding-left: 20px;">New section 45.</p> <p style="padding-left: 40px;">Construction by council of existing private streets.</p> <p style="padding-left: 20px;">New sections 48 to 48F.</p> <p style="padding-left: 20px;">New section 48.</p> <p style="padding-left: 40px;">Conditions precedent for opening of private streets.</p> <p style="padding-left: 20px;">New section 48A.</p> <p style="padding-left: 40px;">Requirements for new private streets.</p> | <p style="padding-left: 20px;">New section 48B.</p> <p style="padding-left: 40px;">Construction of new private streets.</p> <p style="padding-left: 20px;">New section 48C.</p> <p style="padding-left: 40px;">Taking over of new private streets.</p> <p style="padding-left: 20px;">New section 48D.</p> <p style="padding-left: 40px;">Requirements as to subdivision of land.</p> <p style="padding-left: 20px;">New section 48E.</p> <p style="padding-left: 40px;">Instruments affecting title.</p> <p style="padding-left: 20px;">New section 48F.</p> <p style="padding-left: 40px;">Council may extend provisions beyond boundaries of any town.</p> <p>4. Power to Treasurer to contribute to cost of certain Glenorchy streets.</p> |
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AN ACT to amend the *Towns Act 1934*.
[13 November, 1941.]

A.D.
1941.

BE it enacted by His 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 This Act may be cited as the *Towns Act 1941*.

Short title.

9d.]

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A.D. 1941. **2** Sections forty-five and forty-eight of the Principal Act are hereby repealed.

Repeal.

Amendment
of 25 Geo. V.
No. 47.

New section
45.

Construction
by council of
existing
private
streets.

3 The Principal Act is hereby amended—

I. By substituting for repealed section forty-five thereof the following new section forty-five—

“**45**—(1) The council may cause any private street, laid out and used as a public thoroughfare prior to the first day of January, one thousand nine hundred and forty, or any part of such street, to be constructed in such manner as the council may determine.

(2) The cost incurred by the council in such construction, or such proportion thereof as the council may determine, shall be borne and paid by the owners of the lands fronting or abutting on such private street or portion thereof, at such times, in such manner, and upon and subject to such terms and conditions as may be prescribed by by-law.

(3) In determining the proportion of such cost to be borne by owners the council shall have due regard to the extent and nature of the improvements effected on the lands fronting or abutting on such street and the amount of the rates which have been paid, or may be reasonably expected to be payable, in respect thereof.

(4) When any such private street or portion thereof has been constructed as aforesaid, the same shall be maintained and kept in good repair by the council out of any moneys at its disposal.”:

II. By substituting for repealed section forty-eight thereof the following new sections forty-eight to forty-eight F—

New sections
48 to 48F.

New section
48.

Conditions
precedent for
opening of
private
streets.

“**48**—(1) No new private street shall be constructed, opened, or used, or the construction thereof commenced, until a plan drawn to scale showing such proposed new street, its width and direction, and the proposed provision for its drainage, has been submitted to and approved by the council.

(2) No land upon or in relation to which it is proposed to provide a new private street shall be subdivided, and no sale of any part thereof as an allotment shall be completed until the provisions of this section in respect of such street have been complied with and such street has been constructed in accordance with section forty-eight A.

Penalty: One hundred pounds, and a daily penalty of five pounds.

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(3) Except as provided by this Act, every new private street shall be of the width of sixty feet at least, and shall be constructed for use as a carriage-way. A.D. 1941.

(4) Within such areas as the council, upon the recommendation of its engineer, and with the approval of the Director of Public Health, may by resolution determine, the council, with the approval of the Governor, may permit the construction of a new private street of such width and construction as the council in each case may determine.

(5) Upon receipt of the council's approval, in writing, of the plan submitted under subsection (1) hereof, the owner of the land shall forthwith procure a detailed survey of the proposed new street to be made by a qualified surveyor, and shall submit such surveyor's plan, in duplicate together with duplicate copies of the proposed specifications for the construction of the new street and for the drainage thereof, to the council for its approval; and such specifications shall set out all such particulars as may be prescribed or as may be necessary for the proper construction of such street and the drainage thereof.

(6) On receipt of such plans and specifications the council shall consider the same, and may give or refuse its approval, or may approve the same with such alterations as the council may think necessary.

(7) When the council has approved such plan and specifications, one copy of each shall be sealed with the council's seal and returned to the owner.

(8) The council shall not unduly delay consideration of any application under this section or section forty-eight D, and shall communicate its decision to the applicant as soon as is reasonably practicable.

“**48A**—(1) Except as hereinafter provided, every new private street shall comply with and fulfil the following requirements—

New section
48A.
Requirements
for new
private
streets.

- I. The carriage-way shall be not less than forty-two feet in width, except in the case of a street which is—
 - (a) Less than sixty feet wide: or
 - (b) In the opinion of the council, unlikely to form part of a main or arterial road—

when the carriage-way shall be of such width as the council may direct:

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- II. The surface of the carriage-way shall have a fall from the crown to the channels at the sides thereof of not less than three-eighths, and not more than three-quarters, of an inch per foot:
- III. The whole of the carriage-way shall be covered with not less than eight inches of paving of either crushed metal or gravel, laid in two courses, the lower one of which may be of rubble or crushed metal broken to a three-inch ring-gauge and the upper one, in the case of crushed metal, broken to a one-inch and one-half ring-gauge; and, in the case of gravel, all stones larger than will pass through a one-inch ring-gauge shall be screened out of the gravel forming the upper course. Should the council require a thicker pavement than that abovementioned, the additional thickness shall be provided over the whole or part of the carriage-way and laid in layers of not more than four inches in thickness; or, if the council should consider the thickness above prescribed is not required, the pavement may be of such thickness as the council, with the approval of the Director of Public Works, may direct:
- IV. Each course shall be well and properly consolidated and rolled as required by the council:
- V. The surface course, if of crushed metal, shall be properly blinded with good gravel or other material approved by the council, properly swept in, watered, and rolled:
- VI. Footways shall be constructed on each side of the carriage-way of a width of not less than nine feet, except in cases of streets of less than sixty feet in width, when the width of the footway shall be as required by the council, but shall not be less than five feet:
- VII. Each footway shall have a cross-fall of one-half inch per foot to the channel:
- VIII. The surface of the footways shall be covered with asphalt, approved concrete or concrete blocks, macadam, or approved gravel, three inches thick, well laid, and rolled smooth to the satisfaction of the council:
- IX. Each footway shall have a stone or concrete kerb, not less than five inches thick and



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twelve inches deep, laid solidly and parallel to the centre line of the street, and with the same gradient as the road, and so as to show six inches of a smooth face above the channel: Provided that the council may, in the case of nearly-level streets, permit or require the kerbing to vary and show from four to eight inches of a smooth face, to give the necessary or advisable gradient in the gutter: A.D. 1941.

- x. A gutter of stone or concrete, eighteen inches wide and five inches thick, shall be constructed along the kerb of each footway at such levels as the council shall require: and
- XI. Such other requirements as the council shall, either generally by by-law or specifically in any particular case, determine.

(2) Where the street is constructed in hilly country or in a purely residential area which, in the opinion of the council, is unlikely to become a business centre, the requirements of subsection (1) hereof may be varied as prescribed.

“**48B**—(1) Every new private street shall be constructed by— New section 48B.

- I. The council at the request and cost of the owner: or
- II. The owner under the supervision of the council’s engineer—

Construction of new private streets.

within twelve months after the date of the notification of the council’s approval or such further time as the council may allow.

(2) The council, at the request of the owner, may quote a sum for such construction, and the acceptance by the owner of the price so quoted shall constitute a contract by the council to construct the street at that price, subject to payment by the owner to the council of the sum so named or to security for such payment to the satisfaction of the council being provided by the owner within one month after the date of such quotation.

(3) Where such street is constructed by the owner the owner shall—

- I. Show to the council’s engineer, when required, all contracts and other documents relating to the construction of such street:
- II. Furnish to such engineer full particulars of all arrangements made in relation to such construction: and

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A.D. 1941.

III. Pay to the council a fee for supervision equal to three pounds per centum of the total cost of construction except where the same is constructed under the direct supervision of a qualified engineer employed by the owner and approved by the Director of Public Works—

and all persons concerned in the construction of such street shall obey the lawful orders of the council's engineer.

New section
48C.
Taking over
of new
private
streets.

“**48C**—(1) No new private street shall be opened or used until the foregoing requirements of this division have been complied with.

(2) The owner of the land on which such street is constructed shall maintain such street to the satisfaction of the council for three months after the date on which it is opened.

(3) After the expiration of the said period of three months, the owner may convey or transfer to the council the land comprising such street, or may dedicate the same as a public street in such manner as the council may approve, and thereupon the council shall take over, and at all times maintain such street as a public street.

New section
48D.
Requirements
as to
subdivision
of land.

“**48D**—(1) Except as herein otherwise provided, no land in any town shall be subdivided into allotments for the purposes of sale, or which are capable of being sold as separate allotments, or shall be sold in allotments unless every such allotment—

- I. Has a frontage upon a street of not less than fifty feet, and a depth of not less than ninety feet:
- II. Has reasonable vehicular access to such street or some other street:
- III. Is capable of being sufficiently drained into a public channel or drain:
- IV. Is shown on a survey plan of such subdivision, sealed by the council as hereinafter provided.

(2) Before subdividing such land or completing the sale in allotments of the same or any part thereof the owner shall make application to the council for approval of the proposed subdivision and shall submit with such application a plan drawn to scale showing—

- I. The size and measurements of the proposed allotments:
- II. The general levels and contours of the land:

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III. Any street proposed to be constructed on the land: A.D. 1941.

IV. The proposed drainage for each allotment: and

V. Such other particulars, if any, as may be prescribed.

(3) The council shall refer such application and plan to its engineer, who shall report to the council recommending its acceptance or rejection of the application or the acceptance thereof, with such alterations as may be specified in such recommendation, and the reasons for such rejection or alteration, as the case may be.

(4) The council, upon consideration of such report, may grant or refuse the application or may grant the same with such alterations as it may specify; and shall notify the owner in writing of its decision thereon.

(5) The owner, on receipt of the council's approval, shall, before proceeding with the subdivision, procure a plan, to be prepared by an authorised surveyor, showing—

I. The measurements and boundaries of all the proposed allotments:

II. The position and measurements of all new streets, if any:

III. All such levels as may be necessary to satisfy the council that all statutory requirements are fulfilled: and

IV. The position, length, direction, and outlet of all proposed drains—

and such plan shall be in conformity with such alterations, if any, as the council may have required.

(6) The owner shall furnish to the council two copies of such plan, and the council, upon being satisfied that the same complies with all statutory requirements, shall cause its seal to be affixed to one of such copies, and shall return the copy so sealed to the owner.

(7) The owner, before completing the sale of any such allotment as aforesaid, shall—

I. If any land comprised therein is under the *Real Property Act 1862*, lodge such plan or a certified copy thereof, sealed by the Council, in the office of the Recorder of Titles: and

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II. If any of such land is not under the said Act, register such plans sealed as aforesaid as provided by the *Registration of Deeds Act 1935*, and the Recorder of Titles or the Registrar of Deeds, as the case may be, may refuse to accept any plan to which in his opinion the provisions of this section apply unless the same is sealed as aforesaid or unless the the council has certified that its approval is not required.

(8) The council, in considering any application under this section, shall have regard to—

- I. The situation and planning of streets in relation to public convenience, present and prospective, and to inter-communication with neighbouring localities, within or without the area included in any subdivision:
- II. The method of draining allotments and streets necessary in the circumstances, present and prospective, and the disposal of such drainage:
- III. Whether the owner will transfer or convey to the council, in fee simple for a nominal consideration, any necessary drainage reserves:
- IV. The character and construction of the streets necessary in the circumstances, present and prospective:
- V. Whether splaying or rounding of corners of junctioning streets is necessary:
- VI. Whether or not blind streets are desirable in the circumstances:
- VII. Whether or not lanes or rights-of-way to give access to the rear of allotments are necessary: and
- VIII. Whether or not public garden or recreation space is desirable.

(9) In any case where an allotment comprises an area not less than five thousand square feet, but a frontage of fifty feet, or a depth of ninety feet, as the case may be, is not obtainable, the council with the approval of the Director of Public Health, and with the consent of the Governor, may permit the same to be sold or built upon with a frontage of less than fifty feet or a depth of less than ninety feet respectively.

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(10) The provisions of subsection (1) hereof shall not prevent the sale of any allotment or piece of land, or the inclusion thereof in any plan of subdivision if the council is satisfied that— A.D. 1941.

- I. Such sale will not affect any allotment on which an existing or proposed dwelling is placed, or to be placed, that it will not comply with the requirements of subsection (1) hereof: or
- II. Subject to the requirements of paragraph I. hereof, the land is to be sold—
 - (a) For non-residential purposes: or
 - (b) Only to be dwelt upon in connection with other land so that the aggregate complies with the provisions of subsection (1) hereof—

or that the allotment was defined and delineated as such on a subdivision plan registered prior to the thirty-first day of December, one thousand nine hundred and forty, under the *Real Property Act 1862*, or the *Registration of Deeds Act 1935*.

(11) The council may allow a subdivision to include any allotment having a frontage of at least twenty feet on a street if such allotment comprises not less than six thousand square feet and there is within such allotment an open space within which can be drawn a circle having a diameter of not less than sixty feet.

(12) No person without the written consent of the council first obtained shall reduce the frontage, depth, or area of any allotment comprised in any plan approved by the council.

Penalty: One hundred pounds and a daily penalty of five pounds.

‘**48E**—(1) Nothing in this division shall render any contract or agreement to sell, let, or otherwise dispose of any land illegal or void merely by reason of the fact that it is made or entered into before an application in respect of the proposed subdivision or private street has been approved by the council; but every such contract or agreement shall be deemed to be subject to such approval being obtained.

New section
48E.
Instruments
affecting
title.

(2) No instrument of title, or instrument affecting or evidencing title, to any land shall be invalidated merely by reason of non-compliance with any of the provisions of this division.

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A.D. 1941.

Council may
extend pro-
visions
beyond
boundaries
of any town.

“**48F.** A council at any time by special resolution may define any area beyond the boundaries of any town within which it may thereby declare that the provisions of this Act shall apply and thereupon the said provisions shall apply to such area as if the same were a town.”

Power to
Treasurer to
contribute to
cost of certain
Glenorchy
streets.

4—(1) The Treasurer, with the approval of the Governor, may pay from the Consolidated Revenue to the Council of the Municipality of Glenorchy any sums of money not exceeding in the whole two thousand pounds as a contribution towards the cost of the construction of such streets as the Governor may approve.

(2) Every such payment shall be made on such terms and subject to such conditions as the Governor may approve.