

South Australia

## **Roadwork (Regulation) Bill 2004**

A BILL FOR

An Act to regulate the carrying out of roadwork that may have a severely adverse affect on the flow of traffic or the conduct of business; and to create a right of action in damages against an authority that carries out certain roadwork without taking appropriate action to minimise loss to businesses conducted in the vicinity of the work.

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### The Parliament of South Australia enacts as follows:

#### 1—Short title

This Act may be cited as the *Roadwork (Regulation) Act 2004*.

#### 2—Commencement

5 This Act will come into operation 2 years after the day on which this Act is assented to by the Governor.

#### 3—Interpretation

In this Act, unless the contrary intention appears—

*council* means a council under the *Local Government Act 1999*;

*road authority* means—

- 10 (a) the Commissioner of Highways; or
- (b) a council; or
- (c) any other body that is vested by statute with the care, control and management of a road;

*roadwork* means—

- 15 (a) the construction of a road; or
- (b) the maintenance or repair of a road; or
- (c) the alteration of a road; or
- (d) any other work related to a road.

#### 4—Roadwork to which this Act applies

- 20 (1) This Act applies to roadwork that—
  - (a) is likely to have a severe and prolonged adverse affect on the movement of vehicular or pedestrian traffic; or
  - (b) is likely to harm (temporarily or permanently) businesses conducted in the vicinity of the roadwork.
- 25 (2) This Act does not however apply to roadwork if the roadwork is urgently required to deal with an emergency or a problem requiring an urgent solution.

## 5—Preconditions to be satisfied before roadwork to which this Act applies is carried out

- 5 (1) A road authority must, before embarking on roadwork to which this Act applies, obtain from a competent person or organisation that is independent of control by the road authority a roadwork impact statement—
- (a) setting out—
- 10 (i) the likely effect of the proposed roadwork on vehicular and pedestrian traffic; and
- (ii) the likely effect (if any) of the roadwork on business conducted in its vicinity; and
- (b) containing recommendations for minimising possible adverse effects of the roadwork.
- 15 (2) If the likely adverse effects of the proposed roadwork are severe, or the roadwork impact statement recommends the submission of the proposals to public scrutiny under this section, the roadwork authority must publish a notice in a newspaper circulating generally throughout the State—
- (a) giving reasonable details of the proposed roadwork ; and
- (b) stating that the roadwork impact statement is available for inspection at a particular website or a particular address (or both); and
- 20 (c) inviting written suggestions (to be made within a reasonable time stated in the notice) for minimising adverse effects of the proposed roadwork.

## 6—Carrying out of roadwork to which this Act applies

In carrying out roadwork to which this Act applies, the road authority must give effect, as far as reasonably practicable and economically feasible—

- 25 (a) to recommendations for minimising the adverse effects of the proposed roadwork contained in the roadwork impact statement; and
- (b) if a notice inviting written suggestions for minimising adverse effects of the proposed roadwork has been published under this Act—to reasonable suggestions made in response to the notice.

## 7—Right to compensation for unreasonable interference with business

- 30 (1) If a road authority fails to take reasonable steps to minimise adverse effects of roadwork to which this Act applies on businesses conducted in the vicinity of the roadwork, the failure is actionable as a tort by the owner of any such business who has suffered loss as a result of that failure.
- 35 (2) In any such action, it is a defence for the road authority to establish that it has complied with its obligations under this Act in relation to the relevant road work.