

**MAIN ROADS**

MA301

## MAIN ROADS ACT 1930

**MAIN ROADS (CONTROL OF ADVERTISEMENTS)  
REGULATIONS 1996**

Made by His Excellency the Governor in Executive Council on the recommendation of the Commissioner of Main Roads.

**Citation**

1. These regulations may be cited as the *Main Roads (Control of Advertisements) Regulations 1996*.

**Commencement**

2. These regulations come into operation on 1 July 1996.

**Definition**

3. In these regulations, unless the contrary intention appears —

“**exhibit**”, in relation to an advertisement, includes —

- (a) putting the advertisement in place;
- (b) affixing the advertisement to any structure;
- (c) painting or drawing any figure, letter or representation comprising the advertisement or part of the advertisement;
- (d) inserting, deleting or changing any figure, letter or representation comprising the advertisement or part of the advertisement; and
- (e) maintaining the advertisement.

**Application**

4. (1) These regulations do not apply —

- (a) to a sign that does not exceed 1.0 m<sup>2</sup> in area and indicates that the premises to which the sign is affixed or on which the sign is erected are for sale or for letting;

- (b) to a sign that does not exceed 0.4 m<sup>2</sup> in area and indicates the name, or the name and the business, of the occupier of premises if the sign —
    - (i) is affixed to a building on the premises; or
    - (ii) is erected or affixed on or behind the building line of the premises;
  - (c) to a sign that does not exceed 0.2 m<sup>2</sup> in area and indicates the name, or the name and the business, of the occupier of premises if the sign is erected on or affixed to a place that is between the boundary of a road and the building line of the premises;
  - or
  - (d) subject to subregulation (2), to a sign inside a building.
- (2) These regulations apply to a sign inside a building if the sign —
- (a) can be lighted internally or externally by artificial light provided, or mainly provided, for that purpose; and
  - (b) is directed primarily at persons travelling in or on vehicles.
- (3) For the purposes of subregulation (1) —
- (a) the area of a sign is to be ascertained by reference to a notional rectangle enclosing the outermost portions of the sign; and
  - (b) only that part or those parts of the sign which are reasonably capable of being seen and discerned from any one direction at a time are to be counted when computing the area.

#### **Commissioner's approval required for certain advertisements and structures**

**5. A person must not —**

- (a) erect or construct, or cause to be erected or constructed, a hoarding or other advertising structure; or
- (b) exhibit, or cause to be exhibited, an advertisement,

on or in the vicinity of a highway or a main road without the Commissioner's approval to do so.

Penalty: \$40.

#### **How to apply for Commissioner's approval**

6. (1) An application for the Commissioner's approval to erect or construct a hoarding or other advertising structure or to exhibit an advertisement is to be —

- (a) made in a form approved by the Commissioner; and
- (b) lodged at any office of the Commissioner.

(2) An applicant is to provide such other information as the Commissioner may request for the purposes of making a decision in relation to the application.

#### **Approvals**

7. (1) Subject to subregulation (4), on an application under regulation 6(1) the Commissioner may approve the erection or construction of a hoarding or other advertising structure or the exhibition of an advertisement that is a subject of the application.

(2) The Commissioner's approval may be given on any condition that is set out in, or provided with, the notification of the approval.

(3) The duration of the period of approval is to be set out in, or provided with, the notification of the approval.

(4) The Commissioner is not to approve the erection or construction of a hoarding or other advertising structure or the exhibition of an advertisement unless the Commissioner is satisfied —

- (a) that the local government of the district in which the hoarding or other advertising structure or advertisement is to be located has approved the hoarding, structure or advertisement for the purposes of the *Local Government Act 1995* and the *Town Planning and Development Act 1928*; and
- (b) that each condition imposed by the local government for the purposes referred to in paragraph (a) would be consistent with an approval for the purposes of these regulations.

### Appeals

8. (1) A person who is dissatisfied with —

- (a) the Commissioner's refusal to approve a matter that is the subject of an application under regulation 6(1);
- (b) any condition that is set out in, or provided with, the notification of an approval under regulation 7; or
- (c) the duration of the period of an approval set out in, or provided with, the notification of an approval under regulation 7,

may, within 28 days after receiving notification of the refusal or the approval, as the case may be, appeal in writing to the Minister.

(2) The Minister is to hear and determine an appeal under this regulation and may appoint a committee to investigate and report on any matters referred to the committee by the Minister in connection with the appeal.

(3) The decision of the Minister on an appeal under this regulation is final and is to be given effect by the parties.

### Offences in relation to approvals

9. (1) A person must not, in relation to an application under regulation 6(1), provide information in written or oral form that the person knows, or could reasonably be expected to know, to be —

- (a) false or misleading in a material particular; or
- (b) likely to deceive in a material way.

(2) A person who has obtained the Commissioner's approval under regulation 7 must not contravene or fail to comply with a condition set out in, or provided with, the notification of the approval.

Penalty: \$40.

### Revocation of approvals

10. (1) The Commissioner may revoke an approval under regulation 7 if, in the Commissioner's opinion —

- (a) a hoarding or other advertising structure or an advertisement that is a subject of the approval is, or has become, hazardous to traffic safety or aesthetically objectionable;
- (b) a person who has obtained the Commissioner's approval under regulation 7 has contravened, or failed to comply with a condition set out in, or provided with, the notification of the approval; or

- (c) a person has, in relation to an application under regulation 6(1), provided information in written or oral form that the person knew, or could reasonably be expected to have known, to be —
  - (i) false or misleading in a material particular; or
  - (ii) likely to deceive in a material way.

(2) A revocation of an approval under regulation 7 is not effective unless the Commissioner has caused written notice of the intention to revoke the approval to be served personally or by post on the person who obtained the approval stating the grounds on which the revocation is to be made and has allowed the person 7 days to —

- (a) remove the hoarding or other advertising structure or the advertisement;
- (b) make the hoarding or other advertising structure or the advertisement non-hazardous to traffic safety or aesthetically unobjectionable; or
- (c) provide reasons as to why the Commissioner should not revoke the approval,

as the case requires.

**Directions as to advertisements etc.**

**11. (1) If —**

- (a) a hoarding or other advertising structure has been erected or constructed; or
- (b) an advertisement is being exhibited,

on or in the vicinity of a highway or a main road and the Commissioner is of the opinion that any of the circumstances mentioned in subregulation (2) apply then the Commissioner may issue directions in accordance with subregulation (3).

**(2) The circumstances referred to in subregulation (1) are —**

- (a) that the hoarding or other advertising structure has been erected or constructed or the advertisement is being exhibited without the Commissioner's approval under regulation 7;
- (b) that the hoarding or other advertising structure has been erected or constructed or the advertisement is being exhibited in contravention of, or with failure to comply with, a condition set out in, or provided with, the notification of the relevant approval under regulation 7;
- (c) that the hoarding or other advertising structure or the advertisement is, or has become, hazardous to traffic safety or aesthetically objectionable.

**(3) The Commissioner may direct any of the following persons to remove the hoarding or other advertising structure or the advertisement or transfer it to another site acceptable to the Commissioner —**

- (a) the person who obtained the approval under regulation 7, if any, in relation to the hoarding or structure or the advertisement;
- (b) if the hoarding or other advertising structure has been erected on private property, the property owner.

**(4) A direction under this regulation —**

- (a) is to be in writing;
- (b) is to specify the period for compliance with the direction and the consequences of non-compliance under regulations 12(2), 13 and 14; and
- (c) is to be served either personally or by post.

**Removal of certain advertisements etc.**

12. (1) The Commissioner, any of the Commissioner's officers or any other person who has been authorized in writing by the Commissioner for that purpose may enter land, other than private property, on or in the vicinity of a highway or a main road and obscure, modify, reposition or remove a hoarding or other advertising structure or advertisement on that land, without notice to either —

- (a) the person who obtained the approval under regulation 7, if any, in relation to the hoarding or structure or the advertisement; or
- (b) the owner of the hoarding, structure or advertisement.

(2) If, under regulation 11(3)(b), a property owner has been directed to remove a hoarding or other advertising structure or an advertisement or to transfer it to another site acceptable to the Commissioner but has not complied with the direction within the period specified in the direction then the Commissioner, any of the Commissioner's officers or any other person who has been authorized in writing by the Commissioner for that purpose may enter the private property and obscure, modify, reposition or remove the hoarding or other advertising structure or advertisement.

**Costs of action taken by Commissioner**

13. If —

- (a) a person directed under regulation 11 does not comply with the direction within the period specified in the direction; and
- (b) after that period the Commissioner, any of the Commissioner's officers or any other person who has been authorized in writing by the Commissioner for that purpose enters land and obscures, modifies, repositions or removes a hoarding or other advertising structure or an advertisement,

then the costs of such action by or on behalf of the Commissioner are a debt due to the Commissioner and may be recovered in a court of competent jurisdiction from the person who was so directed.

**Commissioner may dispose of or sell removed items**

14. (1) The Commissioner is entitled to dispose of anything removed under regulation 12 (1) or (2) in such manner as the Commissioner thinks fit.

(2) Where any materials in the possession of the Commissioner as a result of the removal of a hoarding or other advertising structure or advertisement are disposed of by way of sale, the Commissioner is to apply the proceeds of sale firstly towards the costs incurred by or on behalf of the Commissioner, secondly towards the payment of any penalty imposed under these regulations in respect of the hoarding, structure or advertisement and any balance is to be paid to such person who proves an entitlement to the balance.

**Repeal, savings and transitional**

15. (1) The *Main Roads (Control of Signs) Regulations 1983* are repealed.

(2) A consent to the erection and display of any sign which was granted, or deemed to be granted, under regulation 7 of the regulations repealed by subregulation (1) and which had effect immediately before the commencement of these regulations is to be treated as an approval under regulation 7 and any term or condition of such consent is to be treated as applying to the approval under regulation 7.

(3) Regulations 11 (1), (2) (c), (3) (b) and (4), 12 (1) and (2), 13 and 14 (1) and (2) apply to —

- (a) hoardings or other advertising structures that were erected or constructed; and

(b) advertisements that were exhibited,  
before 2 February 1973 and which continued to be in place or to be exhibited,  
as the case may be, at the commencement of these regulations.

(4) If an application for consent had been made under the regulations  
repealed by subregulation (1) but the application had not been finalised  
before the commencement of these regulations then the application is to be  
treated as if it were made under regulation 6(1).

(5) The provisions of this regulation do not prejudice or affect the  
application of the *Interpretation Act 1984* to and in relation to the repeal  
effected by subregulation (1).

Recommended—

Commissioner of Main Roads.

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.