

CHAPTER 350

THE ACCESS TO ROADS ACT.

Arrangement of Sections.

Section

1. Interpretation.
2. Application for leave to construct a road of access.
3. Service of notice on owner of land affected.
4. Hearing of application.
5. Revocation of an order.
6. Width of road of access.
7. Registration of an order.
8. Right of way.
9. Repair of road of access.
10. Appeal.
11. Entry in the Register Book of the order or its revocation.

Schedule

- Schedule* Form of application for leave to construct a road of access.

CHAPTER 350

THE ACCESS TO ROADS ACT.

Commencement: 16 June, 1969.

An Act to provide for the procedure by which a private landowner who has no reasonable means of access to a public highway may apply for leave to construct a road of access to a public highway and for other purposes connected therewith.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “adjoining land” means land over which a road of access passes or is to pass;
- (b) “owner of land” includes any person for the time being in actual occupation of the land whether by way of ownership, lease, licence or otherwise;
- (c) “public highway” includes a railway;
- (d) “registrar of titles” and “Register Book” have the same meanings as in the Registration of Titles Act.

2. Application for leave to construct a road of access.

(1) Where the owner of any land is unable through negotiations to obtain leave from adjoining landowners to construct a road of access to the public highway, he or she may apply to the land tribunal for leave to construct a road of access over any lands lying between his or her land and the public highway.

- (2) An application for leave to construct a road of access shall—
 - (a) be in the form set out in the Schedule to this Act; and
 - (b) be accompanied by a sketch or plan showing approximately the course and direction of the proposed road of access and the present means of access, if any, to the public highway.

(3) Where the applicant is unable to make the sketch or plan referred to in subsection (2) without entering upon the land over which he or she desires to construct the road of access, he or she may apply to the land tribunal for leave to enter upon that land for the purpose of making the sketch

or plan; and the land tribunal, after hearing objections, if any, may make an order entitling the applicant to enter upon the land.

3. Service of notice on owner of land affected.

(1) On receiving an application for leave to construct a road of access, the land tribunal shall cause a notice to be served upon the owner of any lands over which the proposed road of access is to be constructed calling upon him or her to show cause, within one month, why leave to construct the proposed road of access should not be granted.

(2) The service of the notice under this section shall, whenever it is practicable, be made on the person named in the notice by delivering or tendering a copy of it signed by the land tribunal.

(3) Where personal service cannot be made, the service may be made by leaving a copy of the notice for him or her with some adult member of his or her family, or, if no such adult member can be found, the notice may be served by leaving a copy of it with his or her servant residing with him or her, or, where no such adult member or servant can be found by affixing a copy of it to some conspicuous part of the house or homestead in which he or she ordinarily resides and also to such other conspicuous place as the land tribunal may direct.

(4) Where service cannot be effected in the manner provided under subsections (1), (2) and (3), the land tribunal may order service to be made by publishing the notice in a local newspaper circulating in the area in which the land is situated.

(5) A notice served in accordance with subsections (3) and (4) shall, for the purposes of this Act, be deemed to have been duly served.

4. Hearing of application.

(1) At the expiry of one month from the date when service of notice on the owner of land was effected, the land tribunal shall fix a day for the hearing of the application referred to in section 2.

(2) After hearing such evidence as may be adduced in respect of the application, the land tribunal may make an order, with such modifications to the course of direction of the road of access as shown on the sketch or plan

referred to in section 2(b) as he or she deems necessary, granting the applicant leave to enter upon the adjoining land and construct a road of access subject—

- (a) to such conditions as the land tribunal shall see fit to impose; and
- (b) to the payment of such compensation in respect of the use of the lands, the destruction of crops or trees and such other property as the land tribunal may determine.

(3) The costs of an application under this Act shall be in the discretion of the land tribunal.

5. Revocation of an order.

The land tribunal may, at any time, on application made by the owner of adjoining land for the revocation of an order made under section 4 and after giving the other party an opportunity to show cause why the order should not be revoked, make an order revoking an order made under section 4 if it is proved by the owner of the adjoining land that the terms and conditions under which the order was made have not been complied with.

6. Width of road of access.

The width of a road of access constructed under the provisions of this Act shall not exceed twenty feet.

7. Registration of an order.

(1) An order made under section 4 shall, notwithstanding any inconsistency with of the Registration of Titles Act, be registrable in the Register Book kept pursuant to that Act on the application made by the person affected by the order within three months of the date of the order, or, where an appeal is pending, within one month after the determination of that appeal.

(2) An application for the registration of the order shall be made to the registrar of titles and shall be accompanied by—

- (a) a certified copy of the order;
- (b) a sketch or plan showing the course and direction of the proposed road of access as approved by the land tribunal; and
- (c) such certificate of title as the registrar of titles may require for endorsement of the order on the certificate.

(3) If the registrar of titles is satisfied that the application is in order, he or she shall, on payment of the fee prescribed under the Registration of Titles Act, register the order in the Register Book.

8. Right of way.

When a road of access has been constructed—

- (a) the applicant or his or her servants;
- (b) any other person lawfully going to or from the applicant's land;
or
- (c) his or her successors in title,

shall have leave, at all times, to use the road of access.

9. Repair of road of access.

(1) Subject to this section, an applicant shall, at all times, maintain the road of access in a good and efficient state of repair; and for that purpose, the applicant, his or her servants or agents shall have leave to enter, at all times, upon the road of access.

- (2) The right of entry conferred by subsection (1) shall—
 - (a) be subject to such conditions as the land tribunal may impose under section 4(2); and
 - (b) be used in such a manner that as little damage or inconvenience as possible is caused to the owner of the adjoining land.

(3) Where the owner of the adjoining land uses the road of access, he or she shall pay a proportionate share towards the maintenance of that portion of the road so used by him or her—

- (a) as may be agreed between the applicant and himself or herself; or
- (b) in the case of disagreement, as may be determined by the land tribunal on application being made to it for that purpose by either party.

10. Appeal.

An appeal shall lie, within thirty days, from any order of the land tribunal under this Act, to the High Court whose decision shall be final.

11. Entry in the Register Book of the order or its revocation.

A certified copy of any order made by—

- (a) the High Court under section 10;
- (b) the land tribunal under section 5,

shall be served on the registrar of titles within thirty days of the date of the order; and the registrar of titles may, on payment of the prescribed fee, make such entry of the order in the Register Book as he or she deems fit.

—

Schedule.

s. 2.

Form of application for leave to construct a road of access.

1. Name of applicant	
Place of abode	
Nationality	
2. Name, situation and registered title reference of land or lease of land in respect of which the road of access is required, stating the title reference of land, county and all particulars which may assist in locating it	
3. Name of public highway to which the road of access is required	
4. Name or names of land over which it is proposed to construct the road of access, together with the name or names of the respective owner or owners of the land	
5. The means of access (if any) to any highway at present available for the use of the applicant and whether use of that highway is subject to any payment or other terms or conditions	
6. Whether any crops or building will be damaged or destroyed by the construction of the road of access; if so, to what extent	
7. Maximum width between drains of proposed road of access	
8. Any other facts of which the applicant is aware which may affect the grant	

Applicant

History: Act 2/1969; S.I. 100/1969; Act 16/1998, s.72.

Cross Reference

Registration of Titles Act, Cap. 230.

—