

KWINANA ROAD DISTRICT.

2° Elizabeth II., No. XXVI.

No. 26 of 1953.

AN ACT to sever portion of the Rockingham Road District from that Road District, to constitute the portion a road district and place it under the control of a Commissioner under the name of Kwinana Road Board and for other purposes.

[Assented to 18th December, 1953.]

BE it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Kwinana Road District Act, 1953.* Short title.

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

3. (1) The portion of the Rockingham Road District more particularly delineated and coloured green in the plan in the Schedule to this Act is hereby—

(a) severed from the Rockingham Road District; and

Kwinana
Road District
constituted.

- (b) deemed to be a road district duly constituted under the provisions of the Road Districts Act, 1919-1951, under the name of the Kwinana Road District.

(2) Where the portion is severed from the Road District as provided in subsection (1) of this section—

- (a) section ten of the Road Districts Act, 1919-1951, applies as if the severance were made under the provisions of section eight of that Act;
- (b) the land comprising the portion is not to be regarded as outlying land within the meaning of that Act.

Commissioner may be appointed for Kwinana Road District.

4. (1) During the operation of this Act there shall not be a duly elected Road Board for the Kwinana Road District but the Governor may, by Order in Council, appoint a fit and proper person having a comprehensive knowledge and experience of local government matters to be Commissioner of the district.

Commissioner to be regarded as Board.

(2) For the purposes of the Road Districts Act, 1919-1951, and all other Acts, the Commissioner so appointed is to be regarded as the Board of the Kwinana Road District and Chairman of the Board and he has and may exercise in relation to the district all the functions, powers, rights, benefits, discretions, duties and liabilities of a Board and Chairman of the Board under the provisions of the Road Districts Act, 1919-1951, as though he had been duly elected and appointed as the Board and Chairman of the Board under the provisions of that Act.

Commissioner to be body corporate.

5. (1) The Commissioner shall be a body corporate under the name of the Kwinana Road Board, with succession during the operation of this Act and a Common Seal and may purchase or otherwise acquire, hold, lease and alienate land.

Judicial notice of Commissioner.

(2) All courts, judges and persons acting judicially shall take judicial notice of the existence and incorporation of the Commissioner.

(3) In respect to his office the Commissioner is entitled to such remuneration and leave of absence as may be determined by the Governor and such fees and allowances, if any, as the Minister may determine.

Remuneration, allowances and leave.

(4) The Commissioner shall not without the consent of the Minister engage in any business or occupation for remuneration other than that of his office as Commissioner.

Prohibition of other paid employment.

6. (1) Subject to the provisions of this Act, the person who is first appointed as Commissioner under the provisions of this Act, shall be appointed to hold office for a term of not less than three years nor more than five years from the date of the appointment, but upon expiration of the term of appointment, is eligible for re-appointment for a term not exceeding two years from the date of the re-appointment or during the pleasure of the Governor.

Term of office.

(2) Where the Commissioner is not re-appointed as provided in subsection (1) of this section, the Governor may, by Order in Council, appoint another person having the requisite qualifications to be Commissioner for a term not exceeding two years or during the pleasure of the Governor.

7. (1) Subject to the provisions of this Act, the office of Commissioner shall become vacant by reason of the occupant—

Vacancy in office of Commissioner.

- (a) becoming bankrupt or availing himself as a debtor of any law for the relief of bankrupt debtors;
- (b) becoming of unsound mind or being declared under any law for the time being relating to mental infirmity incapable of managing his affairs;
- (c) participating or claiming to be entitled to participate in the profit of or in any commission, benefit, or emolument arising from a contract or agreement made under the powers conferred by the provisions of this

Act by or on behalf of the Kwinana Road Board, other than such as are referred to in section thirty-five of the Constitution Acts Amendment Act, 1899-1950;

- (d) resigning or dying;
- (e) being absent from his duties for a period of one month or longer without the consent of the Minister;
- (f) being guilty of misbehaviour or incapacity;
- (g) failing to observe the provisions of the Road Districts Act, 1919-1951.

(2) Where the office of Commissioner becomes vacant by reason of the case mentioned in paragraph (g) of the next preceding subsection, section one hundred and twenty-two of the Road Districts Act, 1919-1951 does not apply.

Appoint-
ments to fill
vacancy in
office.

8. (1) When the office of Commissioner becomes vacant otherwise than by effluxion of the term for which the occupant was appointed, the Governor may appoint to the vacant office for the remainder of that term, a person having the requisite qualifications and on the expiration of the remainder, the person is eligible for re-appointment.

(2) (a) The Governor may appoint a person, who has the requisite qualifications to act in the place and during the absence of the occupant of the office of Commissioner, as deputy for that occupant until the appointment is cancelled by notice published in the *Gazette*.

(b) A person so appointed has, while acting as deputy, all the powers and shall perform all the duties of the Commissioner.

(3) No appointment of, and no act, matter or thing, done by a person as a deputy of the Commissioner shall be questioned on the ground that the occasion for the appointment had not arisen or had ceased.

9. The Commissioner is not required to comply with the provisions of the Road Districts Act, 1919-1951, relating to the election of members of a road board or the provisions of Part IV. of that Act which relate to the proceedings of a road board.

Commissioner not required to comply with Part III., Division (7) and Part IV. of Road Districts Act, 1919-1951.

10. (1) The Commissioner shall keep a minute book in such manner and form as the Minister may direct or approve, in which he shall record such of his decisions, orders and transactions as would be required to be recorded in the minute book, if the Commissioner were in fact a duly constituted board of a road district under the Road Districts Act, 1919-1951.

Commissioner to keep minute book.

(2) A decision of the Commissioner so recorded has effect as if it were a resolution duly passed by a board of a road district under that Act.

Decision of Commissioner to have effect as resolution of Board.

(3) The minute book so kept is to be regarded, for the purposes of that Act, as the minute book of a board of a road district properly constituted under that Act.

Minute book kept by Commissioner to be regarded as minute book of board.

(4) Copies of or extracts from a minute book certified under the hand and seal of the Commissioner to be true copies of or extracts from the book shall be received as *prima facie* evidence in all courts, of the contents of the minute book or so much of it as the extracts contain.

Minutes to be *prima facie* evidence.

(5) The minute book shall at all reasonable times be open to the inspection of a ratepayer of the Kwinana Road District.

Minute book to be open for inspection.

11. Subject to the approval of the Minister the Commissioner may appoint such officers and servants of the Kwinana Road Board as the Commissioner may determine.

Appointment of officers.

12. No act, matter or thing done or permitted to be done in good faith by the Commissioner or an officer, agent or servant of the Commissioner in the administration or intended administration of this Act, or in the exercise or performance or intended

Protection of persons.

exercise or performance of his powers or duties under this Act, shall subject the Commissioner or the officer, agent or servant of the Commissioner to any personal liability.

Exercise of power under s. 8 Road Districts Act, 1919-1951. Repeal of this Act.

13. At any time after the period of five years from the coming into operation of this Act, the Governor may, by Order in Council, exercise with respect to the Kwinana Road District, any of the powers referred to in section eight of the Road Districts Act, 1919-1951, and on the exercise of any of the powers by the Governor, he may at any time by proclamation, repeal this Act.

This Act subject to Act No. 1 of 1952.

14. This Act is subject to the provisions of the Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Act, 1952.

Application of Road Districts Act, 1919-1951, to Board.

15. Except as modified by this Act the provisions of the Road Districts Act, 1919-1951, apply *mutatis mutandis* so far as they can be made applicable to the Commissioner as if he were a board of a road district duly constituted under that Act.

S. 3.

THE SCHEDULE.

(See Map attached.)