

MAIN ROADS.

1° Elizabeth II., No. XXXIV.

No. 34 of 1952.

AN ACT to amend the Main Roads Act, 1930-1939.

[Assented to 5th December, 1952.]

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. (1) This Act may be cited as the *Main Roads Act Amendment Act, 1952.* Short title and citation.

(2) In this Act the Main Roads Act, 1930-1939, Act No. 5 of 1930 as reprinted with amendments to and including Act No. 48 of 1939 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938, Reprinted Acts, Vol. 2, 1943.

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Main Roads Act, 1930-1952.

2. The long title of the principal Act is amended by adding after the word, "Roads" in line four, the words, "and Controlled-access Roads and Local-access Roads". Long title amended.

S. 6
amended.

3. Section six of the principal Act is amended by—

(a) adding after the interpretation, “Commissioner” the following interpretation—

Cf. N.S.W.
No. 24 of
1924, s. 37B.

“controlled-access road” means a road, which is for use by prescribed traffic without avoidable hindrance by traffic from intersecting or adjoining roads or by other avoidable hindrance;

which may be entered and departed from at specified places only; and

which is proclaimed a controlled-access road pursuant to the provisions of this Act;

Cf. s. 28A
post.

(b) adding after the interpretation, “Inspector” the following interpretation—

Cf. N.S.W.
No. 24 of
1924, s. 27B.

“local-access road” means a road designed to provide access to, or over, or under a controlled-access road;

S. 20
amended.

4. Section twenty of the principal Act is amended by adding before the word, “Where” in line one, the words, “Subject to the provisions of section twenty-eightA of this Act”.

S. 28A
added.

5. The following heading and section to follow section twenty-eight are added to the principal Act—

Controlled-access Roads.

Controlled-
access roads.
Cf. No. 24 of
1924, s. 27C,
N.S.W.

28A. (1) (a) Where the Commissioner is of opinion that a controlled-access road should be provided, and should be entered and departed from at specified places only, he shall make a recommendation to the Governor accordingly.

- (b) If of opinion that the recommendation should be given effect, the Governor may, by proclamation, proclaim the controlled-access road, and the places only at which the controlled-access road may be entered or departed from.
 - (c) Where the Commissioner is of opinion that a proclamation so made should be varied or cancelled, he shall make a recommendation to the Governor accordingly.
 - (d) If of opinion that the recommendation should be given effect, the Governor may, by subsequent proclamation, vary or cancel a former proclamation.
 - (e) Proclamations made pursuant to the provisions of this subsection, as well as being published in the *Gazette* shall also, if the Governor thinks fit, be published or made known in such other manner as will, in the opinion of the Governor, afford reasonable opportunity to all persons concerned, to know of the substance of the proclamations.
 - (f) The powers conferred by this subsection may be exercised from time to time, and notwithstanding the provisions of section ninety-two of the Public Works Act, 1902.
- (2) (a) There is no right of access into or from a controlled-access road except at the places provided pursuant to the provisions of this Act for the purpose.

- (b) Where a right of access between a road, not being a controlled-access road, and land adjoining the road is, by operation of paragraph (a) of this subsection extinguished when the road is included in a controlled-access road, a person, the market value of whose estate or interest in that land is depreciated by the extinguishment of the right, is entitled to compensation for the depreciation.
- (c) The amount of compensation, if any, is a sum equal to the difference between the market value, ascertained on such of the days mentioned in paragraph (d) or paragraph (e) of this subsection as is applicable, of the estate or interest when the right of access exists and that market value when the right is extinguished, less such amounts, if any, as are taken into account in respect of the matters mentioned in paragraph (j) of this subsection.
- (d) If the proclamation of the controlled-access road is published in the *Gazette* on or before the thirtieth day of June in any year, the respective values referred to in paragraph (c) of this subsection are those obtaining on the first day of January next preceding the publication.
- (e) If the proclamation of the controlled-access road is published after the thirtieth day of June in any year, the respec-

tive values mentioned in paragraph (c) of this subsection are those obtaining on the thirtieth day of June next preceding the publication.

- (f) The Commissioner may enter into agreements relating to rights of access.
- (g) By an agreement so entered into the Commissioner may agree—
 - (i) on the amount of compensation;
 - (ii) to pay that amount on execution of the agreement or upon such terms and conditions as the parties agree; and
 - (iii) to the exercise of a right of access in respect of a controlled - access road but subject to such conditions and undertakings as having regard to the purposes of the controlled-access road he thinks fit.
- (h) Where there is no agreement, Part III of the Public Works Act, 1902 as modified by the provisions of this subsection apply *mutatis mutandis* in respect of the compensation.
- (i) For the purpose of the application of Part III of that Act to the provisions of this subsection, section thirty-six of that Act, which relates to the period of time within which the claim for compensation may be made, is regarded as if reference in that section to the

date of publication in the *Gazette* of the notice of taking land were a reference to the date of publication in the *Gazette* of the relevant proclamation made pursuant to the provisions of subsection (1) of this section.

- (j) (i) Where the compensation is to be assessed by the Court, the Court shall take into account in assessing the compensation—
- agreement, if any, by the Commissioner pursuant to subparagraph (iii) of paragraph (g) of this subsection;
 - benefit, if any, which may accrue to land in which the claimant has an estate or interest as a result of the construction or improvement, by the Commissioner or any other authority at any time after the proclamation of the controlled-access road, upon land adjacent to the land in respect of which compensation is claimed, of a road whether a local-access road or any other road subsidiary to the road, or by reason of the proclamation of the controlled-access road.
- (ii) Where there is an agreement or benefit mentioned in subparagraph (i) of this paragraph, the effect of the Court's taking it

into account shall be specified in the Court's award.

(3) The provisions of—

subsection (4) of section thirteen;

sections fifteen to nineteen, both inclusive;

sections twenty-one to twenty-three both inclusive; and

sections twenty-nine to thirty-five both inclusive;

of this Act, apply, *mutatis mutandis* in respect of controlled-access roads.

(4) Notwithstanding the provisions of any Act a person shall not use a controlled-access road for movement of live stock, except by transport in a vehicle in accordance with the provisions of this Act and the regulations.

(5) (a) The Commissioner may construct local-access roads and may carry a local-access road over or under any controlled-access road, or may carry a controlled-access road over or under a local-access road.

(b) The provisions of subsection (3) of section twenty-four of this Act, apply, *mutatis mutandis*, to a local-access road.

(6) A controlled-access road may, in accordance with the regulations, be divided into zones for the use of specified classes of traffic.

(7) A person who—

- (a) enters or leaves a controlled-access road otherwise than at a place provided pursuant to the provisions of this Act for that purpose;
- (b) without the consent of the Commissioner, constructs, forms or lays out any means of access to a controlled-access road or does not comply with the conditions of the consent where consent is given;
- (c) removes or damages the whole or part of an impediment erected by the Commissioner across a side road;
- (d) obliterates, removes or damages a notice erected by the Commissioner;
- (e) uses a controlled-access road for movement of live stock, except by transport in a vehicle, in accordance with the provisions of this Act and the regulations; or
- (f) uses a zone of a controlled-access road for traffic otherwise than in accordance with the regulations,

commits an offence against this Act.

Penalty: Twenty pounds.
