

ROAD DISTRICTS.

2° and 3° GEO. VI., No. XLVIII.

No. 48 of 1938.

AN ACT to amend the Road Districts Act, 1919-1934.

[Assented to 31st January, 1939.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and 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 *Road Districts Act* Short title. *Amendment Act* (No. 3), 1938, and shall be read as one with the Road Districts Act, 1919-1934 (as reprinted in the Appendix to the Sessional Volume of the Statutes for the years 1933-1934, and amended by the Acts No. 16 of 1934, No. 19 of 1934 and No. 48 of 1934), hereinafter referred to as the principal Act.

2. Section twenty-seven of the principal Act is amended as follows:— Amendment of s. 27.

- (a) by deleting the words "third Saturday in April" in lines one and two of the section and inserting in lieu thereof the words "day of the annual election held under this Act";
- (b) by inserting in paragraph (b) after the word "years" in line five of the said paragraph the words "except when for any reason permitted by this Act the annual election is deferred or postponed to a day subsequent to the day appointed by this Act for holding such annual election."

Amendment
of s. 28.

3. Section twenty-eight of the principal Act is amended as follows:—

- (a) by deleting the words “next ensuing third Saturday in April” in lines three and four and inserting in lieu thereof the words “day appointed by this Act for the holding of the next ensuing annual election”;
- (b) by deleting the words “third Saturday in the second month of April ensuing” in lines five and six and inserting in lieu thereof the words “until the day upon which the second annual election ensuing after such member is elected is held.”

Amendment
of s. 38.

4. Section thirty-eight of the principal Act is amended by deleting the word “shall” in line two and inserting the word “may” in lieu thereof.

Amendment
of s. 65.

5. Section sixty-five of the principal Act is amended as follows:—

- (a) by deleting subsection (3) and inserting in lieu thereof a subsection as follows:—

(3) No person who at or in relation to any election—

(a) acts as returning officer; or

(b) has been appointed by the Minister to take absentee votes

shall be or become a candidate at such election.

Provided that this subsection shall not apply to a person who, having been appointed to take absentee votes as aforesaid, by a notice in writing to the Minister relinquishes such appointment before the nomination day for the election at which he proposes to be a candidate;

- (b) by adding to the section a new subsection as follows:—

(5) Where, for any reason whatsoever, the Chairman of a Board is unable to act as returning officer at an election, or the returning officer for any reason whatsoever is unable to act or refuses or neglects to act in the execution of his office and in accordance with this section another person is appointed by the Board or by the Minister to act as returning officer, nothing in

this Act shall operate to prevent a member of the Board, other than the Chairman, being so appointed, and being paid and accepting payment as remuneration for his services as returning officer, and in any such case section twenty-four of this Act shall not apply.

6. Section one hundred and twenty-four of the principal Act is amended by adding to subsection (1) a proviso as follows:—

Amendment
of s. 124.

Provided that if, by reason of an equality of votes or for any other reason, the Board cannot at its first meeting aforesaid elect one of the members to be chairman or one of its members to be vice-chairman, the secretary, or failing a secretary, the person who convened such meeting shall report the fact to the Minister and the Minister may thereupon, by notice in writing under his hand, appoint a member to be chairman or to be vice-chairman, as the case may be, and the member so appointed by the Minister shall, as from the date of such notice, be the chairman or the vice-chairman, as the case may be, accordingly.

7. Section one hundred and forty-nine of the principal Act is amended as follows:—

Amendment
of s. 149.

(a) by inserting in the proviso to subsection (2) after the word "gates" in the last line but one of the said proviso the words "or gates and motor traffic passes";

(b) by inserting after subsection (2) a new subsection as follows:—

(2a) Every motor traffic pass erected by a Board under the authority of the proviso to subsection (2) of this section shall be of such design and description and shall be erected with such material and in such manner as may be required and approved by the Commissioner of Main Roads;

(c) by inserting in subsection (3) after the word "gates" in line two of the subsection the words "or such gates and motor traffic passes";

(d) by inserting in subsection (4) after the word "gates" where it appears in the lines one and three of the subsection the words "or such gates and motor traffic passes."

Amendment
of s. 162.

8. Section one hundred and sixty-two of the principal Act is amended as follows:—

(a) by deleting from paragraph (8) the words “In addition to the powers conferred by the Electric Lighting Act, 1892,” and inserting in lieu thereof the words “Subject to the Electricity Act, 1937”;

(b) by adding after paragraph (28) a new paragraph as follows:—

(29) Provide and maintain within its district aerial landing grounds and aerodromes, and join with any other Board or municipal council whose district adjoins or is adjacent to the district of the Board, in providing and maintaining in the district of such other Board or municipal council aerial landing grounds and aerodromes.

Amendment
of s. 192.

9. Section one hundred and ninety-two of the principal Act is amended as follows:—

(a) by inserting in subsection (1) after the word “gate” in line one of the subsection the words “and a motor traffic pass, or a gate only, or a motor traffic pass only”;

(b) by deleting subsection (3) and inserting in lieu thereof new subsections as follows:—

(3) Permission to erect a gate and a motor traffic pass, or a gate only, or a motor traffic pass only, as the case may be, shall be deemed to authorise the placing and maintenance of the gate and motor traffic pass, or the gate or the motor traffic pass, as the case may be, for one year and the permission granted in respect of the same shall be available for one year only.

(3a) Where a person has applied for permission for a gate only, the Board may, as a condition of the granting of the permission applied for, require that in addition to the gate, such person shall construct and maintain, during the period for which the permission is granted, a motor traffic pass of such design and description with such material and in such manner as the Commissioner of Main Roads may approve and require, and if such person fails in any

respect to comply with any requisition by the Board under this subsection the permission granted by the Board as aforesaid may forthwith be withdrawn by the Board.

(3b) Where a person has been granted permission for a gate only he may at any time, with the permission of the Board, construct and maintain across the road during the period for which such permission is granted, in addition to such gate, a motor traffic pass of such design and description with such material and in such manner as shall first be approved by the Commissioner of Main Roads.

(3c) Where a person is granted permission to construct and maintain a gate and a motor traffic pass or a motor traffic pass only, the motor traffic pass shall be constructed and maintained in accordance with such design and description, with such material and in such manner as shall be approved and required by the Commissioner of Main Roads. If the motor traffic pass as constructed and maintained fails in any respect to comply with the requirements of the said Commissioner, the Board may and shall if so required by the said Commissioner forthwith withdraw the permission granted by the Board;

(c) by deleting subsection (4) and inserting in lieu thereof a subsection as follows:—

(4) The Board shall keep a register of gates and motor traffic passes constructed in combination, and of gates only, and of motor traffic passes only, permitted to be constructed and maintained and constructed and maintained under this section, and of gates permitted to be constructed and maintained under any repealed Act or enactment, and shall provide for the annual registration of such gates and motor traffic passes, and of such gates only, and of such motor traffic passes only respectively, and shall charge a fee not exceeding ten shillings and not less than two shillings and sixpence for each such registration to be paid by the person to whom the permission is granted;

- (d) by deleting subsection (5) and inserting in lieu thereof a subsection as follows:—

(5) The Board may at any time withdraw any permission granted under this section, or any permission granted under section one hundred and seventy of the Roads Act, 1911, and may require the gate and motor traffic pass, or the gate, or the motor traffic pass, as the case may be, permitted under this section, or the gate permitted under section one hundred and seventy of the Roads Act, 1911, or under any other repealed Act or enactment to be removed by the person by whom the same was constructed or by whom the same is being maintained, and if the requisition of the Board is not complied with, the Board may remove such gate and motor traffic pass, or such gate, or such motor traffic pass, as the case may be, and recover the expense of the removal from the person failing to comply with such requisition aforesaid;

- (e) by deleting subsection (6) and inserting in lieu thereof a subsection as follows:—

(6) Any person leaving open any gate, or damaging any gate or any motor traffic pass during the period of the registration thereof under this section shall, without prejudice to any right of action for damages which the owner of such gate or motor traffic pass may have against such person, be guilty of an offence against this Act.

Penalty: Twenty pounds.

- (f) by inserting a new subsection after subsection (6) as follows:—

(6a) For the purposes of this section the term “motor traffic pass” means a contrivance constructed in a gap in a fence crossing or near a road, which is designed to permit the passage of motor vehicles but to prevent the passage of livestock over or through such a contrivance.

10. Section two hundred and twenty-two of the principal Act is amended by deleting the word “seventh” in line two and inserting in lieu thereof the words “thirty-first.”

11. Section two hundred and thirty-one of the principal Act is amended as follows:— Amendment of s. 231.

- (a) by deleting from subsection (3) the word “August” in the last line but one of the subsection and inserting in lieu thereof the word “September”;
- (b) by deleting from subsection (3) the word “February” in the last line of the subsection and inserting in lieu thereof the word “March.”

12. Section two hundred and thirty-six of the principal Act is amended by deleting from subsection (2) the word “thirty” in line two of the subsection and inserting in lieu thereof the words “sixty-two.” Amendment of s. 236

13. The principal Act as amended by this Act may be cited as the Road Districts Act, 1919-1938. Citation of principal Act as amended.
