

WESTERN AUSTRALIA

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**MAIN ROADS AMENDMENT  
ACT 1996**

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**No. 10 of 1996**

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**AN ACT to amend the *Main Roads Act 1930*.**

*[Assented to 27 June 1996.]*

The Parliament of Western Australia enacts as follows:

**Short title**

**1.** This Act may be cited as the *Main Roads Amendment Act 1996*.

**Commencement**

2. This Act comes into operation on the day on which it receives the Royal Assent.

**Principal Act**

3. In this Act the *Main Roads Act 1930\** is referred to as the principal Act.

[\* Reprinted as at 10 September 1987.  
For subsequent amendments see 1995 Index to  
Legislation of Western Australia, Table 1, pp. 134-5.]

**Section 3 repealed**

4. Section 3 of the principal Act is repealed.

**Section 5 repealed**

5. Section 5 of the principal Act is repealed.

**Section 6 amended**

6. Section 6 of the principal Act is amended in the definition of "road construction" —

(a) in paragraph (a) of the definition by inserting before "reconstruction" the following —

“ improvement and ”; and

(b) by deleting paragraph (d) of the definition and “and” after the definition and substituting the following —

“  
(d) the maintenance of roads and the provision and maintenance of street lights and traffic lights and any

equipment necessary for or incidental to the proper management of a road, and “construct”, in relation to a road, has a corresponding meaning;

”.

**Section 7 amended**

7. Section 7 of the principal Act is amended —

- (a) in subsection (1) by deleting “, who shall be an engineer qualified by training and experience in modern road making”; and
- (b) in subsection (2) by deleting “qualified as aforesaid”.

**Section 10 amended**

8. Section 10 (2) of the principal Act is amended in paragraph (a) by deleting “works of construction or maintenance;” and substituting the following —

“ road or other construction; ”.

**Section 10A amended**

9. Section 10A of the principal Act is amended by deleting subsections (3) and (4).

**Section 10B inserted**

10. After section 10A of the principal Act the following section is inserted —

“

**Delegation by Commissioner**

**10B.** (1) The Commissioner may, either generally or as otherwise provided by the instrument of

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delegation, by writing signed by him, delegate to an officer of the Commissioner any of his powers or duties under this Act, other than this power of delegation or a power of appointment delegated to him under section 10A by the Minister.

(2) If a function of the Commissioner is performed in accordance with a delegation under this section, that function is deemed to be performed by the Commissioner.

”.

**Sections 12A and 12B inserted**

**11.** After section 12 of the principal Act the following heading and sections are inserted —

“

*Main Roads Advisory Board***Board established**

**12A.** (1) A body called the Main Roads Advisory Board is established.

(2) The Board is to consist of 5 members appointed by the Minister.

(3) The First Schedule has effect.

**Board's functions**

**12B.** The Board's functions are —

- (a) to advise the Minister about the present and future needs of the State for roads and for infrastructure relating to road

transport, after taking into account the views of all kinds of users of roads;

- (b) to advise the Minister of any concerns as to the State's roads and infrastructure relating to road transport that are held by any body of persons concerned with road transport or with users of roads; and
- (c) to report in writing to the Minister about any matter referred to the Board by the Minister.

”.

**Section 16 amended**

**12.** (1) Section 16 (1) of the principal Act is amended in paragraph (a) by deleting “make, form, level, grade, pave, improve and maintain” and substituting the following —

“ construct ”.

(2) After section 16 (1) of the principal Act the following subsections are inserted —

“

(1a) The Commissioner has power under this Act, and is to be taken to have always had power under this Act, to operate any equipment necessary for or incidental to the proper management of a highway or main road, not being equipment used to control or regulate traffic, or any person, on the highway or main road.

(1b) Apart from any power to do so expressly conferred by this Act, the Commissioner's power to control or regulate traffic, or any person, on a highway or main road by any means is such as is from time to

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time conferred on the Commissioner by regulations made under the *Road Traffic Act 1974*.

(1c) The Commissioner is to be taken as always having been authorized by the regulations referred to in subsection (1b) to operate traffic signs and traffic control signals and similar devices, the erection of which is authorized by those regulations.

”.

(3) Section 16 (3) of the principal Act is amended by deleting “, maintenance, and repair”.

(4) Section 16 (5) of the principal Act is amended by deleting “, reconstruct, improve, maintain”.

**Section 17 amended**

**13.** Section 17 of the principal Act is amended —

- (a) in paragraph (1) (b) by deleting “and maintenance”;
- (b) in paragraph (1) (c) by deleting “and maintenance”;  
and
- (c) in paragraph (2) by deleting “and maintenance”.

**Section 18 amended**

**14.** Section 18 of the principal Act is amended by deleting “\$50 000” and substituting the following —

“ \$500 000 ”.

**Section 18A repealed and a section substituted**

15. Section 18A of the principal Act is repealed and the following section is substituted —

“

**Power to enter into contracts and agreements**

**18A.** (1) With the consent of the Minister the Commissioner may enter into an agreement with any person providing for that person to pay for, or contribute towards, the expenditure to be incurred by the Commissioner in relation to the construction, or any aspect of the construction, of any road that under this Act the Commissioner is authorized to construct.

(2) The Commissioner has, and is to be taken to have always had, the power to enter into a contract with any person under which the person is to perform any road or other construction that the Commissioner is empowered to perform under this Act or any other written law.

(3) The Commissioner may enter into an agreement with any person providing for such of the Commissioner's functions under this Act or any other written law (other than those referred to in subsection (2)) as are set out in the agreement to be performed for and on behalf of the Commissioner.

(4) An agreement under subsection (3) may require that the functions to be performed under it be performed —

- (a) on and subject to the terms and conditions set out in the agreement;
- (b) only in relation to a road, or a part of a road, set out in the agreement.

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(5) Where the performance of a function set out in an agreement under subsection (3) is dependent upon the opinion, belief, or state of mind of the Commissioner it may, subject to the agreement, be performed upon the opinion, belief, or state of mind of the person with whom the agreement is made or another person set out in the agreement.

(6) For the purposes of this Act or any other written law, an act or thing done to, or by reference to or in relation to a person in connection with the performance by that person of a function of the Commissioner under an agreement under subsection (3) is as effectual as it would be if it were done to, by reference to or in relation to the Commissioner.

(7) For the purposes of this Act or any other written law, if —

- (a) under an agreement under subsection (3) a function of the Commissioner is to be performed by another person; and
- (b) the function is performed in accordance with that agreement,

then the performance has effect as if it had been performed by the Commissioner.

”.

**Section 18B inserted**

**16.** After section 18A of the principal Act the following section is inserted —

“

**Power to undertake other work**

**18B.** (1) The Commissioner may enter into a contract with any person to do work, whether or not

connected with the functions of the Commissioner under this Act, for that person.

(2) A contract under subsection (1) may provide for an agreed amount or an agreed rate to be paid to the Commissioner for work done.

(3) No contract under subsection (1) that involves, or may involve, payment to the Commissioner of more than \$500 000 shall be entered into without the written consent of the Minister being first obtained.

(4) In this section —

“**work**” includes providing advice or facilities, supplying services and doing work jointly with another person.

”.

#### **Section 19 amended**

**17.** Section 19 of the principal Act is amended in paragraph (d) by deleting “, improvement, and maintenance”.

#### **Sections 19B and 19C inserted**

**18.** After section 19A of the principal Act the following sections are inserted —

“

#### **Minister may give directions**

**19B.** (1) Subject to subsection (3), the Minister may give directions in writing to the Commissioner with respect to the performance of his functions, either generally or in relation to a particular matter, and the Commissioner shall give effect to any such direction.

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(2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the Commissioner under section 66 of the *Financial Administration and Audit Act 1985*.

(3) The Minister may not give a direction with respect to the Commissioner's decision to make a recommendation to the Governor under section 13, 14, 24 or 28A of this Act.

**Minister to have access to information**

**19C.** (1) The Minister is entitled —

- (a) to have information in the possession of the Commissioner; and
- (b) where the information is in or on a document, to have, and make and retain copies of, that document.

(2) For the purposes of subsection (1) the Minister may —

- (a) request the Commissioner to furnish information to the Minister;
- (b) request the Commissioner to give the Minister access to information;
- (c) for the purposes of paragraph (b) make use of the staff of the Commissioner to obtain the information and furnish it to the Minister.

(3) The Commissioner shall comply with a request under subsection (2) and make his facilities and members of staff available to the Minister for the purposes of paragraph (c) of that subsection.

(4) In this section —

**“document”** includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

**“information”** means information specified, or of a description specified, by the Minister that relates to the functions of the Commissioner.

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### **Section 26 amended**

**19.** Section 26 of the principal Act is amended by deleting “the provision and construction of” in the 2 places where it occurs.

### **Section 27A amended**

**20.** (1) Section 27A (1) of the principal Act is amended by deleting “provide, construct or improve” and substituting the following —

“ construct ”.

(2) Section 27A (3) of the principal Act is amended by deleting “the provision and construction of” in the 2 places where it occurs.

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**Section 31 amended**

**21.** Section 31 (1) (aa) of the principal Act is deleted and the following paragraph is substituted —

“

(aa) moneys paid pursuant to a contract, or an agreement, entered into by the Commissioner under this Act;

”.

**Heading deleted**

**22.** After section 35 of the principal Act the heading “SCHEDULES” is deleted.

**First Schedule repealed and a Schedule inserted**

**23.** The First Schedule to the principal Act is repealed and the following Schedule is substituted —

“

**FIRST SCHEDULE — PROVISIONS APPLYING TO  
THE MAIN ROADS ADVISORY BOARD**

[Section 12A]

**Interpretation**

**1.** In this Schedule —

“**member**” means a member of the Main Roads Advisory Board.

**Tenure of office**

**2.** A member —

(a) holds office for the term, not exceeding 2 years, specified in the instrument appointing the member, and is eligible for reappointment; and

- (b) may resign from office by notice in writing delivered to the Minister.

### **Chairperson**

**3.** (1) The Minister is to appoint one member to be the chairperson.

(2) The Board is to appoint one member to be the deputy chairperson.

(3) The deputy chairperson is to perform the functions of the chairperson when the chairperson is unable to do so because of illness, absence or other cause, or when the office of chairperson is vacant.

### **Meetings**

**4.** (1) Subject to this clause the Board is to determine the procedure for convening and conducting its meetings.

(2) The chairperson is to preside at Board meetings.

(3) In the absence of the chairperson and the deputy chairperson at a meeting, a person elected by the members present is to preside.

(4) The Board is to keep minutes of its meetings to a standard approved by the Minister.

(5) The Board is to give the Minister a copy of the minutes of each Board meeting.

### **Remuneration and allowances**

**5.** A member is entitled to the remuneration and allowances determined by the Minister from time to time on the recommendation of the Minister for Public Sector Management.

### **Funds for the Board**

**6.** The funds needed for the payment of members and for the operation of the Board are to be paid out of the Main Roads Trust Fund.

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