

MAIN ROADS.

No. 53 of 1976.

AN ACT to amend the Main Roads Act, 1930-1975.

[Assented to 10th September, 1976.]

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, 1976.*

Short title
and
citation.

(2) In this Act the Main Roads Act, 1930-1976 is referred to as the principal Act.

Reprinted
as
approved
for reprint
22nd
January,
1970 and
amended
by Acts Nos.
35 of 1972,
27 of 1974,
28 of 1974
and 96 of
1975.

(3) The principal Act as amended by this Act may be cited as the Main Roads Act, 1930-1976.

Section 2
repealed.

2. Section 2 of the principal Act is repealed.

Section 6
amended.

3. Section 6 of the principal Act is amended—

(a) by deleting the interpretation “district” and substituting the following interpretation—

“district” has the same meaning as is given to that term by the Local Government Act, 1960; ;

(b) by deleting the interpretation “inspector”; and

(c) by adding after the interpretation “main road” the following interpretation—

“motor traffic pass” means a pass that is constructed across a gap in a fence and that is designed to enable motor traffic to pass on any road made through the gap and to prevent the straying of livestock through the gap; .

Section 10
amended.

4. Subsection (2) of section 10 of the principal Act is repealed.

Section 11
amended.

5. Section 11 of the principal Act is amended by deleting the passage “, assistant engineer, inspector” in line one.

Section 22
repealed
and
re-enacted.

6. Section 22 of the principal Act is repealed and re-enacted as follows—

Construction
of works.

22. The Commissioner may, with the approval of the Minister, construct and maintain on any road works necessary for facilitating the exercise of the powers conferred on the Commissioner by this Act, and the approval so given shall be sufficient authority for the carrying out of any works incidental to the exercise of those powers. .

7. Section 28 of the principal Act is repealed and re-enacted as follows—

Section 28
repealed and
re-enacted.

28. (1) In this section “the relevant authority” means—

Motor
traffic
passes.

(a) in relation to a highway or main road, the Commissioner; and

(b) in relation to a secondary road, the Commissioner or the local authority when acting as agent of the Commissioner.

(2) Subject to this section, where a road passes through a fence or is to be constructed to pass through a fence the relevant authority may construct a motor traffic pass and a gate.

(3) Where a fence includes a gate at or near the point where a motor traffic pass is to be constructed and it is necessary to remove the gate during construction, the relevant authority shall on the completion of the construction re-erect the gate in the fence at a point that is reasonably near the motor traffic pass.

(4) A motor traffic pass shall be constructed according to plans and specifications approved by the Commissioner.

(5) Except where the land so enclosed is used only for pastoral or grazing purposes, before the relevant authority commences the construction of a motor traffic pass it shall give not less than one month's written notice of its intention to construct the motor traffic pass to the occupier of the land enclosed by the fence.

(6) A person to whom notice is given pursuant to subsection (5) of this section may object to the construction of the motor traffic pass at any time within one month of the date of the notice by letter addressed to the relevant authority.

(7) Where the relevant authority gives notice of its intention to construct a motor traffic pass and receives an objection pursuant to subsection (6) of this section it shall not construct the motor traffic pass referred to in the notice unless the objection is subsequently withdrawn.

(8) The costs of constructing a motor traffic pass shall be borne by the relevant authority and the costs of maintaining a motor traffic pass shall be borne—

- (a) in the case of a highway or a main road, by the Commissioner; and
- (b) in the case of a secondary road, by the local authority of the district,

and where a gate is included in a fence at or near a motor traffic pass the costs of maintaining the gate in a proper state of repair shall be borne by the occupier of the land enclosed by the fence in which the motor traffic pass is constructed.

(9) The relevant authority shall not be liable for any damage or injury to any person lawfully using a motor traffic pass or for any damage or injury to livestock caused by the motor traffic pass, unless such damage or injury arises from the failure of the relevant authority to carry out any statutory duty in relation to the motor traffic pass.

(10) Where a gate installed at or near a motor traffic pass is not in a proper state of repair the relevant authority may serve notice to that effect on the person who pursuant to subsection (8) of this section is liable for the costs of maintaining the gate and if that person fails to put the gate into a proper state of repair the relevant authority may itself carry out such repairs to the gate as in its opinion are necessary and may recover the costs of carrying out those repairs from that person in any court of competent jurisdiction.

(11) Where a gate or a motor traffic pass has been, or both a gate and a motor traffic pass have been, constructed pursuant to the provisions of this Act across a road and the road passes through enclosed land from which a portion has been resumed for the purposes of the road, the relevant authority is not liable to fence or to bear the costs of any fencing along the sides of the road where it passes through the enclosed land and notwithstanding anything in the Public Works Act, 1902, where a claim for compensation is made with respect to any such resumption no compensation shall be paid with respect to the costs of fencing along the sides of the road. .
