



Western Australia

Main Roads Act 1930

Compare between:

[17 Nov 2023, 07-d0-01] and [30 Nov 2023, 07-e0-01]

Main Roads Act 1930

An Act to consolidate and amend the law relating to and making provision for the construction, maintenance, and supervision of highways, main and secondary roads, and other roads, to provide for the control of access to roads, to confer functions on the Commissioner of Main Roads, including in relation to works unrelated to roads, and for other relative purposes.

[Long title amended: No. 34 of 1952 s. 2; No. 96 of 1975 s. ~~33~~; No. 26 of 2023 s. 4.]

Part 1 — Preliminary

[Heading inserted: No. 19 of 2010 s. 44(2).]

1. Short title, commencement and extent of operation

- (1) This Act may be cited as the *Main Roads Act 1930*, and shall come into operation on a day to be fixed by proclamation.
- (2) This Act shall apply to such portions of the State as shall from time to time be defined by proclamation ¹.

[2. Deleted: No. 53 of 1976 s. 2.]

[3. Deleted: No. 10 of 1996 s. 4.]

4. Transitional provision

Every regulation, rule, proclamation, order in council, declaration, determination, appointment, instrument, book, document, valuation, and every Act of authority and other act, matter or thing which was subsisting or operative immediately before the commencement of this Act under or for the purposes of any statutory provision which is hereby repealed and hereby re-enacted with or without modification shall, subject to this Act, subsist and enure for the purposes of this Act as fully and effectually as if it had originated under the corresponding provision hereof; and accordingly shall, when necessary, be deemed to have so originated, and this Act shall apply thereto.

[Section 4 amended: No. 96 of 1975 s. 4.]

[5. Deleted: No. 10 of 1996 s. 5.]

6. Terms used

In this Act, subject to the context —

[adjoining works, in relation to a road, means works necessitated by works on, or the use of, the road —](#)

[\(a\) on land adjoining the road; or](#)

(b) relating to a watercourse that adjoins or intersects the road;

agreement includes a contract or business arrangement;

business arrangement means a company, a partnership, a trust, a joint venture, an arrangement for sharing profits or an arrangement for sponsorship;

carry out includes supervise;

COA road section has the meaning given in section 28AA;

Commissioner means the Commissioner of Main Roads appointed under this Act;

control of access in relation to any road means that a section or part of that road is intended for use by prescribed traffic without avoidable hindrance, whether from traffic from an intersecting road or otherwise, and that such section or part of the road has been declared by proclamation to be subject to control of access and may be entered or departed from at specified places only;

declared road means a road declared to be a highway, main road or secondary road under this Act, and includes any part of any such road;

district means an area that has been declared to be a district under the *Local Government Act 1995*;

enter, into an agreement that is a business arrangement, includes form, promote, establish, manage, dissolve, wind up, and do anything incidental to participating in a business arrangement;

environmental offset works —

(a) means works or other actions designed to offset the environmental effects of main roads works; and

(b) includes —

(i) establishing and maintaining native vegetation, as defined in the *Environmental Protection Act 1986* section 51A, on land; and

(ii) making monetary contributions to a fund maintained for the purpose of establishing or maintaining such vegetation;

financial year or **year** means the period of 12 months ending on 30 June in any year;

heavy vehicle has the meaning given in the Road Traffic (Vehicles) Act 2012 section 3(1);

highway means a road declared by proclamation to be a highway for the purposes of this Act, and includes any part ~~thereof~~ of the highway;

interest in relation to land means —

- (a) a legal or equitable estate or interest in the land; or
- (b) an easement, right, power or privilege in, under, over, affecting, or in connection with the land;

land includes an interest in land;

local government includes a regional local government;

main road means a road declared by proclamation to be a main road for the purposes of this Act, and includes any part ~~thereof~~ the road;

main roads works means any of the following —

- (a) road works;
- (b) adjoining works;
- (c) road service centre works;
- (d) environmental offset works;
- (e) any other works the Commissioner is empowered to carry out under this Act or any other written law;

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;

oversize, in relation to a vehicle, means having a dimension that exceeds an applicable dimension requirement (whether or not

the vehicle also has a mass that exceeds an applicable mass requirement) prescribed for the vehicle by regulation under the Road Traffic (Vehicles) Act 2012;

proclaimed area means a portion of the State to which this Act applies;

road means any thoroughfare, highway or road that the public is entitled to use and any part ~~thereof~~of the thoroughfare, highway or road, and all bridges (including any bridge over or under which a road passes), viaducts, tunnels, culverts, grids, approaches, paths for cyclists, pedestrians or both, and other things ~~appurtenant thereto~~related to, or used in connection with, the road;

road ~~construction~~ includes —

- ~~— (a) the improvement~~service centre means an area that adjoins and ~~reconstruction of roads and, for that purpose, the acquisition of land, the demolition of buildings and the taking~~is accessible from a highway or defending of legal proceedings; and
- ~~— (b) the purchase and maintenance of plant, and the supply of labour and materials, for~~main road ~~construction; and that comprises —~~
- ~~— (c) the administration of road construction, including planning, research, investigation, survey and design; and~~
- ~~— (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~~ (a) commercial premises, including those that are mobile, that provide goods or services for vehicles or road users; or

(b) any other place where road users are permitted to rest or engage in recreational activities; or

(c) any other place or facility where other activities may be carried out in connection with road travel or transport;

road works means works relating to a road, ~~has a corresponding meaning;~~

secondary road means a road declared to be a secondary road for the purposes of this Act, and includes any part ~~thereof~~ of the road;

works includes the following —

- (a) the construction of something;
- (b) the improvement or reconstruction of something;
- (c) the maintenance of the things constructed, improved or reconstructed under paragraph (a) or (b);
- (d) the repair, reconstruction or maintenance of anything affected by the things constructed, improved or reconstructed under paragraph (a) or (b);
- (e) the provision and maintenance of any equipment or service necessary for, or incidental to, the proper management of the things constructed, improved or reconstructed under paragraph (a) or (b);
- (f) revegetation;
- (g) any other demolition or removal of something;
- (h) the acquisition of land for the purposes of anything referred to in paragraphs (a) to (g);
- (i) the administration of anything referred to in paragraphs (a) to (h), including planning, research, investigation, survey and design;
- (j) the purchase and maintenance of plant, and the supply of labour, materials and water for the purposes of anything referred to in paragraphs (a) to (h);
- (k) the taking or defending of legal proceedings for the purposes of anything referred to in paragraphs (a) to (j).

[Section 6 amended: No. 34 of 1952 s. 3; No. 7 of 1966 s. 2; No. 70 of 1966 s. 3; No. 57 of 1967 s. 3; No. 47 of 1969 s. 4; No. 27 of 1974 s. 27; No. 96 of 1975 s. 5; No. 53 of 1976 s. 3; No. 10 of 1996 s. 6; No. 14 of 1996 s. ~~44~~; No. 26 of 2023 s. 5.]

Part 2 — Commissioner of Main Roads

[Heading inserted: No. 19 of 2010 s. 44(2).]

7. Appointment of Commissioner and deputy, ~~appointment of~~

- (1) The Governor may appoint for the due administration of this Act, some person to be Commissioner of Main Roads.
- (2) In case of the illness or other incapacity, suspension or absence of the Commissioner, or any vacancy in the office of Commissioner, the Governor may appoint some person to act as the deputy of the Commissioner during such illness, incapacity, suspension, absence or vacancy, and until such appointment is terminated by the Governor. Every person so appointed ~~shall~~has while so acting ~~have~~ all the powers and may perform all the ~~duties~~functions of the Commissioner.
- (3) The Commissioner ~~shall~~may be appointed for a term not exceeding 5 years, but ~~he~~ a person appointed as Commissioner may be removed from office by the Governor at any time on the happening of any one of the events following, namely —
 - (a) for misbehaviour or incompetence;
 - (b) if ~~he~~the person commits an act of bankruptcy under the law relating to bankruptcy and in force in this State;
 - (c) if ~~he~~the person wilfully fails to perform ~~his duties~~the functions of the Commissioner for 14 consecutive days, except when on leave of absence granted by the Minister;
 - (d) if ~~he~~the person becomes in any way, except as Commissioner, concerned or interested in ~~any contract made~~an agreement entered into by or on behalf of the Commissioner; or in any way participates or is entitled to participate either directly or indirectly in the profits or benefits derived from ~~any such contract~~that agreement.

*[Section 7 amended: No. 96 of 1975 s. 6; No. 10 of 1996 s. 77;
No. 26 of 2023 s. 6 and 44.]*

8. Salaries of Commissioner and deputy

The Commissioner shall receive an annual salary, to be fixed by the Governor; and every person appointed to act as his deputy, while so acting, such remuneration as the Governor shall decide.

9. Commissioner is body corporate

For the purposes of this Act the Commissioner ~~shall be~~^{is} a body corporate under the name of the “Commissioner of Main Roads”, and ~~shall have~~^{has} perpetual succession and a common seal, and power to acquire, hold and dispose of real and personal property, and to sue and be sued, and to do and exercise all such ~~acts and powers~~^{functions} as may, in the opinion of the Minister, be necessary or convenient for carrying into effect any of the purposes or objects of this Act.

[Section 9 amended: No. 26 of 2023 s. 7 and 44.]

9AA. Status of Commissioner

The Commissioner is an agent of the State and has the status, immunities and privileges of the State.

[Section 9AA inserted: No. 26 of 2023 s. 8.]

9A. Borrowing powers; Treasurer’s guarantee and approval

- (1) For carrying out the purposes of this Act the Commissioner, subject to the approval of the Minister, shall have power upon the guarantee and with the prior approval in writing of the Treasurer of the State to borrow money upon such terms and conditions only as the Treasurer approves.
- (2) The Treasurer is hereby authorised to so approve and to give the guarantee, including a guarantee of interest, referred to in subsection (1), for and on behalf of the Crown in right of the State.
- (3) Any moneys borrowed by the Commissioner under this section may be raised as one loan or as several loans in such manner as

the Treasurer may approve, but the amount of the moneys so borrowed shall not in any one year exceed in the aggregate such amount as the Treasurer approves.

- (4) Before a guarantee is given by the Treasurer under this section, the Commissioner shall give to the Treasurer such security as the Treasurer may require and shall execute all instruments necessary for the purpose.
- (5) The Commissioner shall use moneys borrowed under the power conferred by this section for the purpose of carrying this Act into effect and for no other purpose.

[Section 9A inserted: No. 96 of 1975 s. 7.]

10. ~~Staff; restrictions on~~ Appointment and restricted activities of staff

- (1) The Minister may on the recommendation of the Commissioner, for the purposes of this Act, appoint persons to be officers of the Commissioner.
- (2) The Commissioner may —
 - (a) employ such employees as are required for road or other construction or in connection with the performance of any other function of the Commissioner; and
 - (b) in accordance with the regulations, employ persons as cadets; and
 - (c) employ and remunerate students; ~~and~~
 - ~~(d) with the approval of the Minister, make use of the services of any officer or employee employed in the Public Service of the State.~~

~~[(d) deleted]~~

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- (3) ~~No~~An officer, employee or servant of the Commissioner ~~shall~~must not —
- (a) engage in any employment outside the duties of ~~his~~their office, except with the approval of the Commissioner; or
 - (b) in any way participate, or claim to be entitled to participate, in the profits of or in any benefit or emolument arising from ~~any contract or an~~ agreement made by or on behalf of the Commissioner; or
 - (c) acquire any Crown lands without the approval of the Minister.

[Section 10 amended: No. 6 of 1955 s. 2; No. 7 of 1966 s. 3; No. 53 of 1976 s. 4; No. 38 of 1984 s. 3²; No. 10 of 1996 s. 88; No. 26 of 2023 s. 9.]

10A. ~~Minister may delegate s. 10(1) power to~~ Use of government staff and facilities

- (1) The Commissioner may by arrangement with the relevant employer make use, either full-time or part-time, of the services of an officer or employee —
- (a) in the Public Service; or
 - (b) in a State agency; or
 - (c) otherwise in the service of the State.
- (2) The Commissioner may, by arrangement with a department of the Public Service or a State agency, make use of any facilities of the department or agency.
- (3) An arrangement under subsection (1) or (2) must be made on terms agreed to by the parties.

[Section 10A inserted: No. 26 of 2023 s. 10.]

10B. Delegation by Minister

- (1) The Minister may, ~~either generally or as provided by the instrument of delegation, by writing signed by him,~~ delegate to the Commissioner ~~his power of appointment under section 10(1).~~ —

(2) ~~For~~ a function of the purposes Minister under another provision of this Act; and

(b) a function of the exercise of a power of appointment under Minister under another Act, including a function delegated to the Minister under another Act.

- (2) Subsection (1)(a) does not apply to the function of the Minister referred to in section ~~10(1)~~ 18D.

- (3) A delegation under subsection (1) must be in writing signed by the Minister.

- (4) A delegation under subsection (1) may expressly authorise the Commissioner to further delegate the function.

- (5) If a function of the Minister is performed in accordance with a delegation under this section, the function is taken to be performed by the Minister.

- (6) A person performing a function that has been delegated to the Commissioner under this section ~~shall be deemed~~ is taken to ~~be~~ do so in accordance with the exercise terms of that power by the Minister delegation unless the contrary is shown.

*[Section ~~10A~~ 10B inserted: No. ~~3826~~ of ~~1984~~ 2023 s. 4;
~~amended: No. 10 of 1996 s. 9.~~]*

10B10C. Delegation by Commissioner

- (1) The Commissioner may, ~~either generally or as otherwise provided by the instrument of delegation, by writing signed by him,~~ delegate to an officer of the Commissioner ~~any or, with the approval of his powers or duties~~ the Minister, another person —

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- (a) a function of the Commissioner under another provision of this Act, ~~other than this power of~~; and
- (b) unless specifically prevented under the delegation ~~of~~ a power of appointment function delegated to him the Commissioner under ~~section 10A by the Minister~~ another Act.
- ~~(2)~~ (2) A delegation under subsection (1) must be in writing signed by the Commissioner.
- (3) A delegation under subsection (1) may expressly authorise the delegate to further delegate the function.
- (4) If a function of the Commissioner is performed in accordance with a delegation under this section, ~~that~~ the function is deemed taken to be performed by the Commissioner.
- (5) A person performing a function that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) Nothing in this section limits the ability of the Commissioner to perform a function through an agent or under another lawful arrangement.

[Section ~~10B~~ 10C inserted: No. ~~1026~~ of ~~1996~~ 2023 s. 10.]

11. Officers to be subject to control of Commissioner

Every engineer and other officer ~~shall~~ must, in the exercise, performance and discharge of their respective powers, functions and duties under this Act, in all things be subject to the direction and control of the Commissioner.

[Section 11 amended: No. 53 of 1976 s. ~~55~~; No. 26 of 2023 s. 11 and 44.]

11A. Status of Commissioner, and of officers of Commissioner, who are members of Senior Executive Service

~~Notwithstanding~~Despite anything in sections 7, 8, 10 and 11, to the extent that there is in the case of a person who is appointed under —

- (a) section 7 to be the Commissioner or deputy Commissioner; or
- (b) section 10 to be an officer of the Commissioner,

and who is a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994*³ an inconsistency between this Act and that Act, that Act ~~shall prevail~~prevails.

[Section 11A inserted: No. 113 of 1987 s. ~~32~~32; amended: No. 26 of 2023 s. 12.]

12. Deputations attended by MP not to interview Commissioner

Any deputation in which a member of Parliament takes part or at which he is present shall interview the Minister and not the Commissioner.

Part 3 — Main Roads Advisory Board

[Heading inserted: No. 19 of 2010 s. 44(2).]

12A. Board established

- (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.

[Section 12A inserted: No. 10 of 1996 s. 11.]

12B. Board's functions

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; and
- (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 12B inserted: No. 10 of 1996 s. 11.]

Part 4 — Highways and main roads

[Heading inserted: No. 19 of 2010 s. 44(2).]

13. Proclamation of highways and main roads

- (1) On the recommendation of the Commissioner the Governor may by proclamation declare that any section or part of a road ~~shall be~~ is —

- (a) a highway; or
- (b) a main road,

or ~~shall cease~~ ceases to be so ~~to be~~, and may by the same or a subsequent proclamation declare that the footpaths of ~~any such~~ the road ~~shall~~ must, or ~~shall~~ must not, be excluded from the road.

- (2) In considering whether to make any recommendation to the Governor that a road should be declared to be a highway, the Commissioner ~~shall~~ must take into account —

- (a) the moneys available or likely to be available for highways; and
- (b) whether the road is or will be the direct connection between the capital of this and any other State; and
- (c) whether the road is or will be the principal route between the capital and the major producing regions of the State; and
- (d) whether the road is or will be the principal route between 2 or more of the major producing regions or major centres of population of the State; and
- (e) whether the road is or will be the principal route for high volume traffic movements within large urban areas; and
- (f) where part of the road is a related path for cyclists, pedestrians or both, whether the path is or will be the principal route for cyclist or pedestrian traffic following the general direction of the road.

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- (3) In considering whether to make any recommendation to the Governor that a road should be declared to be a main road, the Commissioner ~~shall~~must take into account —
- (a) the moneys available or likely to be available for main roads; and
 - (b) whether the road is or will be the main route connecting any large producing area, or any area capable of becoming in the near future a large producing area, with its market or closest port or railway station; and
 - (c) whether the road is or will be the main route of intercommunication between 2 or more large producing areas, or areas capable of becoming in the near future large producing areas, or between large centres of population; and
 - (d) whether the road is or will be a major route for high volume traffic movements within large urban areas.

[(4) deleted]

- (5) A declaration under this section may be revoked or varied by the Governor on the recommendation of the Commissioner.

[Section 13 inserted: No. 96 of 1975 s. 9; amended: No. 8 of 2012 s. ~~128~~128; No. 26 of 2023 s. 13 and 44.]

13A. Local government to be consulted on matters to do with highways and main roads

- (1) The Commissioner shall cause the local government of each district in which the road is situated to be notified in writing of the details of any proposed permanent improvements to any highway or main road before commencing the improvements.
- (2) Before making any recommendation to the Governor —
- (a) that any road be declared to be a highway or main road; or

- (b) that the plans of any proposed new highway or main road or deviation from an existing highway or main road be approved,

the Commissioner shall cause a notification to be given in writing to the local government of each district in which the road so to be declared is situated or the new road or deviation is proposed to be made of his intention to make the recommendation and shall inform the local government of a date, being not less than 30 days from the date of the notification, before which any objections by that local government may be made, and any such objection shall be considered by the Commissioner and responded to by him before making his recommendation.

- (3) Any local government which feels aggrieved by any recommendation may, within 30 days after notification of the response of the Commissioner following his consideration of that local government's objections, appeal to the Minister, who may vary or disallow the proposed recommendation.

[Section 13A inserted: No. 96 of 1975 s. 10; amended: No. 14 of 1996 s. 4; No. 57 of 1997 s. 84(1).]

14. Power to provide highways and main roads

- (1) The Governor, on the recommendation of the Commissioner, may authorise and empower the Commissioner to provide highways and to provide main roads, and where such a road is provided it shall be deemed to have been proclaimed when it is opened to traffic as such.
- (2) Before making any such recommendation the Commissioner shall take into account such matters as are mentioned in subsection (2) or subsection (3), as the case may require, of section 13.

[Section 14 amended: No. 96 of 1975 s. 11.]

15. Property in and control of highways and main roads

- (1) The absolute property in the land over which a highway or main road is declared ~~shall vest~~vests in the Crown.
- (2) The Commissioner ~~shall have~~has the care, control and management of the land over which a highway or main road is declared.
- (3) The following property vests in the Commissioner —
 - (a) the materials of all highways and main roads, and all live and dead timber and vegetation ~~thereon~~on highways and main roads, and all matters and things ~~appurtenant thereto; and~~related to highways and main roads;
 - (b) all buildings, fences, gates, posts, boards, stones, erections, and structures placed ~~upon~~on any highway or main road; ~~and~~
 - (c) the scrapings of any highway or main road and all gravel, sand, and other material on any highway or main road; ~~;~~

~~shall vest in the Commissioner.~~

[Section 15 inserted: No. 35 of 1972 s. 3; amended: No. 96 of 1975 s. ~~12~~12; No. 26 of 2023 s. 14 and 44.]

15A. Offences relating to damage to plants and litter

- (1) ~~No~~A person ~~shall~~must not cut, break, bark, root up or otherwise damage, destroy or remove the whole or any part of any timber, tree, sapling, shrub, undergrowth, or wildflower in or ~~upon~~any on a highway or main road without the prior ~~consent~~approval in writing of the Commissioner except when such action is taken to remove a hazard.

Penalty for this subsection: a fine of \$10 000.

- (2) ~~No~~A person ~~shall~~must not deposit any litter ~~upon~~any on a highway or main road.

Penalty: ~~\$200~~ for this subsection: a fine of \$10 000.

[Section 15A inserted: No. 35 of 1972 s. 4; amended: No. 96 of 1975 s. ~~13~~13; No. 26 of 2023 s. 15.]

Part 5 — ~~Powers and duties~~Functions of Commissioner

[Heading inserted: No. 19 of 2010 s. 44(2).]

); amended: No. 26 of 2023 s. 16. — ~~Powers.~~

15B. General functions of Commissioner

- (1) The ~~Commissioner may~~ Commissioner's functions include the following —
 - (a) to construct ~~all~~ and manage the State's network of highways ~~or~~ and main roads, ~~and~~ including shared paths, cycle paths and similar paths that form part of that network;
 - (b) to carry out works in relation to highways, main roads and other roads in accordance with the provisions of this Act;
 - (c) to carry out works connected with roads, including to construct or manage infrastructure associated with roads and traffic;
 - (d) to carry out other main roads works;
 - (e) to control or regulate traffic —
 - (i) directly on highways and main roads; and
 - (ii) on other roads in conjunction with local governments and other road authorities;
 - (f) to undertake civil construction and other works for public purposes on behalf of government agencies or government owned entities, local governments or other authorities;
 - (g) without adversely affecting its other functions —
 - (i) to use the Commissioner's assets for public purposes that are not necessarily connected with the construction or maintenance of roads; or
 - (ii) to undertake activities that may use or exploit the Commissioner's assets or services, including to

use the Commissioner's assets for purposes that may be commercial in nature; or

(iii) to undertake other activities that may be commercial in nature, including to enter into agreements, leases or licences, to earn revenue or to make a profit;

(h) the other functions conferred on the Commissioner under this Act or another written law.

(2) The Commissioner may do all things necessary for or incidental to the proper management thereof; or convenient to be done for or in connection with the performance of the Commissioner's functions.

~~(b)~~ (3) This section does not limit the functions or powers of the Commissioner under another provision.

(4) This section does not limit the powers of a police officer under any other law.

[Section 15B inserted: No. 26 of 2023 s. 17.]

16. General powers of Commissioner relating to roads

(1) The Commissioner may exercise in regardrelation to any highway or main road any power which a local government couldmay exercise in regard thereto if suchfor a road-were within its district.

(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 time conferred on the Commissioner under a road

law as defined in the *Road Traffic (Administration) Act 2008* section 4.

- (1C) The Commissioner is ~~to be taken~~ as to have always ~~having been~~ authorised ~~by the regulations referred to in subsection (1b) to operate~~ erect, establish or display traffic or road signs ~~and, road markings,~~ traffic control signals and similar devices, ~~the erection of which is authorised by those regulations.~~
- (2) Subject to the provisions of section 15, the powers of any local government over any highway or main road ~~shall~~ are not ~~be deemed to be~~ taken away by this Act, but the exercise of ~~such~~ those powers ~~shall be~~ is subject to the control and direction of the Commissioner.
- (2A) Nothing in subsection (2) requires the Commissioner's approval to be obtained before each exercise by a local government of its powers over a highway or main road.
- (3) A local government may, at the request in writing of the Commissioner ~~and as his agent,~~ and at a cost to the Commissioner to be stated in such request, undertake, or may at its discretion, tender for and enter into ~~any contract~~ an agreement with the Commissioner for ~~the construction of any highway or main road~~ roads works within its district, ~~or the construction of any secondary road within its district;~~ and, subject to the ~~work~~ works being done to the satisfaction of the Commissioner the cost to the Commissioner stated in the request, or the amount stated in the ~~contract~~ agreement, as the case may be, ~~shall~~ will, subject to the conditions (if any) stated in ~~such~~ the request or ~~contract~~ agreement, be payable to the local government out of moneys standing to the credit of the Main Roads Trust Account.
- (4) The Commissioner ~~may, for~~ has, and is taken to have always had, the ~~purposes of this Act, power to~~ exercise ~~such powers as may be~~ any function delegated to ~~him in writing from time to time~~ the Commissioner under ~~Division 4 of Part 9 of the Land Administration Act 1997,~~ by or any other Act.

(4A) If the Minister ~~for the time being~~ administering the Land Administration Act 1997 delegates to the Commissioner a function under Part 9 Division 4 of that Act, ~~who is hereby authorised so to delegate his powers, and in any such case —~~

(a) section 203 of that Act applies; ~~and section 113A of~~

(b) the *Public Works Act 1902* section 113A applies as if the ~~powers~~power had been conferred under that Act.

- (5) The Commissioner may ~~provide, construct and supervise~~carry out all or any of the works and undertakings mentioned in sections 32 and 32A.

[Section 16 amended: No. 7 of 1966 s. 4; No. 57 of 1967 s. 4; No. 35 of 1972 s. 5; No. 27 of 1974 s. 28; No. 96 of 1975 s. 14; No. 25 of 1982 s. 4; No. 10 of 1996 s. 12; No. 14 of 1996 s. 4; No. 49 of 1996 s. 64; No. 31 of 1997 s. 68(1); No. 77 of 2006 Sch. 1 cl. 104(11); No. 8 of 2012 s. ~~129~~129; No. 26 of 2023 s. 18 and 44.]

16A. ~~Closing~~Powers as to closure of highways or main roads, ~~powers as to~~

- (1) Where in the opinion of the Commissioner —

- (i)a) a highway or main road, ~~or a part thereof~~of a highway or main road, has become unsafe for traffic generally or traffic of any particular class; or
- (ii)b) a highway or main road, ~~or part thereof~~of a highway or main road, would be damaged by the passage of traffic generally or traffic of any particular class;

the Commissioner may cause that highway, main road or part to be closed to traffic generally or to traffic of any particular class, and may from time to time authorise the re-opening of that highway, main road or part to traffic generally or to traffic of any particular class.

- (2) The Commissioner ~~shall~~must not cause a highway or main road, ~~or part thereof~~of a highway or main road, to be closed for any

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period of more than 28 consecutive days or for periods aggregating more than 28 days in the space of one year, unless the ~~consent~~approval of the Minister has first been obtained but may with that ~~consent~~approval authorise the closure for any greater period or periods.

- (3) Where a highway or main road, or ~~a-part thereof~~of a highway or main road, is closed ~~pursuant to~~under this provision, the Commissioner ~~shall~~must cause signs to be erected at each end of that highway, main road or part, and a person who, without the authority of the Commissioner, interferes with any such sign commits an offence.

Penalty: ~~\$200~~ for this subsection: a fine of \$10 000.

- (4) ~~Every~~A person who, without the authority of the Commissioner, drives a vehicle or causes a vehicle to be driven on a highway or main road, or ~~a-part thereof~~of a highway or main road, that is closed to traffic generally, or drives a vehicle of any class or causes a vehicle of any class to be driven on a highway or main road, or ~~a-part thereof~~of a highway or main road, that is closed to that class of vehicle, commits an offence.

Penalty: ~~\$200~~ for this subsection: a fine of \$10 000.

[Section 16A inserted: No. 96 of 1975 s. ~~15~~15; amended: No. 26 of 2023 s. 19 and 44.]

17. ~~Surveys etc.~~Powers as to surveys, investigations and purchase of land etc., powers as to

The Commissioner, so far as any moneys legally available for the purpose permit, ~~shall~~may —

- (a) carry out all such surveys and investigations as may be necessary or expedient to ascertain —
 - (i) what roads ~~shall~~should be highways and what roads ~~shall~~should be main roads; and
 - (ii) the nature and extent of the resources of the State in metals, minerals, and materials suitable for the

- purposes of ~~road construction~~ main roads works, and the most effective and economical methods of dealing with the ~~same~~ resources and ~~for~~ applying ~~the same~~ them to, and ~~utilizing~~ using them for, the ~~same for the said~~ purposes in, the whole or any part of the State; and
- (iii) the most effective methods of ~~road construction~~ main roads works for the whole or any part of the State; and
- (iv) what deviation (if any) in existing roads or what new roads should in ~~his~~ the Commissioner's opinion be made so as to facilitate communication and improve conditions of traffic; and
- (v) what road service centres and other facilities (if any) are required for particular highways and main roads;

and

- (b) conduct or cause to be conducted experiments with different materials to test their relative durability and suitability for the construction of roads; and
- (c) record, publish, and make available for general information the results of all such surveys and investigations; and
- (d) purchase all land, machinery, tools, implements, and materials that may be needed for the purposes of this Act.

[Section 17 amended: No. 96 of 1975 s. 16; No. 10 of 1996 s. 13; No. 19 of 2010 s. 63(5)-f); No. 26 of 2023 s. 20 and 44.]

[18. ~~Contracts over \$500 000 need Minister's prior written consent~~

~~Deleted: No contract involving an expenditure by the Commissioner, 26 of an amount exceeding \$500 000 shall be~~

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~~entered into without the written consent of the Minister being first obtained.~~

~~[Section 18 amended: No. 96 of 19752023 s. 17; No. 10 of 1996 s. 1421.]~~

18A. ~~Contracts and~~General power to enter into agreements, powers to enter relevant to Commissioner's functions

- (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 authorised 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~~an agreement that is relevant to the Commissioner's functions under this Act or any other written law.

~~[(2) deleted]~~

- (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; or
 - (b) only in relation to a road or other place, or a part of a road or other place, set out in the agreement.

- (5) ~~Where~~If the performance of a function set out in an agreement under subsection (3) is dependent ~~upon~~on the opinion, belief, or state of mind of the Commissioner it may, subject to the agreement, be performed ~~upon~~on 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 18A inserted: No. 10 of 1996 s. ~~15~~15; amended: No. 26 of 2023 s. 22.]

18AA. Agreements for contributions towards Commissioner's expenditure

- (1) The Commissioner has, and is taken to have always had, the power to 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 carrying out main roads works.

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(2) Without limiting subsection (1), the agreement may relate to any of the following —

- (a) works comprising modifications of, or replacement of infrastructure on or under, roads to accommodate mining operations or property development;
- (b) road service centre work;
- (c) works associated with providing or establishing any infrastructure, facilities or services;
- (d) works associated with activities that are commercial in nature.

[Section 18AA inserted: No. 26 of 2023 s. 23.]

18B. Power to undertake other work

(1) For the purposes of this section, a reference to **works** includes a reference to the following —

- (a) infrastructure or other construction works;
- (b) providing or supplying facilities or services;
- (c) providing advice;
- (d) doing work jointly with another person.

(2) The Commissioner may enter into ~~a contract~~an agreement with any person to do ~~work~~works, whether or not connected with the functions of the Commissioner under this Act, for that person.

[Section 18B inserted: No. 26 of 2023 s. 24.]

18C. Power to authorise work

(1) The Commissioner may authorise a person to carry out main roads works that the Commissioner is empowered to carry out under this Act or any other written law.

(2) ~~A contract~~Works authorised under subsection (1) may ~~provide for an agreed amount or an agreed rate to be paid to the Commissioner for work done.~~works carried out —

(a) wholly at the other person's expense; or

(b) partly at the Commissioner's expense and partly at the other person's expense; or

(c) on some other basis determined or approved by the Commissioner.

(3) ~~No contract~~An authorisation under subsection (1) may be subject to conditions specified by the Commissioner.

(4) If an authorisation under subsection (1) allows a person to carry out works in relation to a road under the care, control or management of a local government, the approval of the relevant local government is required before the person commences the works.

(5) Subsection (4) does not apply if the works only relate to the intersection of a main road or highway with another road.

[Section 18C inserted: No. 26 of 2023 s. 25.]

18D. Agreements requiring Minister's approval

(1) The following require the approval of the Minister before they are entered into by the Commissioner —

(a) an agreement that ~~involves~~ will or may involve, expenditure by the Commissioner of an amount exceeding the prescribed amount;

(b) an agreement under section 18AA or 18B that will 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.~~ an amount exceeding the prescribed amount;

~~(4)~~ (c) any other agreement of a kind prescribed by the regulations.

(2) A regulation prescribing an amount for subsection (1) may allow the Minister to require that an agreement that will or may involve expenditure by the Commissioner below a prescribed

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amount, or payment to the Commissioner below a prescribed amount, must be submitted to the Minister for approval in prescribed circumstances.

[Section 18D inserted: No. 26 of 2023 s. 25.]

18E. Other powers

(1) In this section —

~~work~~acquire includes acquire —

(a) by way of a lease, licence, easement or bailment; or

(b) in any other manner in which an interest in property may be acquired;

dispose of includes dispose of —

(a) by way of a lease, licence, easement or bailment; or

(b) in any other manner in which an interest in property may be disposed of;

participate in, in relation to a business arrangement, includes form, promote, establish, enter into, manage, dissolve, wind up, and do things incidental to participating in a business arrangement;

property means property of any kind, whether real or personal, tangible or intangible, corporeal or incorporeal, and any interest in property;

research body means a body, whether incorporated or not, which —

(a) has its principal office within the Commonwealth; and

(b) has among its principal objects the carrying out of research, investigation, inquiries or studies into roads or their management or related matters within the Commonwealth.

(2) The Commissioner may do all or any of the following —

(a) acquire, develop, dispose of, and otherwise deal with, property;

- (b) undertake works for the safety and protection of infrastructure and property;
- (c) construct, undertake works for, or be involved in the establishment of, road service centres and other facilities;
- (d) provide roadside reserves and other land for drivers to rest and for the general use or enjoyment of people using a particular highway or main road;
- (e) give directions about the use or management of reserves or land provided under paragraph (d), including by erecting no camping signs and other signs that forbid or regulate a particular activity;
- (f) permit, on terms and conditions determined by the Commissioner, the provision of refreshments, food, tourism services and information and other services by commercial or other private operators (including charitable or other organisations), or public entities, in roadside reserves or on other land;
- (g) provide road-related information to road users, including through other persons;
- (h) assist vehicle users to move broken down vehicles;
- (i) enter into agreements with land owners of any land adjoining property owned or occupied by the Commissioner to conduct additional work on their land, including payment for those works and future arrangements for the ongoing risk allocation and management for the completed works;
- (j) use the expertise and resources of the department of the Public Service principally assisting in the administration of this Act to provide consultancy, advisory or other services, including services for profit;
- (k) develop policies in conjunction with the local government sector, including in connection with providing advice~~or facilities, supplying services and~~

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~~doing work jointly with another person.~~ technical support and other forms of assistance to local governments relating to the construction, maintenance and upgrading of roads under their care, control or management;

(l) subject to section 18F, participate in any business arrangement or research body and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement or research body;

(m) collaborate in, carry out, or procure the carrying out of, research and publish information that results from that research;

(n) develop and turn to account any technology, software, resource or intellectual property and, for that purpose, apply for, hold, receive, exploit and dispose of any intellectual property;

(o) promote and market the Commissioner, including any business name approved by the Minister, and any of the Commissioner's functions, activities or initiatives;

(p) sponsor events and causes —

(i) relating to road or traffic safety or any other land transport related purpose of benefit to the community or a section of the community; or

(ii) providing or promoting opportunities for training, development or employment associated with or supporting the delivery or maintenance of civil infrastructure;

(q) enter into an arrangement for the purposes of anything referred to in paragraphs (a) to (p).

[Section ~~18B~~18E inserted: No. ~~1026~~ of ~~1996~~2023 s. ~~1625~~.]

18F. Business arrangements and agreements requiring Minister's and Treasurer's approval

(1) The Commissioner requires the approval of the Minister and the Treasurer before the Commissioner enters into —

(a) a business arrangement that is within the ambit of section 15B(1)(g)(ii) or (iii); or

(b) an agreement by which the Commissioner acquires, holds or disposes of shares, units or other interests in, or relating to, a business arrangement or research body.

(2) An approval under subsection (1) may be subject to conditions specified by the Minister or the Treasurer.

[Section 18F inserted: No. 26 of 2023 s. 25.]

19. Other ~~duties~~functions of Commissioner

The Commissioner ~~shall~~must also —

(a) inspect and report on and construct or supervise roads and works when so desired by the Minister; and

(b) report to the Minister on ~~his~~the Commissioner's proceedings under this Act on such occasions as the Minister directs; and

[(c) *deleted*]

(d) supervise the construction of highways, main roads and secondary roads, and other works to be carried out under this Act; and

(e) perform ~~such~~ other ~~duties as may be~~ prescribed functions.

[Section 19 amended: No. 96 of 1975 s. 19; No. 98 of 1985 s. 3; No. 10 of 1996 s. ~~17~~17; No. 26 of 2023 s. 26 and 44.]

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19A. *Financial Management Act 2006 and Auditor General Act 2006 apply to Commissioner etc.*

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Commissioner and his operations.

[Section 19A inserted: No. 98 of 1985 s. 3; amended: No. 77 of 2006 Sch. 1 cl. 104(1).]

19B. Minister may give Commissioner directions

- (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.
- (2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the Commissioner under Part 5 of the *Financial Management Act 2006*.
- (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.

[Section 19B inserted: No. 10 of 1996 s. 18; amended: No. 77 of 2006 Sch. 1 cl. 104(2).]

19C. Minister to have access to information

- (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.

[Section 19C inserted: No. 10 of 1996 s. 18.]

20. Commissioner to provide access to roads from adjoining land in certain cases

- (1) Subject to the provisions of section 28A where the Commissioner, in reconstructing an existing road or building a new road, prejudicially affects the access to a property having a frontage thereto, the Commissioner shall at his own expense provide reasonable access to the reconstructed or new road.
- (2) If in carrying out the provision of subsection (1) it becomes necessary for the Commissioner to acquire any land belonging to a private owner, the expense of so doing shall be borne by the person requiring such access.

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- (3) Before any such land is so acquired, the Commissioner shall give at least 21 days' notice of his intention to acquire, and in the event of the person requiring such access dissenting from his so doing, the Commissioner's responsibility under subsection (1) shall cease.

[Section 20 amended: No. 34 of 1952 s. 4; No. 19 of 2010 s. 63(5).]

21. Local governments to give Commissioner information on request

The Commissioner may request any local government to furnish any information respecting any road or work under the control of such local government, and if the information is available it shall be furnished to the Commissioner by the local government within one month.

[Section 21 amended: No. 14 of 1996 s. 4.]

22. Intellectual property

- (1) In this section —

intellectual property means intellectual property —

- (a) created or acquired in the course of the performance of the Commissioner's functions under this Act; or

- (b) otherwise created in the course of the performance of functions by a person in that person's capacity as an officer or employee of the Commissioner.

- (2) Any intellectual property, or right to apply for, hold, receive, exploit or dispose of intellectual property, that the State acquires is, by operation of this section, assigned to the Commissioner.

[Section 22 inserted: No. 26 of 2023 s. 27.]

22A. Adjoining works

- (1) The Commissioner may carry out adjoining works in relation to highways and main roads.

(2) The Commissioner may, by negotiation or agreement, enter on land adjoining the highway or main road to perform adjoining works.

(3) Nothing in this section affects a power of the Commissioner to enter land under another written law.

[Section 22A inserted: No. 26 of 2023 s. 27.]

22B. Road service centres on highways and main roads

(1) The Commissioner may carry out road service centre works in relation to a highway or main road.

(2) The Commissioner may facilitate the operation of road service centres in connection with supporting any of the Commissioner's functions under this Act.

(3) The Commissioner may do anything necessary in the exercise of a power referred to in subsection (2), including —

(a) enter into an agreement with any person under which the person is to operate a road service centre; and

(b) for the purposes of paragraph (a), exercise the Commissioner's power under section 29(2).

[Section 22B inserted: No. 26 of 2023 s. 27.]

22C. Incidental works to roads, ~~power to construct~~

~~The~~(1) In addition to powers conferred under the other provisions of this Act, the Commissioner may, with the approval of the Minister, ~~construct and maintain on any road~~ carry out works necessary for facilitating the ~~exercise~~performance of the ~~powers~~functions conferred on the Commissioner by this Act, including works on any land under the care, control and management of the Commissioner.

(2) The Minister's approval ~~so given shall be~~is sufficient authority for the carrying out of any works incidental to the ~~exercise~~performance of ~~those powers~~the functions.

[Section ~~22~~22C inserted: No. ~~53~~26 of ~~1976~~2023 s. ~~6~~27.]

**23. ~~Defacing~~Person must not remove or deface works~~-etc.,~~
~~offence~~**

~~Any~~A person who obliterates, removes, or defaces any signs, marks, trenches, posts, pegs or the like, made, erected or inserted in or ~~upon~~on any land in the course of making surveys, or taking levels, or setting out any land required for the purposes of this Act, or establishing distances, warnings, directions and the like, ~~shall be guilty of an offence and liable on conviction to a penalty not exceeding \$40~~commits an offence.

Penalty: a fine of \$5 000.

[Section 23 amended: No. 113 of 1965 s. ~~8~~8; No. 26 of 2023 s. 28.]

Part 6 — Secondary roads

[Heading inserted: No. 19 of 2010 s. 44(2).]

24. Declaration of ~~secondary roads~~, and local ~~governments'~~ government functions as to ~~secondary roads~~

- (1) The Governor, on the recommendation of the Commissioner, may —
 - (a) declare any road to be a secondary road for the purposes of this Act; or
 - (b) authorise and empower the Commissioner to ~~provide and construct~~ carry out works on any secondary road.
- (2) A declaration made under this section may be revoked or varied by the Governor on the recommendation of the Commissioner.
- (3) In considering whether to make any recommendation to the Governor that any road should be declared to be a secondary road, the Commissioner ~~shall take into account~~ must —

~~(a)~~ (a) take into account the following —

- (i) the funds available or likely to be available for secondary roads;
- ~~(b)~~ (ii) whether the road is or will be in the near future a feeder route connecting producing areas with a highway or main road or with their market outlets or connecting centres of population;
- ~~(c)~~ (iii) whether the road is, or will be, the main means of access to a national park, scenic reserve or site, or seaside resort, ~~and~~;

and

- (b) before making any recommendation ~~the Commissioner shall~~ — consult with the local government of the district in which the road is situated.

- (4) The powers of a local government over a secondary road ~~shall~~are not ~~be deemed to be~~ taken away by this Act and the Commissioner may enter into agreements with local governments for ~~the construction of~~works on secondary roads or any parts of a secondary road.
- (5) The local government of a district in which a secondary road or any part of a secondary road is situated ~~shall be~~is responsible for maintaining such secondary road or part~~;~~, but where a secondary road, or part of a secondary road, follows the common boundary of 2 districts, the cost of the maintenance ~~shall be~~is apportionable between the local governments of those districts and the Commissioner may determine the respective liabilities of each local government.
- (6) ~~Where~~If a local government fails to maintain to the satisfaction of the Commissioner any ~~construction~~ works carried out by the Commissioner on a secondary road, the Commissioner may, by notice in writing, direct the local government to carry out the works of maintenance specified in the notice within the period limited by the notice.

- (7) ~~Where~~If a local government fails to comply with a direction ~~given~~ under subsection (6), the Commissioner may carry out ~~such~~any works ~~and any~~required to effect the compliance.

(7A) Any expenses ~~so~~ incurred by the Commissioner ~~shall~~in exercising the power conferred by subsection (7) must be repaid by the local government to the Commissioner, ~~and, if not repaid within 3 months after demand by the Commissioner, shall be deemed a debt due and payable to Her Majesty enforceable in the name.~~

(7B) The amount of ~~Her Majesty against the local government and those expenses is recoverable by the revenues~~Commissioner in a court of competent jurisdiction as a debt due to the local government~~State~~.

- (8) All moneys repaid by, or recovered from a local government under this section ~~shall~~must be credited to the Main Roads Trust Account.

[Section 24 inserted: No. 96 of 1975 s. 21; amended: No. 25 of 1982 s. 5; No. 14 of 1996 s. 4; No. 49 of 1996 s. 64; No. 77 of 2006 Sch. 1 cl. 104(11~~+~~); [No. 26 of 2023 s. 29 and 44.](#)]

[25. Deleted: No. 96 of 1975 s. 22.]

26. Powers of Commissioner etc. as to secondary roads

The Minister, the Commissioner, and the officers acting under this Act shall have the same powers with regard to secondary roads as are by this Act conferred on them regarding highways and main roads, and the provisions of this Act regarding highways and main roads, shall, as far as practicable, apply *mutatis mutandis* to secondary roads.

[Section 26 amended: No. 96 of 1975 s. 23; No. 10 of 1996 s. 19.]

[27. Deleted: No. 96 of 1975 s. 24.]

Part 7 — Roads other than declared roads

[Heading inserted: No. 19 of 2010 s. 44(2).]

27A. ~~Roads~~ Commissioner's powers as to roads that are not highways, main roads or secondary roads, ~~Commissioner's powers as to~~

(1) In this section —

relevant local government, in relation to a road, means the local government of the district in which the road is located;

road includes part of a road.

(2) The Commissioner may ~~construct roads or parts of roads~~ carry out works on a road for the development of an area or for any other purpose, and ~~any such~~ the road need not be declared to be a highway, a main road or a secondary road.

~~(2) — Before commencing the construction of any road pursuant to this section, the~~ (3) The Commissioner ~~shall~~ must consult with the relevant local government ~~and when that~~ before commencing works on the road, ~~or any part thereof, has~~ under this section.

(4) When the works have been ~~constructed or any work executed thereon, that road or part shall be~~ carried out, the road is the responsibility of the relevant local government ~~of the district in which it is situated~~ and ~~shall~~ must be maintained by ~~that~~ the relevant local government.

~~(3)~~ (5) The Commissioner and officers acting under this Act ~~shall~~ have the same ~~powers~~ functions with regard to roads under this section as are by this Act conferred on them regarding highways and main roads, ~~and the provisions of this Act regarding highways and main roads shall, as far as practicable, apply mutatis mutandis to any such roads.~~

(6) The provisions of this Act regarding highways and main roads, adjoining land and land on which environmental offset works

are being carried out apply, as far as practicable and with appropriate modifications, to those roads and that land.

*[Section 27A inserted: No. 9626 of 19752023 s. 25; ~~amended:~~
~~No. 10 of 1996 s. 20; No. 14 of 1996 s. 4~~30.]*

Part 8 — Motor traffic passes

[Heading inserted: No. 19 of 2010 s. 44(2).]

28. ~~Motor~~ Construction, repairs and other works done to motor traffic passes, ~~construction, repair of etc.~~

- (1) In this section the *relevant authority* means —
 - (a) in relation to a highway or main road, the Commissioner; and
 - (b) in relation to a secondary road, the Commissioner or the local government 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~~must 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~~must 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~~must 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) 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) it ~~shall~~must 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~~must be borne by the relevant authority and the costs of maintaining a motor traffic pass ~~shall~~must 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 government 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~~is 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) 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 compulsorily taken 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~~[despite](#) anything in Part 10 of the *Land Administration Act 1997*, where a claim for compensation is made with respect to any such taking no compensation ~~shall~~[is to](#) be paid with respect to the costs of fencing along the sides of the road.

[Section 28 inserted: No. 53 of 1976 s. 7; amended: No. 14 of 1996 s. 4; No. 31 of 1997 s. 68(2~~-1~~); [No. 26 of 2023 s. 31 and 44.1](#)]

Part 9 — ~~Control of access~~Specific powers in relation to land

[Heading inserted: No. ~~1926~~ of ~~2010~~2023 s. ~~44(2).~~32.]

Division 1 — Control of access

[Heading inserted: No. 26 of 2023 s. 33.]

28AA. Terms used

In this Division —

COA road section means a road section subject to control of access;

road section means a section or part of a road.

[Section 28AA inserted: No. 26 of 2023 s. 33.]

28A. Restricting access to roads from adjoining land

(1A) Where the Commissioner is of the opinion —

- (a) that any road section ~~or part of a road~~ should ~~have control of access~~ be a COA road section and should be entered and departed from at specified places only; or
- (b) that any land acquired should be reserved for a future COA road section ~~with control of access~~,

the Commissioner ~~shall~~may make a recommendation to the Governor accordingly but may in so doing exclude a part of the road reserve from that recommendation.

(1B) On the recommendation of the Commissioner the Governor may, by proclamation, declare —

- (a) that ~~such a~~the road section ~~or part of a road~~ is ~~subject to control of access~~ a COA road section and the places only at which it may be entered or departed from; or
- (b) that the land acquired is to be reserved for a future COA road section ~~subject to control of access~~.

- (1C) Where the Commissioner is of opinion that a proclamation so made should be varied or cancelled, ~~he shall~~ the Commissioner may make a recommendation to the Governor accordingly.
- (1D) If of opinion that the recommendation should be given effect, the Governor may, by subsequent proclamation, vary or cancel a former proclamation.
- (1E) Proclamations made pursuant to ~~the provisions of~~ subsection (1B) or (1D), as well as being published in the *Gazette* ~~shall~~ may 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.
- (1F) The powers and functions conferred by this ~~subsection~~ section may be exercised and performed from time to time, and ~~notwithstanding the provisions of~~ despite section 92 of the *Public Works Act 1902*.
- (2A) There is no right of access into or from a COA road section ~~or part of a road subject to control of access~~ except at the places provided pursuant to the provisions of this Act for the purpose.
- (2AA) The Commissioner may grant a right of access in respect of a COA road section to an owner or occupier of land adjoining the road section.
- (2AB) The right of access may be granted subject to such conditions and undertakings as the Commissioner thinks fit having regard to the purposes of the COA road section.
- (2AC) The right of access may be granted for the exclusive use of a person or class of persons as the Commissioner thinks fit having regard to the purposes of the COA road section.
- (2B) Where a right of access between a road section ~~or part of a road not subject to control of access and the land adjoining that section or part~~ is not a COA road section and the land adjoining that road section is by operation of subsection (2A) extinguished

as a result of that ~~section or part being declared to be subject to control of access~~ road section becoming a COA road section, any 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.

- (2C) 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 subsection (2D) or (2E) 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 subsection (2J).
- (2D) If the proclamation declaring the ~~section or part of the road to be subject to control of access~~ COA road section is published in the *Gazette* on or before 30 June in any year, the respective values referred to in subsection (2C) are those obtaining on 1 January next preceding the publication.
- (2E) If the proclamation declaring the ~~section or part of the road to be subject to control of access~~ COA road section is published after 30 June in any year, the respective values mentioned in subsection (2C) are those obtaining on 30 June next preceding the publication.
- (2F) The Commissioner may enter into agreements relating to rights of access.
- (2G) By an agreement so entered into the Commissioner may agree —
 - (a) on the amount of compensation; and
 - (b) to pay that amount on execution of the agreement or upon such terms and conditions as the parties agree; and
 - (c) to the exercise of a right of access in respect of a ~~section or part of a~~ COA road ~~subject to control of access~~ section but subject to such conditions and undertakings as having regard to the purposes of the COA road section

~~or part of a road subject to control of access~~ he
Commissioner thinks fit.

- (2H) Where there is no agreement, Part 10 of the *Land Administration Act 1997* as modified by ~~the provisions of~~ subsections (2A) and (2B) to ~~(2K)~~ applies ~~mutatis mutandis,~~ with appropriate modifications, in respect of the compensation.
- (2I) For the purpose of the application of Part 10 of that Act to ~~the provisions of this~~ subsections (2A) and (2B) to (2K), section 207 of that Act, which relates to the period of time within which the claim for compensation may be made, is regarded as if the period of 6 months referred to in subsection (1) of that section begins on the date of publication in the *Gazette* of the relevant proclamation made pursuant to ~~the provisions of~~ subsection (1B) or (1D).
- (2J) Where the compensation is to be assessed by the Court, the Court ~~shall~~ must take into account in assessing the compensation —
- (a) an agreement, if any, by the Commissioner pursuant to subsection (2G)(c); and
 - (b) the 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~~ works, by the Commissioner or any other authority at any time after the proclamation declaring the COA road ~~section or part of the road to be subject to control of access, upon, on~~ land adjacent to the land in respect of which compensation is claimed, of a road whether a road to provide local access or any other road subsidiary to the road, or by reason of the proclamation declaring the ~~section or part of the road to be subject to control of access~~ COA road section.
- (2K) Where there is an agreement or benefit mentioned in subsection (2J), the effect of the Court's taking it into account ~~shall~~ must be specified in the Court's award.

- (3) Sections ~~13(4)~~, 15 to 19, 21 to 23 and 29 to 35 apply, *mutatis mutandis* with appropriate modifications, in respect of COA road sections ~~or parts of a road subject to control of access~~.
- (4) ~~Notwithstanding~~ Despite the provisions of any Act, a person ~~shall~~ must not ~~without the consent of the Commissioner~~ use a COA road section ~~or part of a road subject to control of access~~ for movement of ~~live stock~~ livestock, except —
- (a) with the approval of the Commissioner; or
- (b) by transport in a vehicle in accordance with the provisions of this Act and the regulations.
- (~~5A~~5) The Commissioner may ~~construct roads~~ undertake works to provide local access and may carry a road ~~to provide local access~~ over or under any COA road section ~~or part of a road subject to control of~~ provide local access, or may carry a COA road section ~~or part of a road subject to control of access~~ over or under a road to provide local access.
- ~~(5B)~~ ~~The provisions of section (5A)~~ Section 24(5), ~~apply, mutatis mutandis~~ applies, with appropriate modifications, to a road to provide local access.
- (6) A ~~section or part of a~~ COA road ~~subject to control of access~~ section 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 ~~section or part of a~~ COA road ~~subject to control of access~~ section otherwise than at a place provided pursuant to the provisions of this Act for that purpose; or
- (b) without the ~~consent~~ approval of the Commissioner, constructs, forms or lays out any means of access to a COA road section or ~~part of a road subject to control of access~~ ~~or~~ does not comply with the conditions of the ~~consent~~ approval where ~~consent~~ approval is given; or

- (c) removes or damages the whole or part of an impediment erected by the Commissioner across a side road; or
- (d) obliterates, removes or damages a notice erected by the Commissioner; or
- (e) without the ~~consent~~approval of the Commissioner, uses a COA road section ~~or part of a road subject to control of access for~~ for movement of ~~live stock~~livestock, except by transport in a vehicle, in accordance with the provisions of this Act and the regulations; or
- (ea) if a right of access for a COA road section has been granted under subsection (2AC) — uses the COA road section when the person is not a person, or does not belong to a class of persons, referred to in that subsection; or
- (f) uses a zone of a ~~section or part of a road subject to control of access~~COA road section for traffic otherwise than in accordance with the regulations,

commits an offence against this Act.

Penalty: ~~\$40~~ for this subsection: a fine of \$5 000.

[Section 28A inserted: No. 34 of 1952 s. 5; amended: No. 113 of 1965 s. 8; No. 96 of 1975 s. 29; No. 54 of 1977 s. 2; No. 31 of 1997 s. 68(3); No. 19 of 2010 s. 63(5-7); No. 26 of 2023 s. 34 and 44.]

28B. No ~~structures etc.~~structure or apparatus to be placed on ~~etc. roads subject to control of access~~COA road section without prior approval

- (1) ~~Notwithstanding~~Despite the provisions of any Act, no person, local government or agent or instrumentality of the Crown, except the Commissioner, ~~shall~~may place on, over or under a COA road section or ~~part of a road subject to control of access~~ ~~or~~ any land acquired, set apart, taken or resumed for a COA road section ~~or part of a road subject to control of access~~, any tower, pole, wire, pipe or other structure or apparatus of any

kind, without the prior ~~consent~~approval in writing of the Commissioner.

- (2) The Commissioner may by notice in writing, direct a person, local government, agent or instrumentality of the Crown who or which has contravened subsection (1) to remove, pull down or take up the tower, pole, wire, structure or apparatus placed on, over or under a ~~section or part of a road subject to control of access~~COA road section or any land in contravention of that subsection.
- (3) Where the person, local government, agent or instrumentality of the Crown on whom or on which a notice referred to in subsection (2) has been served, fails to comply with the notice within the time specified therein, the Commissioner —
- (a) may remove, pull down or take up the tower, pole, wire, pipe, structure or apparatus specified in the notice; and
 - (b) may recover, in a court of competent jurisdiction as a civil debt due to ~~him~~the Commissioner from the person, local government, agent or instrumentality of the Crown, the amount of the expenses incurred by ~~him~~the Commissioner in exercising the power conferred by paragraph (a).

*[Section 28B inserted: No. 7 of 1966 s. 5; amended: No. 96 of 1975 s. 30; No. 14 of 1996 s. 4; No. 57 of 1997 s. 84(2)-7];
No. 26 of 2023 s. 35 and 44.]*

~~29.~~ — Division 2 — Acquiring and leasing land; powers for main roads works and road service centres

[Heading inserted: No. 26 of 2023 s. 36.]

**29. Acquiring, leasing and making agreements in relation to
~~lease etc. acquired~~ land**

(1A) In this section —

designated purpose means —

(a) main roads works or other works associated with the construction of infrastructure; or

(b) activities to provide services for vehicles or road users or in connection with road travel or transport; or

(c) other purposes directly or indirectly connected with the Commissioner's functions or other public purposes.

- (1) ~~When and as often as~~ Without limiting section 18E, when land is required for ~~the purposes of this Act,~~ a designated purpose the Commissioner —

(a) may acquire the land by negotiation or agreement; or

(b) may enter upon, survey and compulsorily acquire the land under the powers contained in and in accordance with the procedure prescribed by ~~Part 9 of the~~ *Land Administration Act 1997* Parts 9 and 10.

- (2) ~~In addition to the other powers conferred on the Commissioner by this Act~~ Without limiting section 18E, the Commissioner may grant ~~— to any person on such terms and conditions, approved by the Minister, as the Commissioner thinks fit —~~

(a) a lease or licence to occupy ~~any~~ —

(i) freehold land acquired by ~~him~~ the Commissioner under this section; and

(ii) any other land otherwise under the care, control and management of the Commissioner;

and

(b) any interest in ~~that land,~~

~~to any person from whom the land was acquired upon such terms and conditions subject to subsection (3) as he thinks fit and of which the Minister approves.~~ referred to in paragraph (a)(i).

(2A) Without limiting section 18F, the acquisition of land under subsection (1)(b) for a road service centre requires the approval of the Minister.

- (3) Where the Commissioner pursuant to subsection (2)(b), grants an interest that is an easement, unless the parties concerned otherwise agree, the easement ~~shall~~must not be revoked without compensation.

- (4) The Commissioner may enter into agreements relating to such other matters and things as are necessary to give effect to the powers conferred on the Commissioner by this section and for the purpose of facilitating the acquisition of, and dealing with ~~any~~, land ~~acquired~~ under this section.

- (5) Without limiting the generality of the powers conferred by this section, the provisions of this section relating to the acquisition of land, whether an interest is acquired separately from or together with any land, extends to the acquisition of an interest to use the subsoil or under surface of land, the surface of land or any space above the surface of land for the erection of any bridge over or under which a road is to pass and for the erection of the necessary supports therefor.

- (6) Where —
 - (a) land that consists only of a space above the natural surface is acquired under this section; and
 - (b) a road is constructed through that space; and
 - (c) the road is ~~proclaimed, reserved,~~ declared or otherwise dedicated as a road under an Act,

the land ~~shall~~is not, if it is under the operation of the *Transfer of Land Act 1893* at the time it is so acquired, ~~be~~ removed from the operation of that Act, ~~notwithstanding~~despite the provisions of this or any other Act.

- (7) In applying the *Public Works Act 1902*, to this Act the ~~expressions,~~terms *land* and *interest* in that Act have the same

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respective meanings as they respectively have in section 6 of this Act.

[Section 29 inserted: No. 70 of 1966 s. 4; amended: No. 31 of 1997 s. ~~142~~142; No. 26 of 2023 s. 37 and 44.]

[30. Deleted: No. 73 of 1954 s. 5 and 8.]

Part 10 — Main Roads Trust Account

[Heading inserted: No. 19 of 2010 s. 44(2).]

31. Account established; moneys to be credited to it

- (1) There ~~shall~~must be credited, from time to time, to an agency special purpose account called the Main Roads Trust Account established under section 16 of the *Financial Management Act 2006* —
 - (a) such moneys as are, from time to time, appropriated by Parliament; and
 - (aa) moneys paid pursuant to ~~a contract, or~~ an agreement, entered into by the Commissioner under this Act; and
 - (b) moneys paid to the Treasury, by a local government, in respect of permanent works and the maintenance of highways, main roads, and secondary roads; and
 - (c) moneys paid by the Commonwealth to the State, for the purposes of road ~~construction~~works, whether by virtue of an Act of the Parliament of the Commonwealth or otherwise; and
 - (d) moneys that are to be credited to the Main Roads Trust Account under the *Road Traffic (Administration) Act 2008* or any other Act; and
 - (e) any other moneys lawfully received by, made available to, or payable to the Commissioner.
- (2) Subject to this Act, such other agency special purpose accounts as the Treasurer may from time to time approve are to be established under section 16 of the *Financial Management Act 2006*.

[Section 31 inserted: No. 47 of 1969 s. 5; amended: No. 96 of 1975 s. 31; No. 25 of 1982 s. 7; No. 10 of 1996 s. 21; No. 14 of 1996 s. 4; No. 49 of 1996 s. 64; No. 28 of 2006 s. 381; No. 77 of 2006 Sch. 1 cl. 104(4)-(6); No. 8 of 2012 s. ~~130~~130; No. 26 of 2023 s. 38 and 44.]

32. Expenditure from account

- (1) The moneys standing to the credit of the Main Roads Trust Account other than those standing to the credit of the Railway Crossing Protection Account maintained under section 32A ~~shall~~must be applied —
- (a) firstly, in meeting the costs of the administration of, and the exercise by the Commissioner of ~~his~~the Commissioner's functions under, this Act; and
 - (b) secondly, in payment of any amount specified or determined by the Treasurer to be credited to the Consolidated Account as a contribution towards the payment of interest and sinking fund contributions payable on loan moneys that have, from time to time, been appropriated by Parliament for expenditure on ~~road construction~~main roads works; and
 - [(c), (d) deleted]*
 - (e) thirdly, in expenditure, by the Commissioner, in such manner and proportions as the Minister may, on the recommendation of the Commissioner, from time to time determine, on ~~road construction and other~~main roads works, on making payments to local governments or boards for ~~road construction, main roads works,~~ on lights and signs for the direction of traffic and on the ~~construction, erection and maintenance of~~works on lights for the lighting of any road or bridge; and
 - (f) finally, for any other purpose that the Minister may, on the recommendation of the Commissioner, from time to time determine.

[(2)-(13) deleted]

- (14) The warrant of the Commissioner is sufficient authority to the Treasurer to make any payment provided by this section, and in authorising any such payment the Commissioner ~~shall~~must make such adjustment, in respect of moneys erroneously or

improperly credited to the Main Roads Trust Account as the circumstances may from time to time require.

- (15) Any unexpended moneys standing to the credit of the Main Roads Trust Account at the end of a financial year may be applied under this section to any other year, without fresh appropriation.

[Section 32 inserted: No. 47 of 1969 s. 6; amended: No. 28 of 1974 s. 3; No. 96 of 1975 s. 32; No. 54 of 1977 s. 3; No. 9 of 1979 s. 16; No. 21 of 1980 s. 2; No. 106 of 1981 s. 29; No. 25 of 1982 s. 8; No. 6 of 1993 s. 11; No. 14 of 1996 s. 4; No. 49 of 1996 s. 64; No. 56 of 1997 s. 52; No. 77 of 2006 s. 4 and Sch. 1 cl. 104(7)-(9) and (11); No. 19 of 2010 s. 63(2) and (3); ~~No. 26 of 2023 s. 39 and 44.~~]

32A. Railway Crossing Protection Account

- (1) There shall be maintained under this Act an agency special purpose account established under section 16 of the *Financial Management Act 2006* to be known as the Railway Crossing Protection Account.
- (1a) There shall be allocated to the Railway Crossing Protection Account —
- (a) in the year ending on 30 June 1983 — \$650 000; and
 - (b) in subsequent years — such amount as the Minister may, on the recommendation of the Commissioner, from time to time determine.
- (2) Moneys standing to the credit of the Railway Crossing Protection Account shall be applied in meeting the cost of providing, improving, maintaining and repairing such crossings under, across or above railways in the State as the Minister may, on the recommendation of the Commissioner, from time to time determine.

[Section 32A inserted: No. 57 of 1967 s. 7; amended: No. 25 of 1982 s. 9; No. 77 of 2006 Sch. 1 cl. 104(10).]

~~[33. Deleted]~~ **Part 10A — Costs and charges**

[Heading inserted: No. ~~1426~~ of ~~1996~~2023 s. 40.]

33. Infrastructure and other works

(1) Without limiting any other provision, the Commissioner may charge —

(a) a property developer for the cost of infrastructure, work or other activities associated with providing access onto, over or under a highway or main road on account of a development, or to safely accommodate traffic arising from a new development; and

(b) an entity associated with mining operations for the cost of infrastructure, work or other activities associated with providing access onto, over or under a highway or main road on account of —

(i) new mining operations; or

(ii) a significant change (or proposed change) to existing mining operations;

and

(c) any other person whose activities require the Commissioner to construct, reconstruct, establish, alter or maintain infrastructure, or to undertake any other work, in relation to a highway or main road; and

(d) a person for the placement of infrastructure on road reserves where the authority or permission to do so is not covered by a lease, licence, easement or other similar arrangement; and

(e) a person for the right to place an advertising sign or hoarding on or over a highway or main road; and

(f) a person for the cost of additional wear to a highway or main road on account of the use of that road by a heavy vehicle or for work required in connection with the use of a highway or main road by an oversized vehicle.

(2) A charge under subsection (1) may be —

- (a) a specified amount, including an amount relating to the cost of infrastructure or the capital cost of works; or
- (b) an amount payable on a periodic or other basis; or
- (c) a combination of an initial payment and a periodic payment.

(3) A charge under subsection (1) may be imposed under an agreement or in some other way determined to be appropriate by the Commissioner.

(4) The amount of a charge payable under this section is recoverable by the Commissioner in a court of competent jurisdiction as a debt due to the State.

(5) The amount of any charge paid or recovered under this section must be credited to the Main Roads Trust Account.

(6) This section does not limit the ability to prescribe fees under section 37(3)(a).

[Section 33 inserted: No. 26 of 2023 s. 40.]

[33A. Deleted: No. 28 of 1974 s. 4.]

Part 11 — Control of advertisements

[Heading inserted: No. 19 of 2010 s. 44(2).]

33B. ~~Advertisements etc.~~ Regulations to control advertising structures near certain roads, ~~regulations to control etc.~~

- (1) The Governor may, on the recommendation of the Commissioner, make regulations for controlling and prohibiting the erection or construction of hoardings or other advertising structures, and to enforce the removal of hoardings and other advertising structures, on or in the vicinity of highways, main roads, and COA road sections ~~or part of a road subject to control of access,~~ and for restricting, preventing or controlling the exhibition of advertisements and for the removal of advertisements on or in the vicinity of highways, main roads, and COA road sections ~~or part of a road subject to control of access~~ where such hoardings or other advertising structures are considered to be hazardous to traffic safety or are aesthetically objectionable and in the case of such hoardings or other advertising structures erected on private property where the property owner refuses either to remove the sign or transfer it to another site acceptable to the Commissioner.
- (2A) Any person dissatisfied with any direction given by the Commissioner under a regulation made under the provisions of this section may, within 14 days after the direction is communicated to him, appeal in writing to the Minister.
- (2B) The Minister shall hear and determine such appeal and may appoint a committee to investigate and report on any matters referred to such committee by the Minister in connection with such appeal.
- (2C) The decision of the Minister on any such appeal shall be final and shall be given effect to by the parties.

[Section 33B inserted: No. 35 of 1972 s. 6; amended: No. 96 of 1975 s. 34; No. 19 of 2010 s. 63(5-7); No. 26 of 2023 s. 41.]

33C. Commissioner may delegate ~~powers etc.~~functions under regulations to local government

- (1) The Commissioner may —
 - (a) delegate to a local government all or any of ~~his powers~~ and the functions of the Commissioner under a regulation made pursuant to the provisions of section 33B; and
 - (b) vary or revoke a delegation ~~given by him~~.
- (2) A ~~power or~~ function delegated by the Commissioner may be ~~exercised or~~ performed by the delegate local government —
 - (a) in accordance with the instrument of delegation; and
 - (b) if the ~~exercise of the power or the~~ performance of the function is dependent ~~upon~~on the opinion or belief of the Commissioner in relation to a matter — ~~upon~~on the opinion or belief of the delegate local government in relation to that matter.
- (3) A delegation under this section does not limit any other section or prevent the ~~exercise of a power or the~~ performance of a function by the Commissioner.

[Section 33C inserted: No. 35 of 1972 s. 6; amended: No. 14 of 1996 s. ~~44~~; No. 26 of 2023 s. 42.]

[34. *Deleted: No. 67 of 1964 s. 9.]*

Part 12 — ~~Regulations~~Miscellaneous

[Heading inserted: No. ~~1926~~ of ~~2010~~2023 s. ~~44(2).~~43.]

~~35.~~ **Power to make regulations**

34. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person other than the Commissioner for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), neither the Commissioner nor the State is relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

[Section 34 inserted: No. 26 of 2023 s. 43.]

35. Time for commencement of prosecution

Proceedings under this Act for an offence must be commenced within 2 years after the day on which the offence is alleged to have been committed.

[Section 35 inserted: No. 26 of 2023 s. 43.]

36. Infringement notices

- (1) In this section —
authorised officer means an authorised officer appointed under the *Criminal Procedure Act 2004* section 6.
- (2) If this Act is a prescribed Act for the purposes of the *Criminal Procedure Act 2004* Part 2, this section applies in relation to the

service of an infringement notice under that Part by an authorised officer in relation to an alleged offence under this Act and the effect of that Part.

(3) The infringement notice must be served within —

(a) 21 days after the authorised officer forms the opinion that there is sufficient evidence to support the allegation of the offence; and

(b) 6 months after the alleged offence is believed to have been committed.

(4) The *Criminal Procedure Act 2004* Part 2 is modified to the extent necessary to give effect to this section.

[Section 36 inserted: No. 26 of 2023 s. 43.]

37. Regulations

(1) In this section —

designated place means —

(a) a highway or main road; or

(b) any other place that is owned by, or under the care, control and management of, the Commissioner.

(2) The Governor may, ~~on the recommendation of the Commissioner,~~ make regulations ~~not inconsistent with this Act,~~ prescribing all ~~things which by this Act~~ matters that —

(a) are required or permitted by this Act to be prescribed; ~~or which it may be~~

(b) are necessary or convenient to ~~prescribe~~ be prescribed for ~~the purpose of~~ giving effect to the ~~objects and~~ purposes of this Act~~;~~.

(3) Without limiting subsection (2), regulations may be made for any or all of the following purposes —

(a) prescribing matters for or in respect of which fees may be charged under this Act and prescribing the amount of

~~those fees (including regulations prescribing the travelling expenses to be allowed to the Commissioner and his officers, and may by such regulations prescribe penalties for offences against the regulations not exceeding in any case the sum of \$40 and regulations fees for access onto highways and COA road sections);~~

(b) regulating the access to, and movement of, prescribed types of vehicles on designated places;

(c) regulating road train assembly and break down areas on designated places;

(d) regulating the parking or standing of vehicles on designated places;

(e) regulating the removal, storage, forfeiture and sale or other disposal of vehicles, goods and animals left on designated places;

(f) empowering the Commissioner to —

(i) enter into an agreement with another person relating to the removal, storage, forfeiture and sale or other disposal of vehicles, goods and animals left on any road under the care, control and management of that person; and

(ii) arrange for the removal, storage, forfeiture and sale or other disposal of vehicles, goods and animals in accordance with that agreement;

(g) regulating activities, including works, by persons other than the Commissioner in relation to designated places;

(h) prohibiting the construction, reconstruction or placement of anything on, over or under a designated place without the authority of the Commissioner;

(i) providing for corrective works necessitated by an activity referred to in paragraphs (e), (f), (g) or (h);

(j) providing for the recovery of the Commissioner's costs in relation to a matter referred to in paragraph (d), (e), (f), (g), (h) or (i);

(k) regulating the employment by the Commissioner of persons as cadets.

(4) The regulations may provide that contravention of a regulation is an offence, and provide, for an offence against the regulations, a penalty not exceeding a fine of \$2 000.

[Section ~~35 (formerly s. 34⁴)~~ amended 37 inserted: No. ~~6 of 1955 s. 3~~; No. ~~113 of 1965 s. 8~~; No. ~~726 of 1966~~ 2023 s. ~~6~~; No. ~~35 of 1972 s. 743~~.]

[Heading deleted: No. 10 of 1996 s. 22.]

First Schedule — Provisions applying to the Main Roads Advisory Board

[Section 12A]

1. Term used: member

In this Schedule —

member means a member of the Main Roads Advisory Board.

[Clause 1 inserted: No. 10 of 1996 s. 23.]

2. Term of office

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.

[Clause 2 inserted: No. 10 of 1996 s. 23.]

3. Chairperson and deputy chairperson

- (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.

[Clause 3 inserted: No. 10 of 1996 s. 23.]

4. Meetings

- (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.

[Clause 4 inserted: No. 10 of 1996 s. 23.]

5. Remuneration and allowances

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

[Clause 5 inserted: No. 10 of 1996 s. 23; amended: No. 39 of 2010 s. 89.]

6. Funds for Board

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 Account.

[Clause 6 inserted: No. 10 of 1996 s. 23; amended: No. 77 of 2006 Sch. 1 cl. 104(11).]

[Second Schedule deleted: No. 19 of 2010 s. 63(4).]

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Notes

This is a compilation of the *Main Roads Act 1930* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. ~~For provisions that have not yet come into operation see the uncommenced provisions table.~~

Compilation table

Short title	Number and year	Assent	Commencement
<i>Main Roads Act 1930</i>	5 of 1930 (21 Geo. V No. 5)	19 Nov 1930	1 Dec 1930 (see s. 1 and <i>Gazette</i> 28 Nov 1930 p. 2564)
<i>Main Roads Act Amendment Act 1932</i>	2 of 1932 (23 Geo. V No. 2)	18 Oct 1932	1 Jul 1932 (see s. 2)
<i>Main Roads Act Amendment Act 1937</i>	3 of 1937 (1 Geo. VI No. 3)	29 Oct 1937	29 Oct 1937
<i>Main Roads Act Amendment Act 1932, Amendment Act 1937</i>	4 of 1937 (1 Geo. VI No. 4)	29 Oct 1937	29 Oct 1937
<i>Main Roads Act Amendment Act 1938</i>	29 of 1938 (2 and 3 Geo. VI No. 29)	31 Jan 1939	31 Jan 1939
<i>Main Roads Act Amendment Act 1939</i>	48 of 1939 (3 and 4 Geo. VI No. 48)	23 Dec 1939	23 Dec 1939
Reprint of the <i>Main Roads Act 1930</i> in Volume 2 of Reprinted Acts (includes amendments listed above)			
<i>Main Roads Act Amendment Act 1952</i>	34 of 1952 (1 Eliz. II No. 34)	5 Dec 1952	5 Dec 1952
<i>Limitation Act 1935</i> s. 48A(1)	35 of 1935 (26 Geo. V No. 35) (as amended by No. 73 of 1954 s. 8)	14 Jan 1955	Relevant amendments (see s. 48A and Second Sch. ⁵) took effect on 1 Mar 1955 (see No. 73 of 1954 s. 2 and <i>Gazette</i> 18 Feb 1955 p. 343)

Short title	Number and year	Assent	Commencement
<i>Main Roads Act Amendment Act 1955</i>	6 of 1955 (4 Eliz. II No. 6)	19 Oct 1955	19 Oct 1955
<i>Main Roads Act Amendment Act 1959</i>	38 of 1959 (8 Eliz. II No. 38)	10 Nov 1959	10 Nov 1959
<i>Main Roads Act Amendment Act 1961</i>	48 of 1961 (10 Eliz. II No. 48)	23 Nov 1961	23 Nov 1961
Reprint of the <i>Main Roads Act 1930</i> approved 21 May 1962 in Volume 16 of Reprinted Acts (includes amendments listed above)			
<i>Traffic Act Amendment Act (No. 2) 1964 s. 9</i>	67 of 1964 (13 Eliz. II No. 67)	4 Dec 1964	1 Jan 1965 (see s. 2 and <i>Gazette</i> 24 Dec 1964 p. 4094)
<i>Road Maintenance (Contribution) Act 1965 s. 13</i>	69 of 1965	25 Nov 1965	1 Apr 1966 (see s. 2 and <i>Gazette</i> 18 Mar 1966 p. 761)
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Main Roads Act Amendment Act 1966</i>	7 of 1966	16 Sep 1966	16 Sep 1966
<i>Main Roads Act Amendment Act (No. 2) 1966</i>	70 of 1966	12 Dec 1966	10 Feb 1967 (see s. 2 and <i>Gazette</i> 10 Feb 1967 p. 441)
<i>Main Roads Act Amendment Act 1967</i>	57 of 1967	5 Dec 1967	1 Jan 1968 (see s. 2)
<i>Main Roads Act Amendment Act 1969</i>	47 of 1969	30 Jun 1969	1 Jul 1969 (see s. 2)
Reprint of the <i>Main Roads Act 1930</i> approved 22 Jan 1970 (not in a Volume) (includes amendments listed above)			
<i>Main Roads Act Amendment Act 1972</i>	35 of 1972	16 Jun 1972	2 Feb 1973 (see s. 2 and <i>Gazette</i> 2 Feb 1973 p. 280)
<i>Ministers of the Crown (Statutory Designations) and Acts Amendment Act 1974 Pt. VII</i>	27 of 1974	29 Oct 1974	1 Dec 1974 (see s. 2 and <i>Gazette</i> 6 Dec 1974 p. 5204)

Short title	Number and year	Assent	Commencement
<i>Main Roads Act Amendment Act 1974</i>	28 of 1974	29 Oct 1974	1 Jul 1974 (see s. 2)
<i>Main Roads Act Amendment Act 1975</i>	96 of 1975	20 Nov 1975	s. 7, 15, 17, 18, 31(a) and 32: 5 Dec 1975 (see s. 2 and <i>Gazette</i> 5 Dec 1975 p. 4359); Act other than s. 7, 15, 17, 18, 31(a) and 32: 1 Jul 1976 (see s. 2 and <i>Gazette</i> 5 Dec 1975 p. 4359)
<i>Main Roads Act Amendment Act 1976</i>	53 of 1976	10 Sep 1976	10 Sep 1976
Reprint of the Main Roads Act 1930 approved 16 Dec 1976 (includes amendments listed above)			
<i>Main Roads Act Amendment Act 1977</i>	54 of 1977	23 Nov 1977	23 Nov 1977
<i>Acts Amendment and Repeal (Road Maintenance) Act 1979</i> Pt. IV	9 of 1979	18 May 1979	18 May 1979 (see s. 2)
<i>Main Roads Amendment Act 1980</i>	21 of 1980	15 Oct 1980	15 Oct 1980
<i>Acts Amendment (Traffic Board) Act 1981</i> Pt. VI	106 of 1981	4 Dec 1981	2 Feb 1982 (see s. 2 and <i>Gazette</i> 2 Feb 1982 p. 394)
<i>Acts Amendment (Motor Vehicle Fees) Act 1982</i> Pt. II	25 of 1982	27 May 1982	1 Jul 1982 (see s. 2)
<i>Main Roads Amendment Act 1984</i> ²	38 of 1984	20 Jun 1984	17 Aug 1984 (see s. 2 and <i>Gazette</i> 17 Aug 1984 p. 2440)
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
Reprint of the Main Roads Act 1930 as at 10 Sep 1987 (includes amendments listed above)			
<i>Acts Amendment (Public Service) Act 1987</i> s. 32	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)

Short title	Number and year	Assent	Commencement
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Main Roads Amendment Act 1996</i>	10 of 1996	27 Jun 1996	27 Jun 1996 (see s. 2)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Acts Amendment (Land Administration) Act 1997</i> Pt. 41 and s. 142	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Acts Amendment (Franchise Fees) Act 1997</i> Pt. 5	56 of 1997	12 Dec 1997	31 Jan 1998 (see s. 2 and <i>Gazette</i> 30 Jan 1998 p. 577)
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 84	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2)
Reprint of the Main Roads Act 1930 as at 28 Jan 2000 (includes amendments listed above)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> Pt. 13 Div. 2	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4 and Sch. 1 cl. 104	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Standardisation of Formatting Act 2010</i> s. 44(2) and 63	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Public Sector Reform Act 2010</i> s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
Reprint 7: The Main Roads Act 1930 as at 2 Dec 2011 (includes amendments listed above)			

Short title	Number and year	Assent	Commencement
<i>Road Traffic Legislation Amendment Act 2012</i> Pt. 4 Div. 31	8 of 2012	21 May 2012	27 Apr 2015 (see s. 2(d) and <i>Gazette</i> 17 Apr 2015 p. 1371)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed on the WA Legislation website*.

Short title	Number and year	Assent	Commencement
<i>Main Roads Amendment Act 2023</i> s. 3-44	26 of 2023	17 Nov 2023	To be proclaimed (see s. 2(b)) s. 1 and 2: 17 Nov 2023 (see s. 2(a)) ; Act other than s. 1 and 2: 30 Nov 2023 (see s. 2(b) and SL 2023/183 cl. 2)

Other notes

- ¹ Proclamation published in *Gazette* 28 November 1930 p. 2564.
- ² The *Main Roads Amendment Act 1984* s. 5 is a validation provision.
- ³ Under the *Public Sector Management Act 1994* s. 112(1), a reference to the *Public Service Act 1978* is to be read as a reference to the *Public Sector Management Act 1994*. The reference was changed under the *Reprints Act 1984* s. 7(3)(g).
- ⁴ Section 35 was renumbered as section 34 in the 1943 reprint (in Volume 2 of the *Reprinted Acts of the Parliament of Western Australia*).
- ⁵ The *Limitation Act 1935* s. 48A and the Second Schedule were inserted by No. 73 of 1954 s. 8.

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