

## ROAD DISTRICTS.

23° GEO. V., No. XXXV.

No. 35 of 1932.

### AN ACT to amend the Road Districts Act, 1919.

[Assented to 30th December, 1932.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Road Districts Act Amendment Act*, 1932, and shall be read as one with the Road Districts Act, 1919, hereinafter referred to as the principal Act, and shall come into operation on a day to be fixed by proclamation.\*

Short title and commencement.

2. Section five of the principal Act is amended—

- (a) by inserting in subparagraph (b) of paragraph one of the definition of "Owner," after the word "lessee," the words "or a lessee or tenant under a lease or tenancy agreement of land which in the hands of the lessor is non-rateable land within the meaning of this Act, but which in the hands of such lessee or tenant and by reason of such lease or tenancy is declared by this Act or any other Act to be rateable land for the purposes of this Act."
- (b) by inserting in subparagraph (d) of paragraph one of the definition of "Owner," after the word "lessee," the word "tenant";
- (c) by adding to the definition of "Road" the words "and includes any land marked as a road upon the plan of any lands publicly exhibited in the public

Amendment of s. 5.

\* 11th February, 1933. *Gazette* 10th February, 1933.

office of the Department of Lands and Surveys, or on any plan deposited in the Office of Titles either prior to or after the passing of this Act”;

(d) by adding to the definition of “Reserve” the words “and includes parks and other lands acquired for public purposes”;

(e) by adding to the definition of “Town” or “Town-site” the words “and includes any land (including privately owned subdivided land) which the Governor may see fit, as he is hereby empowered, to declare by proclamation to be a town or town-site for the purposes of this Act.”

Amendment of  
s. 6.

3. Section six of the principal Act is amended by adding thereto a proviso, as follows:—

Provided that, in the event of an election falling on a Saturday which is a public holiday, the election shall be held on the first Saturday that is not a holiday following such public holiday.

Amendment of  
s. 9.

4. Subsection three of section nine of the principal Act is amended by substituting for the word “three,” in line four, the word “five.”

Amendment of  
s. 10.

5. Section ten of the principal Act is amended by inserting after paragraph (iv) paragraphs, as follows:—

(ivA) When any district is converted into a municipal district, or *vice versa*, the local authority of the newly constituted district shall be deemed to be the successor in law of the local authority of the district which has been so converted as aforesaid.

(ivB) Where by any Order in Council a district or portion of a district is united to a municipal district, land situated within such district or portion thereof shall be exempt from loan rates in respect of any money borrowed previously by the municipality; and where a municipality is dissolved and the municipal district is included in a district constituted under this Act, the second proviso to section two hundred and thirty-four shall apply.

Amendment of  
s. 23.

6. Section twenty-three of the principal Act is amended by inserting after the word “district,” in line three of subsection one, the words “and eligible to be registered as an elector.”

7. Section sixty-one of the principal Act is amended by substituting the word "third" for the word "second," in line two. Amendment of s. 61. See No. 10 of 1929.

8. Section sixty-two of the principal Act is amended— Amendment of s. 62.

(a) by deleting the words "one month," in line three, and inserting in lieu thereof the words "two months";

(b) by deleting the proviso therein, and inserting in lieu thereof a proviso, as follows:—

Provided that, when such vacancy occurs within four months before the date fixed by this Act for the holding of an annual election, the seat may, with the approval of the Minister, continue vacant until that election.

9. Section sixty-eight of the principal Act is amended— Amendment of s. 68.

(a) by deleting the word "fourteenth," in line one, and inserting in lieu thereof the words "twenty-first";

(b) by adding a proviso, as follows:—

Provided that in districts situated wholly or partly north of the 28th parallel of South latitude the nomination day shall be the twenty-eighth day next preceding the day so appointed for the election.

10. Section sixty-nine of the principal Act is amended, as follows:— Amendment of s. 69.

(a) By deleting from subsection one the words "six o'clock in the afternoon," in lines two and three, and inserting in lieu thereof the words "twelve o'clock noon."

(b) By adding thereto subsections, as follows:—

(4.) The deposit shall consist of legal tender, a cheque marked good by a bank, a post office order, or a postal note.

(5.) The nomination paper shall be enclosed in a sealed envelope addressed to the returning officer or the secretary, and endorsed "Nomination paper," and shall be opened by the returning officer at the time and place appointed for the nomination, and not before.

New section.

11. A new section is inserted after section sixty-nine of the principal Act, as follows:—

Penalties in case of nomination of incapacitated person.

Vict. 19, Geo. V., No. 3720, s. 129.

69A. Every person who shall—

- (a) procure or permit himself to be nominated as a candidate for the office of member of any road board knowing himself to be under the provisions of this Act incapable of being or continuing such member; or
- (b) knowingly sign any nomination paper nominating or purporting to nominate as a candidate for the office of member of any road board any person incapable of being or continuing such member; or
- (c) knowingly sign any nomination paper nominating any person as a candidate at and for any election of members not being himself qualified to vote at such election,

shall for every such offence be liable for a penalty not exceeding twenty pounds.

Amendment of s. 70.

12. Section seventy of the principal Act is amended, as follows:—

- (a) By deleting from subsection one the words “six o’clock in the afternoon,” in line two, and inserting in lieu thereof the words “twelve o’clock noon.”
- (b) By adding to subsection two a paragraph, as follows:—

Such declaration shall be made—

- (a) in the case of an annual election, on the day appointed for such election;
- (b) in the case of an extraordinary election, on the nomination day.

Amendment of s. 97.

13. Section ninety-seven of the principal Act is amended by deleting subsection one and inserting in lieu thereof a subsection as follows:—

See Vict. 19, Geo. V., No. 3720, s. 59.

- (1.) (a) If at any election of members no seats or vacancies, or a number of seats or vacancies less than the whole number which should have been filled at such election are filled, then the seats and vacancies which are so not filled shall severally be deemed extraordinary vacancies, and to have occurred on the day appointed for such election, or to which the same may have been or may stand adjourned;

(b) If on any day appointed by or under this Act for holding any election of members no election is held, the seats or vacancies which ought to have been filled at such election shall severally be deemed to be extraordinary vacancies, and to have occurred on the day appointed for such election or to which the same may have been or may stand adjourned;

(c) But the members eventually elected to fill such seats or vacancies shall go out of office as if elected at such election.

14. Sections one hundred and twenty-three, one hundred and twenty-four, one hundred and twenty-five, one hundred and twenty-six, and one hundred and twenty-seven of the principal Act are repealed, and sections are inserted in lieu thereof, as follows:—

Repeal of ss. 123., 124, 125, 126, and 127, and substitution of new sections.

123. (1.) At the first meeting of the board of a new district, and at the first meeting of every board after every annual election, the board shall elect one of the members to be chairman and another to be vice-chairman.

Election of chairman and vice-chairman.

(2.) Subject to the provisions of sections nine and ten of the Justices Act, 1902-1926, the chairman shall, by virtue of his office, be a justice of the peace for the magisterial district in which the office of the board is situated.

124. The chairman and vice-chairman shall, subject to this Act, hold office until the commencement of the first meeting of the board after the next annual election.

Duration of office of chairman and vice-chairman.

125. (1.) The chairman shall, when present, preside at all meetings of the board.

(2.) In the absence of the chairman from any meeting, or if, after being present, he retires, the vice-chairman shall preside; but if at any time neither of them is present, then the members present may choose out of their number a member, who shall preside and exercise for the purposes of that meeting, and until the conclusion or adjournment thereof, the powers of the chairman.

Chairman, when present to preside at meeting. Provision in case of his absence.

126. If and so long as the chairman is unable to act in the exercise of his office through absence from the district, illness, or other cause, then the vice-chairman shall act as and exercise the office of chairman; but if the vice-chairman shall be or become unable from any cause

Provision for the absence of the chairman or his inability to act.

to so act, then the members present at any meeting may choose one of their number, who shall act as and exercise the office of chairman so long as the chairman and vice-chairman continue unable to act.

Resignation of  
chairman, vice-  
chairman, or act-  
ing chairman.  
Provision for cas-  
ual vacancies.

127. (1.) The chairman, vice-chairman, or any member acting as chairman, may resign his office by writing under his hand delivered to the board, at any meeting thereof, or to the secretary of the board; and the position of a chairman, vice-chairman, or acting chairman shall (subject to section one hundred and twenty-four) become vacant if he ceases to be a member.

(2.) In case of such resignation, or of any vacancy occurring in the position of chairman, vice-chairman, or acting chairman, the board shall, in the case of a chairman or vice-chairman, and may, in the case of an acting chairman, elect another member to fill the vacancy and to hold office for the balance of the period of his predecessor's term of office, and on the same conditions.

Amendment of  
s. 129.

15. Section one hundred and twenty-nine of the principal Act is amended—

(a) by inserting the words “or other employee” after the word “officer,” wherever such word appears in the said section;

(b) by adding a proviso, as follows:—

Provided that, except in the case of physical or mental incapacity or death, no such gratuity shall be paid unless the officer or employee has served for at least ten years, and no amount exceeding twelve months' salary shall be paid under this section in respect of any officer or employee.

Amendment of  
s. 130.

16. Section one hundred and thirty of the principal Act is amended by deleting from subsection three the words “or such lesser time as may be fixed by proclamation from time to time in respect of any district.”

Amendment of  
s. 132.

17. Section one hundred and thirty-two of the principal Act is amended by deleting subsection two and inserting in lieu thereof a new subsection, as follows:—

(2.) Each member, including the chairman, shall have one vote only, and in the case of an equality of votes on any question, such question shall pass in the negative.

18. Section one hundred and thirty-five of the principal Act is repealed, and a section is inserted in lieu thereof, as follows:—

Amendment of  
s. 135.

135. (1.) Any resolution of the board may be revoked or altered at the same meeting, if all the members who were present when the resolution was passed are present when the revocation or alteration is proposed.

Provisions as to  
revocation or al-  
teration of reso-  
lutions.

(2.) Any resolution of the board may be revoked or altered at any subsequent meeting, either by the unanimous vote of all the members, or by a vote of the majority of the board, subject in such last-mentioned case to the condition that seven days at least before such subsequent meeting notice in writing thereof and of the proposal to alter or revoke such resolution shall have been given to each member.

19. Section one hundred and thirty-six of the principal Act is amended by adding thereto a subsection, as follows:—

Amendment of  
s. 136.

(4.) A committee shall consist of members only: Provided that the board may, whenever it thinks fit, appoint a committee consisting wholly or partly of persons who are not members, for the purpose of advising the board regarding the establishment, management or control of any mechanics' institute, cemetery, recreation ground, hospital, agricultural hall, library, reading room, or any other institution or utility vested in or under the control of the board.

20. Section one hundred and thirty-nine of the principal Act is amended by adding thereto a paragraph, as follows:—

Amendment of  
s. 139.

But a board may by its by-laws provide that pasting or otherwise permanently affixing the minutes to the leaves of a book shall be equivalent to entry therein, and may also provide that the reading of the minutes may be dispensed with when members have been supplied with copies thereof at least three days before the holding of such last-mentioned meeting.

21. Section one hundred and forty-three of the principal Act is amended, as follows:—

Amendment of  
s. 143.

(a) By adding at the end of subsection one the words  
“stating the business to be presented at such meet-  
ing”;

- (b) By adding at the end of subsection two the words  
“Any meeting held as the result of a requisition  
by ratepayers shall be held on a day not later than  
one month after the receipt of such requisition.”

Amendment of  
n. 150.

22. Section one hundred and fifty of the principal Act is amended—

- (a) by adding at the end of subsection three the words  
“and any person having an estate or interest in  
the land”;
- (b) by adding to subsection three paragraphs, as follows:—

The estate or interest for which any part of a closed road shall be vested hereunder shall be the same as the estate or interest which the owner of the land fronting such part has in such land, and the Registrar of Titles or the Under Secretary for Lands, as the case may require, shall make, free of charge, such alterations in any lease from the Crown issued under the Land Act, 1898, and under his control, as may be necessary to show that any part of a closed road affected by this subsection has vested in the owner of the land comprised in such lease.

If the land fronting any part of the closed road is under the Transfer of Land Act, 1893, the Registrar of Titles shall, on the application of the owner, and on the payment of the prescribed fee, cancel the relative certificate of title and issue a new one, in which he shall include the part of the closed road vested in such owner by virtue of this subsection.

If any land comprised in a lease from the Crown or certificate of title, and fronting any part of such closed road is subject to a mortgage or encumbrance as regards any estate or interest therein, then such part of the closed road shall, on the making of such alteration, or the issue of such a new certificate of title showing the vesting thereof as aforesaid, become subject to the mortgage or encumbrance as if it had been originally included therein by the owner of such estate or interest.



23. Section one hundred and fifty-one of the principal Act is amended by adding thereto a paragraph, as follows:— Amendment of s. 151.

The Minister may at any time revoke such closure and withdraw any such permission, and thereupon the road shall become again open to traffic, and any fences erected shall be removed, without prejudice, however, to the powers of the board under section one hundred and eighty-five.

24. A new section is inserted in the principal Act after section one hundred and fifty-four, as follows:— New section.

154A. In every case where a reserve has heretofore been leased or hereafter is leased to a board for a term of nine hundred and ninety-nine years, or has heretofore been granted or hereafter is granted in fee simple to a board under the provisions of section forty-two of the Land Act, 1898, then, subject to the Permanent Reserves Act, 1899, the board may from time to time grant a lease of such reserve or any part thereof for any term at such rent and under and subject to such conditions as the board may deem expedient: Power to boards to lease certain reserves.

Provided that no such lease shall be granted for a term exceeding three years without the consent in writing of the Governor:

Provided also, that any such lease granted as aforesaid shall restrict the user of the land demised to purposes consistent with the purposes for which such land was reserved, and shall contain a covenant by the lessee that he will use the land demised by the lease only for purposes consistent with the purposes for which the said land was reserved.

25. Section one hundred and fifty-five of the principal Act is amended— Amendment of s. 155.

(a) by deleting subsection three, and inserting in lieu thereof a subsection, as follows:—

(3.) Where a plan of subdivision provides for the opening of a public road, such plan shall be accompanied by plans (giving longitudinal and cross sections of the proposed public road), and specifications thereof, and such other information as to levels, drainage, nature of soil, physical fea-

tures, and the name proposed to be given to the road, as may be necessary for the board when considering whether or not the plan of subdivision shall be approved. In respect of such proposed public road the board may require any alterations in the plans or specifications, and impose such other conditions as the board may deem necessary (including the alteration of the name of such road) before approving the said plan of subdivision: Provided that nothing in this subsection shall apply to land outside any townsite.

- (b) by adding a proviso to subsection five, as follows:—

Provided that no way not exceeding sixteen and a-half feet in width shall be dedicated or be deemed to have become dedicated as a road by virtue of anything in this subsection or subsection four of section three hundred and twenty-eight of the Roads Act, 1911.

- (c) by adding a new subsection, to stand as subsection (4), as follows:—

(4.) Notwithstanding that a plan of subdivision has been approved as required either by this Act or the Town Planning and Development Act, 1928, in every case where such plan of subdivision provides for the opening of a public road, no allotment shown in such plan of subdivision shall be sold either for cash or on terms, or in any other manner alienated by the owner thereof, until such time as the said public road has been constructed and drained to the satisfaction of the board, in accordance with plans and specifications approved, and with any other conditions relating thereto imposed by the board when approving such plan of subdivision: Provided that, where there are more than one of such public roads, it shall be sufficient if, in respect of any particular allotment offered for sale or other disposition, that public road furnishing the nearest access to such allotment has been constructed and drained as aforesaid: Provided also, that this subsection shall not apply to any land the subdivision whereof had been approved prior to the commencement of this subsection.

26. Section one hundred and fifty-nine of the principal Act is amended— Amendment of  
s. 159.

- (a) by inserting in line one, after the word “sells,” the words “or otherwise disposes of”;
- (b) by deleting the word “forthwith,” in line two, and inserting in lieu thereof the words “within twenty-one days thereafter”;
- (c) by adding a subsection, as follows:—

(2.) Before any owner, or the agent of the owner, removes or demolishes, or begins to remove or demolish, any house or other building erected on land situate within a townsite, he shall give to the board not less than seven days’ notice in writing of his intention so to do.

Penalty: Ten pounds.

27. Section one hundred and sixty of the principal Act is amended— Amendment of  
s. 160.

- (a) by inserting in paragraph four, after the word “sink,” the word “improve”;
- (b) by inserting in paragraph ten, after the word “road” in line three, the words “or other land vested in the board, or any private land,” and by adding at the end of the said paragraph ten, the words “provided that the power conferred by this paragraph shall not be exercised in connection with or for the purpose of the drainage of any private land except with the approval of the Governor; provided the cost of such work is estimated not to exceed one hundred and fifty pounds”;
- (c) by inserting in paragraph thirteen, after the word “improve,” in line one, the words “(whether by the erection of buildings or otherwise)”;
- and by inserting in the said paragraph, after the word “reserves,” in line one, the words “recreation grounds or other land”;
- (d) by adding to paragraph fifteen a further proviso, as follows:—

Provided also, that no road shall be closed to traffic by virtue of the power conferred by this paragraph, for a longer period than twenty-eight

days, or for periods aggregating more than twenty-eight days in any period of twelve months, without the previous permission of the Minister;

- (e) by inserting in paragraph eighteen, after the word “seats,” the words “shelter sheds and other conveniences”;
- (f) by deleting paragraph nineteen, and inserting in lieu thereof a paragraph, as follows:—

(19.) Provide or acquire, establish, conduct, and carry on or subsidise any ferry or passenger transport service by land or water within the district or (with the consent of the local authority of any area outside the district) partly within the district and partly within such area, and make the prescribed passenger or transport charges in respect of any service carried on by the board, and, with the consent of the Minister, exercise any such power as aforesaid in conjunction with any other competent local authority.

- (g) by adding after paragraph twenty a new paragraph, as follows:—

(20A) Subsidise any agricultural society within its district, subject to the discretion and approval of the Minister, up to a sum not exceeding in the aggregate three per centum of its general revenue;

- (h) by adding to paragraph twenty-four the words “and open and develop quarries and gravel pits in any suitable lands within the district, and erect or acquire lighting plant and cooling chambers.”

New section.

28. A new section is inserted in the principal Act, after section one hundred and sixty, as follows:—

Provision in case land increased in value by drainage works undertaken by the board.

160A. If any land is substantially and permanently increased in value by drainage works undertaken by the board on any road or other land vested in the board, the following provisions shall apply:—

- (a) The board may require the owner of such land to contribute towards the cost of the works (whether defrayed out of borrowed money or otherwise) such annual amount for such term of years as the board may think fit:

Provided that the owner of such land may require the question whether the land has been increased in value as aforesaid, and the annual amount and duration of such contribution to the cost, to be determined by arbitration under the provisions of the Arbitration Act, 1895.

- (b) Such contribution as aforesaid shall be imposed by order of the board entered in the minute book and served on the owner, and each annual amount payable shall be recoverable by the board from the owner of the land for the time being under Part VI. of this Act, and shall be a charge on the land as if it were a rate duly imposed by the board.

29. Section one hundred and sixty-one of the principal Act is amended— Amendment of s. 161.

- (a) by inserting after the word “footway,” in line four, the words “or part of such footway”;
- (b) by adding a proviso as follows:—“Provided that, when a footpath is permanently constructed or paved, ratepayers may not be charged for further improvements thereto without their consent in writing being first obtained.”

30. A section is inserted in the principal Act after section one hundred and sixty-seven, to stand as section one hundred and sixty-eight, as follows:— New section.

168. (1.) Where a board, with the approval of the Governor, has constructed any works under the power conferred by paragraph (10) of section one hundred and sixty of this Act in connection with or for the purpose of the drainage of private land, the cost of constructing, maintaining, and repairing such works, including the amount of any compensation paid by the Board to owners of land through or upon which such works are constructed, shall be payable to the board by the owners of the land which is drained by such works. Provision for recovery of cost of drainage works by the Board.

(2.) When the cost as aforesaid has been ascertained the board shall apportion the amount thereof between the owners of the land liable under subsection one hereof to pay such cost to the board, in such amounts as are, in the

opinion of the board, proportionate to the value of the benefit derived by each of such owners respectively from the said works:

Provided that if any dispute shall arise between any person and the board as to whether such person derives any such benefit or as to the value of such benefit, such dispute shall be referred to the Minister, whose decision may, on appeal, be determined by the provisions of the Arbitration Act, 1895.

(3.) The amount for which any person is liable on the apportionment of the said cost as aforesaid shall be a debt due by such person and, until paid in full, by every subsequent owner in succession of the same land to the board. Such debt shall be recoverable by the board in the same manner as rates levied upon the same land are recoverable under this Act, and, until paid, shall be a charge against the said land.

New section.

31. A new section is inserted in the principal Act, after section one hundred and seventy-two, as follows:—

Authority to board to construct drain through another district.

172A. When it is necessary, in order to drain any road, public place, or land (public or private) within a district, that a drain should be carried through any portion of any other district or any municipal district, the Minister may authorise the board of the first-mentioned district to construct and maintain any drain through and in such other district or municipal district on such terms and subject to such conditions as he shall think fit, and the board of the first-mentioned district may act in accordance with the Minister's authority.

New sections.

32. Two new sections are inserted in the principal Act after section one hundred and seventy-three, as follows:—

Local authorities to unite in construction and maintenance of certain drains.

173A. Whenever the Minister has declared by notice in the *Government Gazette* that it is necessary to drain any land, public or private, which lies partly in one district and partly in another district or municipal district, the local authorities of such districts shall be bound, and may be compelled, as hereinafter provided, to unite in the construction of the necessary drain and in maintaining and repairing such drain.

173B. Where any drain, or part of a drain, constructed or provided by a road board or a municipality following the common boundary between two districts, or between a district and a municipal district, lies as to part of its breadth in one district and as to part of its breadth in another, or as to the whole of its breadth in either of such districts, the local authorities of such districts shall be bound, and may be compelled, as hereinafter provided, to unite in repairing and maintaining such drain or part of a drain.

Local authorities to unite in maintenance of drains on common boundaries.

33. Section one hundred and seventy-five of the principal Act is amended by substituting the word "four" for the word "two," in line two thereof.

Amendment of s. 175.

34. A new section is inserted in the principal Act, after section one hundred and ninety, as follows:—

New section.

190A. Whenever the board constructs or repairs a crossing place over any footway or over any unmade portion of a road, for the traffic of vehicles across the footway or the unmade portion of a road to or from any private property, one-half of the cost thereof shall be paid to the board by the owner of the land thereby served; and the board may recover in any court of competent jurisdiction such one-half of the cost of the construction and repair of such crossing place both over the footway and the previously unmade portion of a road, as a debt due from the owner for the time being of the land thereby served.

Provision as to payment of half cost of construction and repair of crossing place by the owner served.

35. Section one hundred and ninety-four of the principal Act is amended by adding thereto the words "or for acquiring or building agricultural halls, libraries, or reading rooms, or for acquiring sites for such buildings."

Amendment of s. 194.

36. Section one hundred and ninety-six of the principal Act is amended—

Amendment of s. 196.

(a) by adding to paragraph five the words "but so that such discount shall be allowed in respect of general rates only (not including supplemental rates), and shall not be allowed in respect of rates not paid on or before the thirtieth day of September of the year in which the rates have been imposed: Provided that the Minister under special circum-

stances may agree to an extension of time for a period not exceeding one month.”

- (b) by deleting paragraph twenty, and inserting in lieu thereof paragraphs, as follows:—

Hoardings  
around works in  
progress.

(20.) For compelling the use of hoardings, fences, lights and other appliances where works are in progress in or upon any land or premises abutting on a street or land under the control of the board;

(20a.) For the regulation and control of bills, placards, or advertisements attached to or pasted or painted on hoardings, whether the same are erected upon private property or upon any public place;

Advertising  
hoardings.

(20b) For the regulation and control of hoardings erected upon private property, and for the removal by the board, or any person acting under its authority, of any such hoarding, or of any bill, placard, or advertisement attached to or pasted or painted thereon which in the opinion of the board is dangerous or objectionable, and for the recovery of the expenses thereof;

Licenses for  
hoardings.

(20c) For requiring licenses to be obtained from the board for the erection, management and control of any hoarding, and for attaching to or pasting or painting thereon any bills, placards, or advertisements;

- (c) by adding to paragraph thirty-eight subparagraphs, as follows:—

(ii) for prescribing the annual fees to be paid for hawkers' licenses and for differentiating in such fees according to the commodities hawked, not exceeding—

(a) in towns and prescribed areas—£10.

(b) in country—£6;

(iii) for limiting the number of licenses to be issued and for refusing to grant any license, either when such limit is reached, or for any other reason;



(iv) for requiring a badge, with a number and the year of issue displayed thereon, to be issued to persons licensed to hawk, at a prescribed fee not exceeding five shillings;

(v) for requiring hawkers to display the prescribed badge when hawking, or offering or exposing goods for sale or hire;

(vi) for prohibiting hawking in any prescribed road or other part of the district.

(d) by inserting after paragraph thirty-eight, paragraphs, as follows:—

(38A.) regulating movable or temporarily fixed stalls in or near any street or way for the sale of any meat, fish, poultry, game, fruit, vegetables, drink, eatables, or articles of merchandise, and the management thereof, and the conduct of the persons in charge thereof, and the time when and positions of places in which stall-holders shall be allowed to carry on business;

(38B.) regulating the erection and use of petrol pumps for the supply of petrol to the public in or near any street or way, and for granting licenses authorising the erection and use of such petrol pumps, and prescribing fees for such licenses;

(e) by inserting after paragraph forty-six, paragraphs, as follows:—

(46A.) For preventing land which cannot be sufficiently and conveniently drained being subdivided or built upon;

(46B.) Enabling the board to declare specified areas in any portion of the townsite of their road district, in which only buildings of specified value and approved design may be erected;

(46C.) Enabling the board to prescribe for any road or portion of a road in a townsite a building line, and to prohibit the erection or re-erection of any building or structure in front of such line, and to require any existing building or structure to be set back to the building line, subject to the payment of compensation to be fixed by arbitration, and subject also to the proposed expenditure by the board being submitted to the vote of the rate-payers and being approved by a majority of the votes given by ballot.

## Pipe-lines.

(46D.) Authorising and regulating the construction by any persons of pipe-lines beneath roads and footpaths from or to private property.

## New section.

37. A new section is inserted in the principal Act, after section one hundred and ninety-six, as follows:—

## License to quarry stone, etc., within townsites and prescribed areas.

196A. Subject to this Act, a board may make by-laws to regulate or prohibit the quarrying for stone, gravel, or other material, and other similar excavations on other than Crown land within townsites and prescribed areas, without the license of the board: Provided that any person aggrieved by the refusal of a board to grant such license shall have the right of appeal to the Minister, who may confirm the action of a board in refusing a license, or may direct the board to issue a license subject to such conditions (if any) as the Minister may think fit; and it shall be the duty of the board to observe the direction of the Minister.

## Amendment of s. 202.

38. Section two hundred and two of the principal Act is amended by inserting therein a subsection, as follows:—

(3.) The Governor may at any time, and from time to time by proclamation, declare that in any district or any portion of a district it shall be lawful to use wood in the construction of the external and internal walls of any building intended for use as a dwelling-house, and, notwithstanding that the provisions of the said second schedule have been extended to and are in operation in such district, or portion of a district, and until such proclamation is revoked, any of the provisions of the said second schedule (save and except regulations twenty-nine to thirty-three, both inclusive) and of any by-laws made thereunder which are deemed to be inconsistent with or repugnant to the authority granted by such proclamation, shall be suspended and have no force or effect in relation to any such building aforesaid.

## Amendment of s. 206.

39. Section two hundred and six of the principal Act is amended by adding thereto a subsection, as follows:—

(2) A board may pay to any member of the board who necessarily incurs expense in travelling to attend meetings of the board, the amount of the expense so incurred: Provided that such payment shall not exceed ten shillings in respect of any one meeting.

40. Section two hundred and twelve of the principal Act is amended by adding to paragraph seven a proviso as follows:—

Amendment of  
s. 212.

Provided that this paragraph shall not apply to a conditional purchase lease granted after the surrender or forfeiture of a pre-existing lease of the same land to which the exemption has applied, unless the Under Secretary for Lands certifies that the land is not sufficiently improved, and that the exemption should apply.

41. Section two hundred and fourteen of the principal Act is amended—

Amendment of  
s. 214.

(a) by substituting the word “herein” for the word “hereinafter” in line four of paragraph (i) of subsection one;

(b) by inserting in paragraph (ii) of subsection one, after the word “lease,” the words “(not being a pastoral or mining lease)”;

(c) by deleting subsection two.

42. A section is inserted in the principal Act, after section two hundred and twenty-five, as follows:—

New section.

225A. If for any financial year under this Act a board has assessed the unimproved value of any land for the purposes of this Act, and such valuation is similar in amount to the assessment of land made by the Commissioner of Taxation for the same year for the purpose of assessing land tax in respect of the same land, and subsequently during the said year the Commissioner’s assessment of the said land is reduced under the Land and Income Tax Assessment Act, 1907-1924, the board shall forthwith similarly reduce its valuation, notwithstanding that the ratepayer may not have appealed against such valuation under the provisions of this Act relating to appeals.

If valuations of board and Commissioner of Taxation are the same and subsequently the latter’s is reduced on appeal, board may similarly reduce its valuation.

43. Section two hundred and thirty of the principal Act is amended by inserting in paragraph (f), after the word “section,” the words “two hundred and twenty-five A and section.”

Amendment of  
s. 230.

New section.

44. A section is inserted in the principal Act, after section two hundred and thirty, as follows:

If board's valuation of land reduced the board shall refund excess rates paid.

230A. If a board shall, after the rates have been paid in respect of any land, reduce its valuation of such land as provided for in section two hundred and twenty-five A of this Act, the Board shall, when application is made, forthwith refund to the ratepayer such amount of the rates paid as aforesaid as exceeds the amount of the rates which would have been payable if the same had in the first instance been assessed on the said valuation as reduced, or, if no such application is made, the amount of rates as aforesaid shall be placed to the credit of the land so rated.

Amendment of s. 233.

45. Section two hundred and thirty-three of the principal Act is repealed, and a section is inserted in lieu thereof, as follows:—

Board authorised to strike rate.

233. (1.) The board, after making such estimate and statement, and ascertaining the sum that will be required to make up the deficiency found to exist on comparing the sum required with the estimated revenue of the board independently of rates, shall forthwith impose rates, to be called “general rates,” within the district.

(2.) No general rates imposed in any one year shall exceed fourpence or be less than one halfpenny in the pound on the unimproved value of rateable land, in cases in which rates are assessed on that value: Provided that, in any such rural district as the Minister may approve, the rate may be increased to sixpence in the pound, and in any such metropolitan district as the Minister may approve it may be increased to ninepence in the pound:

(3.) In cases in which rates are assessed on the annual value, no general rate imposed in any one year shall exceed two shillings or be less than sixpence in the pound upon such annual value.

(4.) All such rates shall be uniform throughout the district, except in so far as the board may, as it is hereby empowered, by special order, with the consent of the Minister—

(a) fix the rates for any townsite or for any special area defined for that purpose by proclamation, or for any mining lease at a higher figure; or

- (b) fix the rates for any ward or wards at a higher figure than that fixed for other ward or wards:

Provided, that the limits of the general rates as heretofore defined shall not be exceeded, and that any additional amount raised in any townsite or special area or ward by reason of the rates being fixed at a higher figure shall be expended on or applied in payment for works or services in such townsite or special area or ward, and not otherwise.

(5.) In this section "rural" means situated outside the metropolitan area; and "metropolitan" means situated within such area; and "metropolitan area" means the area from time to time declared by proclamation to constitute the metropolitan area for the purposes of this section.

46. Section two hundred and thirty-four of the principal Act is amended— Amendment of s. 234.

- (a) by deleting the first proviso, and inserting in lieu thereof a proviso, as follows:—

Provided that, where a loan has been raised for any works or services which in the opinion of the board raising the loan were likely to, do, or will benefit only a particular portion of the district, and also will benefit in varying degrees particular areas in such portion of the district, and a notification of such opinion was included in the notice published prior to the adoption of the proposition for the loan, any loan rate applicable to such loan shall be levied only on rateable land within such particular portion of the district, unless the approval of the Governor is obtained by the board to such rate being levied within other portions of the district, and shall be uniform throughout such particular portion of the district, unless in the opinion of the board particular areas therein are benefiting or will benefit in varying degrees as aforesaid, in which case the board may, in such manner and in such amounts as it may think just and equitable, vary the amount of such loan rate to be levied upon rateable land in such particular areas respectively. In cases where approval has been obtained to levy the rate in other portions of the district as aforesaid,

the power hereby conferred upon the board to vary the amount of such rate for particular areas shall extend to such other portions of the district;

- (b) by adding to subsection one a further proviso, as follows:—

Provided also, that if on the raising of a loan and the issue of debentures provision is made, or may hitherto have been made, for repayment of the principal with interest by half-yearly or other periodical instalments in lieu of the formation of a sinking fund, such loan rate may be imposed as may be necessary to enable the board to pay such instalments, and, so far as any rate has hitherto been imposed by a board, it shall be deemed to have been lawfully imposed;

- (c) by inserting in subsection two, after the word “which,” in line two, the words “subject to the last proviso to subsection one”;

- (d) by inserting in subsection five, after the word “interest,” in line three, the words “and sinking fund contribution”;

- (e) by adding a subsection, as follows:—

(6.) If on the redemption of a loan there is any surplus of the loan rate levied in respect of such loan, such surplus may be applied as ordinary revenue.

**New section.**

47. A new section is inserted in the principal Act, after section two hundred and thirty-four, as follows:—

**Lighting rate.**

234A. (1.) The board may, for the purpose of defraying the cost or any part of the cost of lighting the district, or any part thereof, impose in any year a lighting rate.

(2.) Such rate shall not exceed one half-penny in the pound on the unimproved value, or threepence in the pound on the annual value.

(3.) All rates imposed on property in any part or parts of the district shall be applied only for the lighting of such part or parts.

(4.) Such lighting rate shall be imposed only on the rateable land within a town or prescribed area or part of the district as may be served or benefited by such lighting.

48. Section two hundred and thirty-five of the principal Act is amended by inserting after the word "rate," in the third line, the words "and a minimum of one shilling in respect of the lighting rate"; and by deleting the words "annual rates," in line six, and inserting in lieu thereof the words "annual general, lighting, or loan rates, as the case may be."

Amendment of  
s. 235.

49. Section two hundred and forty-five of the principal Act is amended as follows:—

Amendment of  
s. 245.

(a) by deleting subsection two and inserting in lieu thereof a subsection, as follows:—

(2.) The notice of appeal shall be given to the secretary to the board within two months, in the case of district situated wholly or in part north of the twenty-sixth parallel of south latitude, and within one month in all other cases, after the receipt by the appellant of the notice of assessment;

(b) by deleting from subsection three the word "moiety" and inserting in lieu thereof the word "quarter".

50. Section two hundred and forty-six of the principal Act is amended by deleting all the words after "secretary," in subsection five, and inserting in lieu thereof the words "and such further evidence as may be adduced before the court."

Amendment of  
s. 246.

51. Section two hundred and forty-nine of the principal Act is amended—

Amendment of  
s. 249.

(a) by substituting the word "by" for the word "from," in line six;

(b) by inserting after paragraph (b) a proviso, as follows:—

Provided that no person who, as being trustee of any estate by virtue of any proceeding under the Bankruptcy Act, 1924-1932, or the liquidator in the winding up of a company under the Companies Act, 1893, has become the owner of any rateable land, shall on that account be personally liable to pay out of his own moneys or otherwise than out of the estate in his hands any rates due on such land when he becomes owner thereof as aforesaid, or be so personally liable as aforesaid to pay any rates assessed on such land thereafter if he proves to the satisfaction of and obtains a certificate in

writing from the Minister that a continuance of his ownership of the said land is essential in the interests of that estate, or that he is unable to dispose of the said land.

(c) by adding a subsection, as follows:—

(2.) If any person, without the permission of the board, removes any building or structure from any land which is subject to a charge under this section, or demolishes or destroys any building or structure on any such land, he shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

Amendment of  
s. 254.

52. Section two hundred and fifty-four of the principal Act is amended by deleting from subsection one the words “within thirty days of such rate becoming due,” and inserting in lieu thereof the words “within the time prescribed by the relative by-law a.”

Amendment of  
s. 270.

53. Section two hundred and seventy of the principal Act is amended—

(a) by deleting the paragraphs numbered “secondly” and “fourthly,” and inserting after the paragraph numbered “firstly” a paragraph to be numbered “secondly,” as follows:—

Secondly: In payment of all unpaid rates and taxes at the time of the sale due to or imposed in favour of the Crown in right of the State or any department or agency of His Majesty’s Government of the State, and also of all unpaid rates due to or imposed by the board and the local authority under the Health Act, 1911-1926, in respect of the land at the time of the sale, and of all the board’s expenses of and incidental to the proceedings in the local court or the sale of the land: Provided that, where the moneys remaining after the payments provided for in the next preceding paragraph have been made are not sufficient for the payment in full of all the rates, taxes, and expenses mentioned and provided for in this paragraph, such moneys shall be distributed between the Crown, the department, the agency and the board *pro rata* with the amounts of their claims respectively;



(b) by adding to the section a proviso, as follows:—

Provided that, with the consent of the Governor, or of the Minister controlling any department or agency of the Government of the State (as the case may require), the magistrate may order that any unpaid rates and taxes due to, or imposed in favour of the Crown or any such department or agency as aforesaid, shall be postponed to or shall rank on an equal footing with the unpaid rates due to or imposed by the board, or the local authority under the Health Act, 1911-1919, in respect of the land, and such order shall be given effect to.

54. A new section is inserted in the principal Act, after section two hundred and seventy-two, as follows:— New section.

272A. Whenever a municipal district has been or shall be constituted a district under this Act, or has been or shall be transferred to or included in a district under this Act, all rates levied by the municipal council and vested in the board shall, for the purposes of this division of this Part of this Act, be deemed to have been imposed under this Act. Recovery of municipal rates on transfer to road district.

55. Section two hundred and seventy-six of the principal Act is amended— Amendment of s. 276.

(a) by substituting the word “ten” for the word “seven” wherever such word appears therein;

(b) by adding a subsection, as follows:—

(4.) When any municipal district has been converted into or incorporated in a district, then the ordinary revenue of such municipal district which accrued or became due or owing within the two years aforesaid, may be taken into account for the purposes of this section, as if it had been ordinary revenue of the district into or in which the said municipal district has been converted or become incorporated.

56. Section two hundred and seventy-seven of the principal Act is amended by inserting the words “or undertakings,” after the word “works,” wherever such word appears in paragraph (f) of subsection one and in subsection two. Amendment of s. 277.

Amendment of  
s. 285.

57. Section two hundred and eighty-five of the principal Act is amended by deleting the words "at any time," in line one of the proviso, and inserting in lieu thereof the words "not less than fourteen days."

Amendment of  
s. 287.

58. Section two hundred and eighty-seven of the principal Act is amended by deleting the words "the resident owners," in line four, and inserting in lieu thereof the words "those resident owners who vote on the question."

Amendment of  
s. 288.

59. Section two hundred and eighty-eight of the principal Act is amended by deleting the words "are not forbidden by the resident owners from proceeding further with such loan," and inserting in lieu thereof the words "no such demand as aforesaid is made, or, if it is made, the requisite majority in favour of the loan is obtained on the taking of the poll on the question submitted."

Amendment of  
s. 289.

60. Section two hundred and eighty-nine of the principal Act is amended by adding thereto a proviso, as follows:—

Provided that it shall be lawful for the board, and it shall be deemed to have been lawful for a board, on the raising of any loan and the issue of debentures, to provide for the repayment of the principal money with interest by half-yearly or other periodical instalments in lieu of the formation of a sinking fund, in which case such sum as may be necessary for the repayment of such instalments shall be set aside from time to time and applied to that purpose; and sections two hundred and seventy-eight to two hundred and eighty-three inclusive, shall have effect, *mutatis mutandis*, subject to this proviso.

Amendment of  
s. 290.

61. Section two hundred and ninety of the principal Act is amended by adding thereto a subsection, as follows:—

(3.) If, after obtaining an actuarial report, it appears to the Treasurer that the contributions that have been made to the sinking fund for the liquidation of a loan will, at compound interest, be sufficient to redeem the loan at maturity, the Treasurer may authorise the reduction in the percentage of such contribution, or the cessation of further contributions to the fund.

62. Section three hundred and twelve of the principal Act is amended, as follows:— Amendment of s. 312.

(a) by deleting subsection one, and inserting in lieu thereof a subsection, as follows:—

(1.) There shall be one auditor for each district, to be appointed by the Minister;

(b) by adding subsections, as follows:—

(3.) Nothing in this section shall prevent a board appointing for its own purposes an auditor as an officer of the board under the provisions of section one hundred and twenty-eight of this Act: Provided that no board shall appoint or dismiss an auditor without first obtaining the consent of the Minister;

(4.) Every auditor elected by the electors under this section and holding office at the time of this subsection coming into operation shall continue to hold such office and perform the duties thereof for the unexpired portion of the term for which he was so elected.

63. Section three hundred and thirteen of the principal Act is amended by adding to subsection one a proviso, as follows:— Amendment of s. 313.

Provided that, during such time as any board has an auditor for its own purposes as an officer appointed under the provisions of section one hundred and twenty-eight of this Act, the accounts of such board may or may not be audited by the inspector as the Minister may determine.

64. Sections three hundred and fourteen to three hundred and eighteen (both inclusive) of the principal Act are hereby repealed. Repeal of ss. 314, 315, 316, 317, and 318.

65. Section three hundred and nineteen of the principal Act is amended— Amendment of s. 319.

(a) by substituting the word “inspector” for the word “auditors” wherever the same appears in subsections one and two;

(b) by deleting subsection three and inserting in lieu thereof a subsection, as follows:—

(3.) If the accounts are found correct, the inspector shall sign the same in token of his

allowance thereof, but if he thinks there is just cause to disapprove of any part of the said accounts, he may disallow any part of the said accounts so disapproved of, and take such steps thereupon as are hereinafter provided.

Amendment of  
s. 320.

66. Section three hundred and twenty of the principal Act is amended by substituting the word “inspector” for the word “auditors,” wherever the same appears, in subsection three, and by substituting the word “hand” for the word “hands,” in line three of the said subsection, and by deleting the words “in the *Gazette*, and may also be published in,” in line five of the said subsection.

Amendment of  
s. 321.

67. Section three hundred and twenty-one of the principal Act is repealed, and a section is inserted in lieu thereof, as follows:—

Duty of inspector,  
*ibid.* s. 302, and  
see 1906, No. 32,  
s. 488.

321. It shall be the duty of the inspector, if he shall find any accounts or statements submitted to him for audit to be erroneous or deficient in any particular, unless such error or deficiency be at once made good by the person or persons liable to make it good, instead of signing such account or statement, to publish in the *Gazette* and in a newspaper usually circulating in the district, a statement showing in what respects he has found such accounts or statements erroneous or deficient.

Amendment of  
s. 322.

68. Section three hundred and twenty-two of the principal Act is amended—

(a) by substituting the word “inspector” for the word “auditors,” wherever the same appears in subsections one and three;

(b) by substituting the word “him” for the word “them,” in line fourteen of subsection three.

Amendment of  
s. 323.

69. Section three hundred and twenty-three of the principal Act is amended by substituting the word “inspector” for the word “auditors,” in line one.

Repeal of s. 324.

70. Section three hundred and twenty-four of the principal Act is hereby repealed.

71. Section three hundred and twenty-five of the principal Act is repealed, and a section is inserted in lieu thereof, as follows:—

Amendment of  
s. 325.

325. (1.) The cost of every audit by the inspector shall be assessed by the Minister, and one-half of such cost shall be payable to the Minister on demand by the board or boards in relation to which such audit has been made.

Provision for  
payment of cost  
of audit.

(2.) If more than one board is concerned in any audit made by the inspector, the Minister may apportion the half cost of such audit among the boards so concerned in such proportions as he may think fit, and the amounts of such apportionments shall be payable to the Minister on demand by such boards respectively.

(3.) Any moneys payable to the Minister by a board under this section shall be a debt due from the board to the Minister, and shall be recoverable by the Minister in any court of competent jurisdiction.

72. Section three hundred and forty-one of the principal Act is repealed, and a section is inserted in lieu thereof, as follows:—

Amendment of  
s. 341.

341. No person shall be entitled to recover damages against any board, or any member, officer, or servant of the board, for anything done or omitted to be done in pursuance of this Act, or in respect of any loss or injury sustained either to himself or any other person or any property by reason of any accident upon or while using any road, way, bridge, ferry, wharf, or jetty in the district or under the control of the board, or in respect of any tort, unless the following conditions are complied with, or, in case such last-mentioned person or the then owner of such property may have died, within the time hereinafter allowed for giving notice by the one of such conditions which is numbered (1), the one of such conditions which is numbered (4) is complied with—

Conditions under  
which action  
against board may  
be brought.  
See M.C. Act,  
1906, ss. 514,  
515.

(1) That notice in writing stating the name and address of the person injured, or of the owner of such property, the nature of the accident, and the time and place at which it took place, is given to the board or left at the office of the board by or on behalf of the person injured only, or on behalf of the owner of such property, within twenty-one days after the occurrence of the accident, or the plaintiff

shows some sufficient reason why the person injured, or the owner of such property, was unable to give such notice;

- (2) That in case of injury to the person, the person injured permits himself to be examined by any legally qualified medical practitioner appointed on behalf of the board, and, if in a fit state so to do, answers fully such reasonable inquiries of such medical practitioner to enable him to ascertain the extent of the injury;
- (3) That in case of injury to property, the property injured, if it is possible so to do, is produced for inspection of any person appointed on behalf of the board by the chairman or vice-chairman;
- (4) That one month's notice in writing of any action is given to the board, setting forth the particulars of the demand so far as the same can be reasonably supplied, and that the action be commenced within six months thereafter;
- (5) That the person injured, or the owner of such property, from time to time answers in writing all such reasonable inquiries relating to the cause of action as may be addressed to him by or on behalf of the board.

If any action for any such cause as aforesaid is commenced by any plaintiff when the conditions hereinbefore contained have not been complied with, and the board is able to prove by affidavit to the satisfaction of the court in which the action is pending that such is the case, such court may order such action to be stayed.

Amendment of  
schedules.

73. (1.) The Second Schedule to the principal Act is amended—

- (a) by adding to regulation two, words, as follows:—  
“and if any such plan and specification do not clearly show that the building to be erected is designed for and capable of being used for residential purposes, then such building shall not afterward be used or adapted to be used wholly or partially for such purposes without the previous written consent of the board”;

- (b) by adding to regulation thirty-five a proviso, as follows:—

Provided that there shall be no appeal under this regulation from the refusal of the board to approve a plan and specification under regulation two, but any person aggrieved by the refusal of the board to approve any such plan or specification may appeal from such refusal to the Minister, who may uphold, reverse, or vary the decision of the board, and the order of the Minister shall be binding and final.

- (c) by adding to paragraph (e) of regulation thirty-seven the words “but so that in the case of a building intended for use as a dwelling-house, the external walls whereof are constructed or to be constructed of wood, the height of the rooms in such building may be nine feet or more, but not less than nine feet”;

- (d) by inserting in regulation thirty-seven, after paragraph (i), paragraphs, as follows:—

(ia) limiting the times within which buildings must be erected and completed;

(ib) defining areas within which it shall be unlawful to erect any building intended or suitable for use as a factory, shop, or warehouse, or to use any building as a factory, shop, or warehouse, but so that any by-law made under this power shall not prevent the erection of a building commenced at the date of the by-law, or the use of any building then already erected or partially erected which had prior to such date been in use as a factory, shop, or warehouse, or was then intended or suitable, or would, if completed, have been suitable for such use as aforesaid.

(2.) The Third Schedule to the principal Act is amended—

- (a) by deleting paragraphs (vi) and (vii) from rule four;
- (b) by deleting from rule six the words “cause a copy of and notice to be affixed to some conspicuous portion of the land affected, and shall”;
- (c) by deleting the proviso to rule eleven.

**Reprints.**

74. Copies of the principal Act hereafter printed by the Government Printer shall be printed as amended by this Act, and by all other prior Acts amending the principal Act, under the superintendence of the Clerk of Parliaments, and reference to the amending Acts shall be made in the margin. In such reprints of the principal Act the sections may be renumbered in arithmetical order and cross-references adjusted, and the short title shall be the Road Districts Act, 1919-1932.