



Western Australia

# **Main Roads Amendment Act 2023**

---

As at 17 Nov 2023

Official Version

No. 26 of 2023

Published on [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au)



# Main Roads Amendment Act 2023

## Contents

1.	Short title		2
2.	Commencement		2
3.	Act amended		2
4.	Long title amended		2
5.	Section 6 amended		2
6.	Section 7 amended		6
7.	Section 9 amended		7
8.	Section 9AA inserted		8
	9AA. Status of Commissioner	8	
9.	Section 10 amended		8
10.	Sections 10A and 10B replaced		9
	10A. Use of government staff and facilities	9	
	10B. Delegation by Minister	9	
	10C. Delegation by Commissioner	10	
11.	Section 11 amended		11
12.	Section 11A amended		11
13.	Section 13 amended		12
14.	Section 15 amended		13
15.	Section 15A amended		14
16.	Part 5 heading amended		15
17.	Section 15B inserted		15
	15B. General functions of Commissioner	15	
18.	Section 16 amended		17
19.	Section 16A amended		19
20.	Section 17 amended		21
21.	Section 18 deleted		22
22.	Section 18A amended		22
23.	Section 18AA inserted		23
	18AA. Agreements for contributions towards Commissioner's expenditure	23	

**Contents**

---

24.	Section 18B replaced	24	24
	18B. Power to undertake other work	24	
25.	Sections 18C to 18F inserted		24
	18C. Power to authorise work	24	
	18D. Agreements requiring Minister's approval	25	
	18E. Other powers	26	
	18F. Business arrangements and agreements requiring Minister's and Treasurer's approval	29	
26.	Section 19 amended		29
27.	Section 22 replaced		30
	22. Intellectual property	30	
	22A. Adjoining works	30	
	22B. Road service centres on highways and main roads	31	
	22C. Incidental works to roads	31	
28.	Section 23 amended		32
29.	Section 24 amended		32
30.	Section 27A replaced		35
	27A. Commissioner's powers as to roads that are not highways, main roads or secondary roads	35	
31.	Section 28 amended		36
32.	Part 9 heading replaced		36
	<b>Part 9 — Specific powers in relation to land</b>		
33.	Part 9 Division 1 heading and section 28AA inserted		36
	<b>Division 1 — Control of access</b>		
	28AA. Terms used	36	
34.	Section 28A amended		37
35.	Section 28B amended		43
36.	Part 9 Division 2 heading inserted		44
	<b>Division 2 — Acquiring and leasing land for main roads works and road service centres</b>		
37.	Section 29 amended		44
38.	Section 31 amended		47
39.	Section 32 amended		47
40.	Part 10A inserted		48
	<b>Part 10A — Costs and charges</b>		
	33. Infrastructure and other works	48	
41.	Section 33B amended		50
42.	Section 33C amended		50

43.	Part 12 replaced	51
	<b>Part 12 — Miscellaneous</b>	
34.	Protection from liability for wrongdoing	51
35.	Time for commencement of prosecution	52
36.	Infringement notices	52
37.	Regulations	53
44.	Various references to “shall” amended	55





Western Australia

# **Main Roads Amendment Act 2023**

---

**No. 26 of 2023**

---

**An Act to amend the *Main Roads Act 1930*.**

*[Assented to 17 November 2023]*

The Parliament of Western Australia enacts as follows:

**s. 1**

---

**1. Short title**

This is the *Main Roads Amendment Act 2023*.

**2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**3. Act amended**

This Act amends the *Main Roads Act 1930*.

**4. Long title amended**

In the long title, delete “**the control of access to roads**” and insert:

**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,**

**5. Section 6 amended**

- (1) In section 6 delete the definition of *road construction*.
- (2) In section 6 insert in alphabetical order:

*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;

**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;

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

**local government** includes a regional local government;

**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;

**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*;

**road service centre** means an area that adjoins and is accessible from a highway or main road and that comprises —

- (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;

**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).
- (3) In section 6 in the definition of *highway* delete “thereof;” and insert:
- of the highway;
- (4) In section 6 in the definition of *main road* delete “thereof;” and insert:
- of the road;

**s. 6**

---

- (5) In section 6 in the definition of *road*:
- (a) delete “thereof,” and insert:
- of the thoroughfare, highway or road,
- (b) delete “approaches and other things appurtenant thereto or used in connection with” and insert:
- approaches, paths for cyclists, pedestrians or both, and other things related to, or used in connection with,
- (6) In section 6 in the definition of *secondary road* delete “thereof.” and insert:
- of the road;

**6. Section 7 amended**

- (1) In section 7(2) delete “shall while so acting have all the powers and perform all the duties” and insert:
- has while so acting all the powers and may perform all the functions
- (2) In section 7(3):
- (a) delete “but he” and insert:
- but a person appointed as Commissioner

- (b) in paragraphs (b) and (c) delete “he” and insert:  
the person
- (c) in paragraph (c) delete “his duties” and insert:  
the functions of the Commissioner
- (d) in paragraph (d) delete “he” and insert:  
the person
- (e) in paragraph (d) delete “any contract made” and insert:  
an agreement entered into
- (f) in paragraph (d) delete “any such contract.” and insert:  
that agreement.

Note: The heading to amended section 7 is to read:

**Appointment of Commissioner and deputy**

**7. Section 9 amended**

In section 9 delete “acts and powers” and insert:

functions

**8. Section 9AA inserted**

After section 9 insert:

**9AA. Status of Commissioner**

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

**9. Section 10 amended**

(1) In section 10(2):

(a) in paragraph (a) delete “construction; and” and insert:

construction or in connection with the performance of any other function of the Commissioner; and

(b) in paragraph (c) delete “students; and” and insert:

students.

(c) delete paragraph (d).

(2) In section 10(3):

(a) delete “No” and insert:

An

(b) delete “shall —” and insert:

must not —

(c) in paragraph (a) delete “his” and insert:

their

(d) in paragraph (b) delete “any contract or” and insert:

an

Note: The heading to amended section 10 is to read:

**Appointment and restricted activities of staff**

**10. Sections 10A and 10B replaced**

Delete sections 10A and 10B and insert:

**10A. 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.

**10B. Delegation by Minister**

- (1) The Minister may delegate to the Commissioner —
  - (a) a function of the Minister under another provision of this Act; and

**s. 10**

---

- (b) a function of the 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 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 is taken to do so in accordance with the terms of the delegation unless the contrary is shown.

**10C. Delegation by Commissioner**

- (1) The Commissioner may delegate to an officer of the Commissioner or, with the approval of the Minister, another person —
  - (a) a function of the Commissioner under another provision of this Act; and
  - (b) unless specifically prevented under the delegation, a function delegated to the Commissioner under another Act.
- (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, the function is 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.

**11. Section 11 amended**

In section 11:

- (a) delete “exercise” and insert:

exercise, performance

- (b) delete “powers” and insert:

powers, functions

**12. Section 11A amended**

In section 11A:

- (a) delete “Notwithstanding” and insert:

Despite

**s. 13**

---

- (b) in paragraph (a) before “Commissioner; or” insert:

Commissioner or deputy

- (c) delete “Act that Act shall prevail.” and insert:

Act, that Act prevails.

**13. Section 13 amended**

- (1) In section 13(1):

- (a) delete “shall cease so to be” and insert:

ceases to be so,

- (b) delete “any such road shall, or shall not,” and insert:

the road must, or must not,

- (2) In section 13(2):

- (a) in paragraph (e) delete “areas.” and insert:

areas; and

- (b) after paragraph (e) insert:

- (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.

**14. Section 15 amended**

In section 15(3):

- (a) delete “property in —” and insert:

following property vests in the Commissioner —

- (b) in paragraph (a) delete “thereon,” and insert:

on highways and main roads,

- (c) in paragraph (a) delete “appurtenant thereto; and” and insert:

related to highways and main roads;

- (d) in paragraph (b) delete “upon” and insert:

on

- (e) in paragraph (b) delete “road; and” and insert:

road;

- (f) in paragraph (c) delete “road,” and insert:

road.

- (g) delete “shall vest in the Commissioner.”.

**15. Section 15A amended**

- (1) In section 15A(1):
  - (a) delete “No person shall” and insert:

A person must not
  - (b) delete “upon any” and insert:

on a
  - (c) delete “consent” and insert:

approval
- (2) At the end of section 15A(1) insert:

Penalty for this subsection: a fine of \$10 000.
- (3) In section 15A(2) delete “No person shall deposit any litter upon any” and insert:

A person must not deposit any litter on a
- (4) At the end of section 15A(2) insert:

Penalty for this subsection: a fine of \$10 000.
- (5) At the end of section 15A delete the Penalty.

**16. Part 5 heading amended**

In the heading to Part 5 delete “**Powers and duties**” and insert:

**Functions****17. Section 15B inserted**

At the beginning of Part 5 insert:

**15B. General functions of Commissioner**

- (1) The Commissioner’s functions include the following —
  - (a) to construct and manage the State’s network of highways and main roads, 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;

**s. 17**

---

- (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 or convenient to be done for or in connection with the performance of the Commissioner’s functions.
- (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.

**18. Section 16 amended**

- (1) Delete section 16(1) and insert:
  - (1) The Commissioner may exercise in relation to any highway or main road any power which a local government may exercise for a road within its district.
- (2) In section 16(1a):
  - (a) delete “to be”;
  - (b) delete “highway or main” (each occurrence).
- (3) In section 16(1b) delete “highway or main road by any means” and insert:

road
- (4) Delete section 16(1c) and insert:
  - (1C) The Commissioner is taken to have always been authorised to erect, establish or display traffic or road signs, road markings, traffic control signals and similar devices.
- (5) After section 16(2) insert:
  - (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.

- (6) In section 16(3):
- (a) delete “Commissioner and as his agent,” and insert:  
  
Commissioner,
  - (b) delete the passage that begins with “any contract” and ends with “subject to the work” and insert:  
  
an agreement with the Commissioner for main roads works within its district, and, subject to the works
  - (c) delete “contract, as the case may be, shall, subject to the conditions (if any) stated in such request or contract,” and insert:  
  
agreement, as the case may be, will, subject to the conditions (if any) stated in the request or agreement,
- (7) Delete section 16(4) and insert:
- (4) The Commissioner has, and is taken to have always had, the power to exercise any function delegated to the Commissioner under the *Land Administration Act 1997* or any other Act.
  - (4A) If the Minister administering the *Land Administration Act 1997* delegates to the Commissioner a function under Part 9 Division 4 of that Act —
    - (a) section 203 of that Act applies; and
    - (b) the *Public Works Act 1902* section 113A applies as if the power had been conferred under that Act.



- (8) In section 16(5) delete “provide, construct and supervise” and insert:

carry out

Note: The heading to amended section 16 is to read:

**General powers of Commissioner relating to roads**

**19. Section 16A amended**

- (1) In section 16A(1):

- (a) renumber paragraph (i) as paragraph (a);
- (b) in paragraph (i) delete “road or a part thereof” and insert:

road, or part of a highway or main road,

- (c) renumber paragraph (ii) as paragraph (b);
- (d) in paragraph (ii) delete “road or part thereof” and insert:

road, or part of a highway or main road,

- (2) In section 16A(2):

- (a) delete “road or part thereof” and insert:

road, or part of a highway or main road,

- (b) delete “consent” (each occurrence) and insert:

approval

**s. 19**

---

- (3) In section 16A(3):
- (a) delete “road or a part thereof is closed pursuant to” and insert:
- road, or part of a highway or main road, is closed under
- (b) delete “part;” and insert:
- part,
- (4) In section 16A(3) delete the Penalty and insert:
- Penalty for this subsection: a fine of \$10 000.
- (5) In section 16A(4):
- (a) delete “Every” and insert:
- A
- (b) delete “road or a part thereof” (each occurrence) and insert:
- road, or part of a highway or main road,
- (6) At the end of section 16A(4) insert:
- Penalty for this subsection: a fine of \$10 000.
- (7) At the end of section 16A delete the Penalty.
- Note: The heading to amended section 16A is to read:
- Powers as to closure of highways or main roads**

**20. Section 17 amended**

In section 17(a):

- (a) in subparagraph (ii) delete the passage that begins with “road construction,” and ends with “said purposes in,” and insert:

main roads works, and the most effective and economical methods of dealing with the resources and applying them to, and using them for, the purposes in

- (b) in subparagraph (iii) delete “road construction” and insert:

main roads works

- (c) in subparagraph (iv) delete “his” and insert:

the Commissioner’s

- (d) in subparagraph (iv) delete “traffic;” and insert:

traffic; and

- (e) after subparagraph (iv) insert:

- (v) what road service centres and other facilities (if any) are required for particular highways and main roads;

Note: The heading to amended section 17 is to read:

**Powers as to surveys, investigations and purchase of land**

**s. 21**

---

**21. Section 18 deleted**

Delete section 18.

**22. Section 18A amended**

(1) Delete section 18A(1) and (2) and insert:

(1) The Commissioner has, and is taken to have always had, the power to enter into an agreement that is relevant to the Commissioner's functions under this Act or any other written law.

(2) In section 18A(3) delete "(other than those referred to in subsection (2))".

(3) In section 18A(4):

(a) in paragraph (a) delete "the" (1<sup>st</sup> occurrence);

(b) in paragraph (a) delete "agreement;" and insert:

agreement; or

(c) in paragraph (b) delete "road," (each occurrence) and insert:

road or other place,

(4) In section 18A(5):

(a) delete "Where" and insert:

If

(b) delete “upon” (each occurrence) and insert:

on

Note: The heading to amended section 18A is to read:

**General power to enter into agreements relevant to  
Commissioner’s functions**

**23. Section 18AA inserted**

After section 18A insert:

**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.
- (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.

**24. Section 18B replaced**

Delete section 18B and insert:

**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 an agreement with any person to do works, whether or not connected with the functions of the Commissioner under this Act, for that person.

**25. Sections 18C to 18F inserted**

After section 18B insert:

**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) Works authorised under subsection (1) may be 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) 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.

**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 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 an amount exceeding the prescribed amount;
  - (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 amount, or payment to the Commissioner below a prescribed amount, must be submitted to the Minister for approval in prescribed circumstances.

**18E. Other powers**

(1) In this section —

*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, 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).

**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.

**26. Section 19 amended**

In section 19:

- (a) in paragraph (b) delete “his” and insert:  
  
the Commissioner's

**s. 27**

---

- (b) delete paragraph (e) and insert:
  - (e) perform other prescribed functions.

Note: The heading to amended section 19 is to read:

**Other functions of Commissioner**

**27. Section 22 replaced**

Delete section 22 and insert:

**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.

**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.

**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).

**22C. Incidental works to roads**

- (1) In addition to powers conferred under the other provisions of this Act, the Commissioner may, with the approval of the Minister, carry out works necessary for facilitating the performance of the 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 is sufficient authority for the carrying out of any works incidental to the performance of the functions.

**28. Section 23 amended**

- (1) In section 23:
- (a) delete “Any” and insert:  
  
A
  - (b) delete “upon” and insert:  
  
on
  - (c) delete “shall be guilty of an offence and liable on conviction to a penalty not exceeding \$40.” and insert:  
  
commits an offence.
- (2) At the end of section 23 insert:
- Penalty: a fine of \$5 000.

Note: The heading to amended section 23 is to read:

**Person must not remove or deface works**

**29. Section 24 amended**

- (1) In section 24(1):
- (a) in paragraph (a) delete “Act;” and insert:  
  
Act; or

- (b) in paragraph (b) delete “provide and construct” and insert:

carry out works on

- (2) Delete section 24(3) and insert:

- (3) In considering whether to make any recommendation to the Governor that any road should be declared to be a secondary road, the Commissioner must —

- (a) take into account the following —

- (i) the funds available or likely to be available for secondary roads;
- (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;
- (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

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

- (3) In section 24(4) delete “the construction of” and insert:

works on

- (4) In section 24(5) delete “part;” and insert:

part,

- (5) In section 24(6):

- (a) delete “Where” and insert:

If

- (b) delete “construction”.

- (6) Delete section 24(7) and insert:

- (7) If a local government fails to comply with a direction under subsection (6), the Commissioner may carry out any works required to effect the compliance.
- (7A) Any expenses incurred by the Commissioner in exercising the power conferred by subsection (7) must be repaid by the local government to the Commissioner within 3 months after demand by the Commissioner.
- (7B) The amount of those expenses is recoverable by the Commissioner in a court of competent jurisdiction as a debt due to the State.

Note: The heading to amended section 24 is to read:

**Declaration of, and local government functions as to, secondary roads**



**30. Section 27A replaced**

Delete section 27A and insert:

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

- (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 carry out works on a road for the development of an area or for any other purpose, and the road need not be declared to be a highway, a main road or a secondary road.
- (3) The Commissioner must consult with the relevant local government before commencing works on the road under this section.
- (4) When the works have been carried out, the road is the responsibility of the relevant local government and must be maintained by the relevant local government.
- (5) The Commissioner and officers acting under this Act have the same functions with regard to roads under this section as are by this Act conferred on them regarding highways and main 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.

**s. 31**

---

**31. Section 28 amended**

In section 28(11) delete “notwithstanding” and insert:

despite

Note: The heading to amended section 28 is to read:

**Construction, repairs and other works done to motor traffic passes**

**32. Part 9 heading replaced**

Delete the heading to Part 9 and insert:

**Part 9 — Specific powers in relation to land**

**33. Part 9 Division 1 heading and section 28AA inserted**

At the beginning of Part 9 insert:

**Division 1 — Control of access**

**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.

**34. Section 28A amended**

(1) In section 28A(1A):

- (a) in paragraph (a) delete “section or part of a road should have control of access” and insert:

road section should be a COA road section

- (b) in paragraph (b) delete “road section with control of access,” and insert:

COA road section,

(2) In section 28A(1B):

- (a) in paragraph (a) delete “such a section or part of a road is subject to control of access,” and insert:

the road section is a COA road section

- (b) in paragraph (b) delete “road section subject to control of access.” and insert:

COA road section.

(3) In section 28A(1C) delete “he shall” and insert:

the Commissioner may

(4) In section 28A(1E) delete “the provisions of” .

- (5) In section 28A(1F):
- (a) after “powers” insert:  
  
and functions
  - (b) delete “subsection” and insert:  
  
section
  - (c) after “exercised” insert:  
  
and performed
  - (d) delete “notwithstanding the provisions of” and insert:  
  
despite
- (6) In section 28A(2A) delete “section or part of a road subject to control of access” and insert:  
  
COA road section
- (7) After section 28A(2A) insert:
- (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.

(8) In section 28A(2B):

(a) delete “or part of a road not subject to control of access” and insert:

that is not a COA road section

(b) delete “section or part is” and insert:

road section is

(c) delete “section or part being declared to be subject to control of access,” and insert:

road section becoming a COA road section,

(9) In section 28A(2D) and (2E) delete “section or part of the road to be subject to control of access” and insert:

COA road section

(10) In section 28A(2G)(c):

(a) delete “section or part of a road subject to control of access” (each occurrence) and insert:

COA road section

(b) delete “he” and insert:

the Commissioner

(11) In section 28A(2H) delete “the provisions of subsections (2A) to (2K) applies *mutatis mutandis*” and insert:

subsections (2A) and (2B) to (2K) applies, with appropriate modifications,

(12) In section 28A(2I):

(a) delete “the provisions of this”;

(b) after “subsections (2A)” insert:

and (2B)

(c) delete “the provisions of” (2<sup>nd</sup> occurrence).

(13) In section 28A(2J):

(a) in paragraph (a) before “agreement” insert:

an

(b) in paragraph (b) before “benefit” insert:

the

(c) in paragraph (b) delete “construction or improvement,” and insert:

works,

- (d) in paragraph (b) delete “section or part of the road to be subject to control of access, upon” and insert:

COA road section, on

- (e) in paragraph (b) delete “section or part of the road to be subject to control of access.” and insert:

COA road section.

- (14) Delete section 28A(3) to (5B) and insert:

- (3) Sections 15 to 19, 21 to 23 and 29 to 35 apply, with appropriate modifications, in respect of COA road sections.
- (4) Despite the provisions of any Act, a person must not use a COA road section for movement of 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.
- (5) The Commissioner may undertake works to provide local access and may carry a road over or under any COA road section to provide local access, or may carry a COA road section over or under a road to provide local access.
- (5A) Section 24(5) applies, with appropriate modifications, to a road to provide local access.

**s. 34**

---

- (15) In section 28A(6) and (7)(a) delete “section or part of a road subject to control of access” and insert:

COA road section

- (16) In section 28A(7):

- (a) in paragraph (b) delete “consent” (1<sup>st</sup> occurrence) and insert:

approval

- (b) delete “section or part of a road subject to control of access” and insert:

COA road section

- (c) in paragraph (b) delete “consent where consent” and insert:

approval where approval

- (d) delete paragraph (e) and insert:

(e) without the approval of the Commissioner, uses a COA road section for movement of 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

- (e) in paragraph (f) delete “section or part of a road subject to control of access” and insert:

COA road section

- (17) At the end of section 28A(7) insert:

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

- (18) At the end of section 28A delete the Penalty.

**35. Section 28B amended**

- (1) In section 28B(1):

- (a) delete “Notwithstanding” and insert:

Despite

- (b) delete “section or part of a road subject to control of access” and insert:

COA road section

- (c) delete “section or part of a road subject to control of access,” and insert:

COA road section,

(d) delete “consent” and insert:

approval

(2) In section 28B(2) delete “section or part of a road subject to control of access” and insert:

COA road section

(3) In section 28B(3)(b) delete “him” (each occurrence) and insert:

the Commissioner

Note: The heading to amended section 28B is to read:

**No structure or apparatus to be placed on COA road section  
without prior approval**

**36. Part 9 Division 2 heading inserted**

After section 28B insert:

**Division 2 — Acquiring and leasing land for main roads  
works and road service centres**

**37. Section 29 amended**

(1) Before section 29(1) insert:

(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.

(2) In section 29(1):

- (a) delete “When and as often as land is required for the purposes of this Act,” and insert:

Without limiting section 18E, when land is required for a designated purpose

- (b) in paragraph (b) delete “Part 9 of the *Land Administration Act 1997*.” and insert:

the *Land Administration Act 1997* Parts 9 and 10.

(3) Delete section 29(2) and insert:

- (2) 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 —
    - (i) freehold land acquired by the Commissioner under this section; or
    - (ii) any other land otherwise under the care, control and management of the Commissioner;

and

- (b) any interest in land 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.

- (4) In section 29(4) delete “and dealing with any land acquired” and insert:

of, and dealing with, land

- (5) In section 29(6):

- (a) in paragraph (c) delete “proclaimed, reserved,”;
- (b) delete “be”;
- (c) delete “notwithstanding” and insert:

despite

- (6) In section 29(7) delete “1902, to this Act the expressions,” and insert:

*1902 to this Act the terms*

Note: The heading to amended section 29 is to read:

**Acquiring, leasing and making agreements in relation to land**

**38. Section 31 amended**

In section 31(1):

- (a) in paragraph (aa) delete “a contract, or an agreement,” and insert:

an agreement

- (b) in paragraph (c) delete “construction,” and insert:

works,

**39. Section 32 amended**

In section 32(1):

- (a) in paragraph (a) delete “his” and insert:

the Commissioner’s

- (b) in paragraph (b) delete “road construction; and” and insert:

main roads works; and

- (c) in paragraph (e) delete “road construction and other” and insert:

main roads

- (d) in paragraph (e) delete “road construction,” and insert:

main roads works,

- (e) in paragraph (e) delete “construction, erection and maintenance of” and insert:

works on

**40. Part 10A inserted**

After section 32A insert:

**Part 10A — Costs and charges**

**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.

**s. 41**

---

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

**41. Section 33B amended**

In section 33B(1):

- (a) delete “sections or part of a road subject to control of access,” and insert:

COA road sections,

- (b) delete “sections or part of a road subject to control of access” and insert:

COA road sections

Note: The heading to amended section 33B is to read:

**Regulations to control advertising structures near certain roads**

**42. Section 33C amended**

(1) In section 33C(1):

- (a) in paragraph (a) delete “his powers and functions” and insert:

the functions of the Commissioner

- (b) in paragraph (b) delete “delegation given by him.” and insert:

delegation.



- (2) In section 33C(2):
- (a) delete “power or” (1<sup>st</sup> occurrence);
  - (b) delete “exercised or”;
  - (c) in paragraph (b) delete “the exercise of the power or”;
  - (d) in paragraph (b) delete “upon” (each occurrence) and insert:

on

- (3) In section 33C(3) delete “prevent the exercise of a power or” and insert:

limit any other section or prevent

Note: The heading to amended section 33C is to read:

**Commissioner may delegate functions under regulations to local government**

**43. Part 12 replaced**

Delete Part 12 and insert:

**Part 12 — Miscellaneous**

**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.

**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.

**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.

**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 make regulations prescribing all matters that —
- (a) are required or permitted by this Act to be prescribed; or
  - (b) are necessary or convenient to be prescribed for giving effect to the 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 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.

**44. Various references to “shall” amended**

Amend the provisions listed in the Table as set out in the Table.

**Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 7(3) s. 28A(1A) and (1E) s. 28B(1)	shall	may
s. 11 s. 13(2) and (3) s. 16A(2) and (3) s. 19 s. 24(8) s. 28(3), (4), (5), (7) and (8) s. 28A(2J) and (2K) s. 29(3) s. 31(1) s. 32(1) and (14)	shall (each occurrence)	must
s. 9 s. 13(1) s. 24(5)	shall be (each occurrence)	is

**s. 44**

---

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 15(1)	shall vest	vests
s. 9 s. 15(2)	shall have	has
s. 16(2)	shall not be deemed to be such powers shall be	are not those powers is
s. 17	permit, shall	permit, may
s. 17(a)(i)	shall (each occurrence)	should
s. 24(4)	shall not be deemed to be	are not
s. 28(9)	shall not be	is not
s. 28(11)	shall	is to
s. 29(6)	shall	is



© State of Western Australia 2023.  
 This work is licensed under a Creative Commons Attribution 4.0 International Licence (CC BY 4.0).  
 To view relevant information and for a link to a copy of the licence, visit [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au).  
 Attribute work as: © State of Western Australia 2023.  
 By Authority: GEOFF O. LAWN, Government Printer