

MAIN ROADS.

No. 96 of 1975.

AN ACT to amend the Main Roads Act, 1930-1974.

[Assented to 20th November, 1975.]

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

1. (1) This Act may be cited as the *Main Roads Act Amendment Act, 1975*.

Short title
and citation.

(2) In this Act the Main Roads Act, 1930-1974, is referred to as the principal Act.

Reprinted
as approved
for reprint
22nd Jan-
uary, 1970,
as amended
by Acts
No. 35
of 1972,
27 of 1974,
28 of 1974.

(3) The principal Act as amended by this Act may be cited as the Main Roads Act, 1930-1975.

Commence-
ment.

2. The provisions of this Act shall come into operation on such date or such dates as is or are, respectively, fixed by proclamation.

Long title
amended.

3. The long title to the principal Act is amended by deleting the words "Main and Developmental Roads and Controlled-access Roads and Local-access Roads", in lines three to five, and substituting the passage "Highways, Main and Secondary Roads, and other Roads, the Control of Access to Roads".

Section 4
amended.

4. Section 4 of the principal Act is amended by deleting the passage commencing with the word "accordingly", in line fourteen, and ending with the word "Act" in line nineteen.

Section 6
amended.

5. Section 6 of the principal Act is amended—

- (a) by deleting the interpretation of the term "controlled-access road", and substituting a new interpretation as follows—

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

- (b) by deleting the interpretation of the term "developmental road" and substituting a new interpretation as follows—

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

- (c) by inserting immediately before the interpretation of the term “inspector” a new interpretation as follows—

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

- (d) by deleting the interpretation of the term “local-access road”;

- (e) as to the interpretation of the term “road”—

(i) by deleting the words “or highway”, in line one, and substituting the passage “, highway or road”; and

(ii) by deleting the passage “therewith.”, at the end thereof, and substituting the passage “with the road;”

- (f) in the interpretation of the term “road construction”, by deleting the passage “lights.”, at the end thereof, and substituting a new passage as follows

“lights; and”; and

- (g) by adding a new interpretation as follows—

“secondary road” means a road declared to be a secondary road for the purposes of this Act, and includes any part thereof. .

6. Section 7 of the principal Act is amended by deleting the second sentence of subsection (1) of that section.

Section 7
amended.

Section 9A
inserted.

7. The principal Act is amended by inserting after section 9 a new section, to stand as section 9A, as follows—

Borrowing
powers
may be
guaranteed.

9A. (1) For carrying out the purposes of this Act the Commissioner, subject to the approval of the Minister, shall have power upon the guarantee and with the prior approval in writing of the Treasurer of the State to borrow money upon such terms and conditions only as the Treasurer approves.

(2) The Treasurer is hereby authorised to so approve and to give the guarantee, including a guarantee of interest, referred to in subsection (1) of this section, for and on behalf of the Crown in right of the State.

(3) Any moneys borrowed by the Commissioner under this section may be raised as one loan or as several loans in such manner as the Treasurer may approve, but the amount of the moneys so borrowed shall not in any one year exceed in the aggregate such amount as the Treasurer approves.

(4) Before a guarantee is given by the Treasurer under this section, the Commissioner shall give to the Treasurer such security as the Treasurer may require and shall execute all instruments necessary for the purpose.

(5) The Commissioner shall use moneys borrowed under the power conferred by this section for the purpose of carrying this Act into effect and for no other purpose.

Heading
amended.

8. The principal Act is amended by deleting the heading appearing immediately after section 12 and substituting the heading "*Highways and Main Roads*".

9. Section 13 of the principal Act is repealed and re-enacted with amendments as follows—

Section 13
repealed
and
re-enacted.

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

Proclama-
tion of
highways
and main
roads.

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

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

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

- (a) the moneys available or likely to be available for highways;
- (b) whether the road is or will be the direct connection between the capital of this and any other State;
- (c) whether the road is or will be the principal route between the capital and the major producing regions of the State;
- (d) whether the road is or will be the principal route between two or more of the major producing regions or major centres of population of the State; and
- (e) whether the road is or will be the principal route for high volume traffic movements within large urban areas.

(3) In considering whether to make any recommendation to the Governor that a road should be declared to be a main road, the Commissioner shall take into account—

- (a) the moneys available or likely to be available for main roads;
- (b) whether the road is or will be the main route connecting any large producing area, or any area capable of becoming in the near future a large producing area, with its market or closest port or railway station;
- (c) whether the road is or will be the main route of inter-communication between two or more large producing areas, or areas capable of becoming in the near future large producing areas, or between large centres of population; and
- (d) whether the road is or will be a major route for high volume traffic movements within large urban areas.

(4) All highways and main roads shall, for the purposes of the Road Traffic Act, 1974, be deemed to be Government roads.

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

Section 13A
added.

10. The principal Act is amended by inserting a new section, to stand as section 13A, as follows—

Local
Authority
to be
consulted.

13A. (1) The Commissioner shall cause each local authority in whose district the road is situated to be notified in writing of the details of any proposed permanent improvements to any highway or main road before commencing the improvements.

(2) Before making any recommendation to the Governor—

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

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

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

11. Section 14 of the principal Act is amended— Section 14 amended.

(a) by deleting subsection (1) and substituting a new subsection as follows—

14. (1) The Governor, on the recommendation of the Commissioner, may authorise and empower the Commissioner to provide highways and to provide main roads, and where such a road is provided it shall be deemed to have been proclaimed when it is opened to traffic as such. ; and Power to provide highways and main roads.

- (b) as to subsection (2) by deleting the words “of the last preceding section”, in lines three and four, and substituting the passage “or subsection (3), as the case may require, of section 13 of this Act”.

Section 15
amended.

12. Section 15 of the principal Act is amended—

- (a) by inserting immediately before the words “main road”, in line two of subsection (1), line three of subsection (2), and lines eight, nine and eleven of subsection (3), the words “highway or”; and
- (b) by inserting immediately before the words “main roads”, in line one of paragraph (a) of subsection (3), the words “highways and”.

Section 15A
amended.

13. Section 15A of the principal Act is amended by inserting immediately before the words “main road”, in line five of subsection (1) and line two of subsection (2), the words “highway or”.

Section 16
amended.

14. Section 16 of the principal Act is amended—

- (a) by inserting immediately before the words “main road”, in line one of paragraph (b) of subsection (1), line three of subsection (2), and line seven of subsection (3), the words “highway or”;
- (b) by inserting immediately before the words “main roads”, in line two of paragraph (a) of subsection (1), the words “highways or”; and
- (c) as to subsection (3)—
 - (i) by deleting the paragraph designation “(a)”, in line one;
 - (ii) by deleting the words “developmental road”, in line eight, and substituting the words “secondary road”; and
 - (iii) by deleting paragraph (b).

15. The principal Act is amended by inserting immediately following section 16 a new section, to stand as section 16A, as follows—

Section 16A
inserted.

16A. (1) Where in the opinion of the Commissioner—

Road
closure.

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

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

(2) The Commissioner shall not cause a highway or main road or part thereof to be closed for any period of more than twenty-eight consecutive days, or for periods aggregating more than twenty-eight days in the space of one year, unless the consent of the Minister has first been obtained but may with that consent authorise the closure for any greater period or periods.

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

Penalty: Two hundred dollars.

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

Penalty: Two hundred dollars.

Section 17
amended.

16. Section 17 of the principal Act is amended by inserting immediately before the words "main roads", in line six, the words "highways and what roads shall be".

Section 18
amended.

17. Section 18 of the principal Act is amended by deleting the words "two thousand dollars", in lines two and three, and substituting the words "fifty thousand dollars".

Section
18A
added.

18. The principal Act is amended by inserting a new section, to stand as section 18A, as follows—

Power to
enter into
agreements.

18A. The Commissioner may, with the consent of the Minister, enter into any agreement with another person whereby that other person undertakes to pay for, or contribute towards, the expenditure to be incurred by the Commissioner in the construction or maintenance, or construction and maintenance, of any road which by this Act the Commissioner is authorised to construct or maintain. .

Section 19
amended.

19. Section 19 of the principal Act is amended by deleting the words "main roads and developmental roads", in lines two and three of paragraph (d) and substituting the passage "highways, main roads and secondary roads".

Heading
amended.

20. The principal Act is amended by deleting the heading appearing immediately after section 23 and substituting the heading "*Secondary Roads*".

21. Section 24 of the principal Act is amended— Section 24
amended.

- (a) by repealing subsection (1) and re-enacting it with amendments as follows—

24. (1) The Governor, on the recommendation of the Commissioner, may— Secondary
roads.

- (a) declare any road to be a secondary road for the purposes of this Act;
- (b) authorise and empower the Commissioner to provide and construct any secondary road. ;
- (b) by repealing subsection (2) and re-enacting it with amendments as follows—

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

- (c) by deleting subsection (3) and substituting a new subsection as follows—

(3) In considering whether to make any recommendation to the Governor that any road should be declared to be a secondary road, the Commissioner shall take into account—

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

before making any recommendation the Commissioner shall consult with the local authority. ; and

(d) by adding five new subsections as follows—

(4) The powers of a local authority over a secondary road shall not be deemed to be taken away by this Act and the Commissioner may enter into agreements with local authorities for the construction of secondary roads or any parts of a secondary road.

(5) A local authority in whose district a secondary road or any part of a secondary road is situated shall be responsible for maintaining such secondary road or part; but where a secondary road, or part of a secondary road, follows the common boundary of two districts, the cost of the maintenance shall be apportionable between the local authorities of those districts and the Commissioner may determine the respective liabilities of each local authority.

(6) Where a local authority fails to maintain to the satisfaction of the Commissioner any construction works carried out by the Commissioner on a secondary road, the Commissioner may, by notice in writing, direct the local authority to carry out the works of maintenance specified in the notice within the period limited by the notice.

(7) Where a local authority fails to comply with a direction given under subsection (6) of this section, the Commissioner may carry out such works and any expenses so incurred by the Commissioner shall be repaid by the local authority to the Commissioner, and, if not repaid within three months after demand by the Commissioner, shall be

deemed a debt due and payable to Her Majesty enforceable in the name of Her Majesty against the local authority and the revenues of the local authority.

(8) All moneys repaid by, or recovered from a local authority under this section shall be placed to the credit of the Main Roads Trust Account.

22. Section 25 of the principal Act is repealed. Section 25 repealed.

23. Section 26 of the principal Act is amended— Section 26 amended.

(a) by inserting immediately before the words “main roads”, in line five and line seven, the words “highways and”; and

(b) by deleting the words “developmental roads”, in line four and line eight, and substituting the words “secondary roads”.

24. Section 27 of the principal Act is repealed. Section 27 repealed.

25. The principal Act is amended by inserting before section 28 a new section, to stand as section 27A, and a new heading as follows— Section 27A and a new heading inserted.

Roads other than Declared Roads.

27A. (1) The Commissioner may provide, construct or improve roads or parts of roads for the development of an area or for any other purpose, and any such road need not be declared to be a highway, a main road or a secondary road.

Roads which have not been declared as highways, main roads or secondary roads.

(2) Before commencing the construction of any road pursuant to this section, the Commissioner shall consult with the local authority and when that road, or any part thereof, has been constructed or any work executed thereon, that road or part shall be the responsibility of the local authority in whose district it is situated and shall be maintained by that local authority.

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

New heading inserted.

26. The principal Act is amended by inserting immediately before section 28 the heading "*Motor Traffic Passes.*" .

Section 28 amended.

27. Section 28 of the principal Act is amended—

- (a) by inserting immediately before the words "main road", in line two and line nine of subsection (2), line four of subsection (3), line eight of subsection (7), and line three of subsection (8), the words "highway or"; and
- (b) by deleting the words "developmental road", in line two and lines ten and eleven of subsection (2), line five of subsection (3), lines ten and eleven and lines twelve and thirteen of subsection (7), and lines four and five of subsection (8), and substituting the words "secondary road".

Heading amended.

28. The principal Act is amended by deleting the heading appearing immediately after section 28 and substituting a new heading as follows "*Control of Access.*" .

Section 28A amended.

29. Section 28A of the principal Act is amended—

- (a) as to subsection (1),—
 - (i) by deleting paragraph (a) and substituting a new paragraph as follows—
 - (a) Where the Commissioner is of the opinion—

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

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

- (ii) by deleting paragraph (b) and substituting a new paragraph as follows—

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

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

(b) as to subsection (2),—

- (i) in paragraph (a), by deleting the words “controlled-access road”, in line two, and substituting the words “section or part of a road subject to control of access”;
- (ii) in paragraph (b), by deleting the passage “, not being a controlled-access road, and land adjoining the road is,”, in lines one, two and

three, and substituting the passage "section or part of a road not subject to control of access and the land adjoining that section or part is"; and by deleting the passage "when the road is included in a controlled access road, a", in lines four and five, and substituting the passage "as a result of that section or part being declared to be subject to control of access, any";

- (iii) in paragraph (d), by deleting the words "proclamation of the controlled-access road", in lines one and two, and substituting the words "proclamation declaring the section or part of the road to be subject to control of access";
- (iv) in paragraph (e), by deleting the words "proclamation of the controlled-access road", in lines one and two, and substituting the words "proclamation declaring the section or part of the road to be subject to control of access";
- (v) in paragraph (g) by deleting the words "controlled-access road", in line eight and line eleven, and substituting the words "section or part of a road subject to control of access";
- (vi) in paragraph (j), by deleting the words "of the controlled-access road", in lines eleven and twelve and line sixteen, and substituting the words "declaring the section or part of the road to be subject to control of access"; and deleting the words "local-access road", in line fourteen, and substituting the words "road to provide local access";

- (c) as to subsection (3), by deleting the words “controlled-access roads”, in line nine, and substituting the words “sections or parts of a road subject to control of access”;
- (d) as to subsection (4), by deleting the words “use a controlled-access road”, in line two, and substituting the words “without the consent of the Commissioner use a section or part of a road subject to control of access”;
- (e) as to subsection (5)—
 - (i) in paragraph (a), by deleting the words “local-access roads”, in lines one and two, and substituting the words “roads to provide local access”; by deleting the words “local-access road”, in line two and lines four and five, and substituting the words “road to provide local access”; and by deleting the words “controlled-access road”, in line three and line four, and substituting the words “section or part of a road subject to control of access”; and
 - (ii) in paragraph (b), by deleting the words “local-access road”, in line three, and substituting the words “road to provide local access”;
- (f) as to subsection (6), by deleting the words “controlled-access road”, in line one, and substituting the words “section or part of a road subject to control of access”; and
- (g) as to subsection (7),—
 - (i) by deleting the words “controlled-access road”, in line one of paragraph (a), line three of paragraph (b), line one of paragraph (e), and line one of paragraph (f), and substituting the words “section or part of a road subject to control of access”; and

- (ii) by inserting before the word “uses”, in line one of paragraph (e), the words “without the consent of the Commissioner”.

Section 28B
amended.

30. Section 28B of the principal Act is amended—

- (a) by deleting the words “controlled access road”, in line four and line six of subsection (1), and substituting the words “section or part of a road subject to control of access”; and
- (b) by deleting the words “controlled access road or”, in lines six and seven of subsection (2), and substituting the words “section or part of a road subject to control of access or any”.

Section 31
amended.

31. Section 31 of the principal Act is amended—

- (a) by inserting a new paragraph to stand as paragraph (aa) as follows—
 - (aa) moneys paid pursuant to an agreement entered into by the Commissioner under section eighteen A of this Act;
- (b) by deleting the words “main roads and developmental roads”, in lines nine and ten, and substituting the passage “highways, main roads, and secondary roads”; and
- (c) by deleting the passage “Traffic Act, 1919”, in line seventeen, and substituting the passage “Road Traffic Act, 1974,”.

Section 32
amended.

32. Section 32 of the principal Act is amended by deleting paragraph (c) of subsection (1) and substituting a new paragraph as follows—

- (c) thirdly, in payment, annually, to the credit of the Railway Crossing Protection Fund Account, of an amount equal to the fees paid in the aggregate to the Road Traffic Authority established under the Road Traffic Act, 1974, for the transfer of motor

vehicle licences reduced by half the amount of such of those fees as were paid during the same year to the Road Traffic Authority for the Perth Statistical Division as designated for the purpose of the Census taken in the year 1971; .

33. Section 33 of the principal Act is amended— Section 33 amended.

- (a) as to paragraph (a), by deleting the passage “main road, or developmental road”, in line three, and substituting the passage “highway, main road, or secondary road”; and
- (b) as to paragraph (b), by deleting the words “main road or developmental road”, in lines three and four, and substituting the passage “highway, main road or secondary road”.

34. Section 33B of the principal Act is amended Section 33B amended. by deleting the words “main roads and controlled access roads”, in lines seven and eight and lines eleven and twelve, and substituting the passage “highways, main roads, and sections or part of a road subject to control of access”.
