



ANNO DECIMO TERTIO

GEORGI VI REGIS.

A.D. 1949.

No. 6 of 1949.

An Act to amend the Highways Act, 1926-1948.

[Assented to 9th October, 1949.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles.

1. (1) This Act may be cited as the "Highways Act Amendment Act, 1949".

(2) The Highways Act, 1926-1948, as amended by this Act, may be cited as the "Highways Act, 1926-1949".

(3) The Highways Act, 1926-1948, is hereinafter referred to as "the principal Act".

Enactment of
ss. 27b and 27c
of principal
Act—

2. The following sections are enacted and inserted in the principal Act after section 27a thereof :—

Widening of
main roads.

27b. (1) If the Commissioner is of opinion that it is desirable to widen any main road he may cause to be prepared a plan showing—

- (a) the existing boundaries of the road (which said boundaries are hereinafter in this section referred to as "old boundaries");
- (b) the boundaries of the road as they would exist after the widening of the road (which said boundaries are hereinafter in this section referred to as "new boundaries"); and
- (c) all buildings, fences and other structures and all wells, dams and other water supplies then existing upon or in any land between any such old boundary and any such new boundary.

(2) The Commissioner shall give notice in writing as hereinafter provided in this subsection to the following persons :—

- (a) The owner of any land which is situated between any such old boundary and any such new boundary ;
- (b) The occupier of any such land ;
- (c) Any person who, pursuant to The Real Property Act, 1886-1945, or the Registration of Deeds Act, 1935, is registered as the mortgagee or encumbrancee of any such land.

The notice shall state that it is the intention of the Commissioner to deposit the plan as provided by this section and shall set out the effect of such deposit and of this section. The notice shall be accompanied by a copy of the plan or of such portion thereof as includes the land to which the notice relates.

The notice shall also state that the person to whom the notice is given may object in writing to the proposed widening of the road within the time, being not less than one month, specified in the notice.

(3) The Commissioner shall consider every such objection and may, after considering every such objection, adopt the plan for the purposes of this section with such alterations as appear necessary to the Commissioner.

(4) After adopting the plan as aforesaid, the Commissioner shall—

- (a) serve upon every person aforesaid a copy of the plan or portion thereof as aforesaid ;
- (b) deposit a copy of the plan with the Registrar-General, the Surveyor-General, and the council of the district in which the road is situated ;
- (c) give notice in the *Gazette* of the adoption of the plan,

and shall serve upon every such person a notice stating the day from which the deposit shall become effective (which said day is hereinafter in this section referred to as "the day of deposit").

(5) At any time after the day of deposit—

- (a) the Commissioner may acquire any land between any such old boundary and any such new boundary ;

(b) the owner of any such land may, on giving one month's notice in writing to the Commissioner, require the Commissioner to acquire the land and the Commissioner shall thereupon be liable to pay compensation for the land to the persons entitled thereto.

(6) Any compensation payable by the Commissioner on the acquisition of any land pursuant to subsection (5) shall not include the value of any building, fence or other structure or any well, dam or other water supply erected or constructed upon or in the land after the day of deposit and the plan deposited by the Commissioner shall be *prima facie* evidence as to what buildings, fences and other structures and wells, dams, and other water supplies were erected or constructed upon or in the land at the day of deposit.

(7) Nothing in subsection (6) shall be deemed to abrogate the right of any such owner to repair any building, fence, or structure or well, dam or other water supply existing upon or in the land at the day of deposit.

(8) The Commissioner may by notice in writing consent to any owner erecting any building, fence or structure or well, dam, or other water supply upon or in any such land after the day of deposit and in any such notice the Commissioner may agree to any special arrangements as to the removal of the building, fence or structure or well, dam, or other water supply upon the acquisition of the land by the Commissioner or otherwise as appears just to the Commissioner.

(9) Any notice required by this section to be given to or served upon any person may be given or served—

(a) by delivering the notice to that person ; or

(b) by sending the notice by registered post to the last-known place of abode or business of the person,

but where any notice is required to be given to or served upon any person whose address is unknown the notice may be given or served by publishing it or a notice substantially to the same effect once in the *Gazette* and once in a daily newspaper circulating generally in South Australia.

(10) If any notice required by this section to be given to or served upon any person is given to or served upon that person, the notice shall be binding upon all persons claiming by, from or under that person and upon all successors in title or occupancy of that person.

(11) In this section "owner" means—

- (a) the registered proprietor under The Real Property Act, 1886-1945, of any estate of freehold in possession ;
- (b) as regards land not under The Real Property Act, 1886-1945, any person who is seized of any estate of freehold in possession, or if the said estate is subject to redemption under any mortgage, the person who upon payment of moneys secured by such mortgage would be entitled to a conveyance of such an estate ;
- (c) as regards land belonging to the Crown, any person who has agreed to purchase the land from the Crown or is the lessee of the land under any lease granted by the Crown.

27ba. Forthwith after the deposit with the Registrar-General of a copy of any plan in pursuance of subsection (4) of section 27b, the Commissioner shall, in respect of any land situated between any old boundary (as defined in section 27b) and any new boundary (as defined in section 27b) shown in the said plan, do the following :—

Duty to register effect of plan.

- I. If any such land is under the provisions of The Real Property Act, 1886-1945, the Commissioner shall register with the Registrar-General an instrument requesting the Registrar-General to make an indorsement as provided by this paragraph and, notwithstanding the provisions of The Real Property Act, 1886-1945, the Registrar-General shall indorse on the certificate of title of that land a memorandum referring to the said plan and to the effect that the land is subject to acquisition by the Commissioner of Highways pursuant to section 27b :
- II. If any such land is not under the provisions of The Real Property Act, 1886-1945, the Commissioner shall register a memorial of a certificate by him containing the name of the owner, the description of the land, a reference to the said plan, and a statement to the effect that the land mentioned in the memorial is subject to acquisition by the Commissioner of Highways pursuant to section 27b.

Amendment of
s. 31 of
principal
Act—
Highways
Fund.

3. Section 31 of the principal Act (as enacted by section 3 of the Highways Act Amendment Act, 1938) is amended by striking out paragraph (iii.) of subsection (3) thereof and by inserting in lieu thereof the following paragraph :—

(iii.) to the Treasurer to be paid to the Loan Fund on account of the Road Purposes Loan Account an amount equal to one and a quarter per centum of the outstanding balance of the Road Purposes Loan Account as at the preceding thirtieth day of June, but in calculating the said outstanding balance there shall be deducted the outstanding balance of any amount debited to the Road Purposes Loan Account before the first day of July, nineteen hundred and twenty-six ; and

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. W. M. NORRIE, Governor.