

TASMANIA.

THE MAIN ROADS MAINTENANCE
ACT, 1926.

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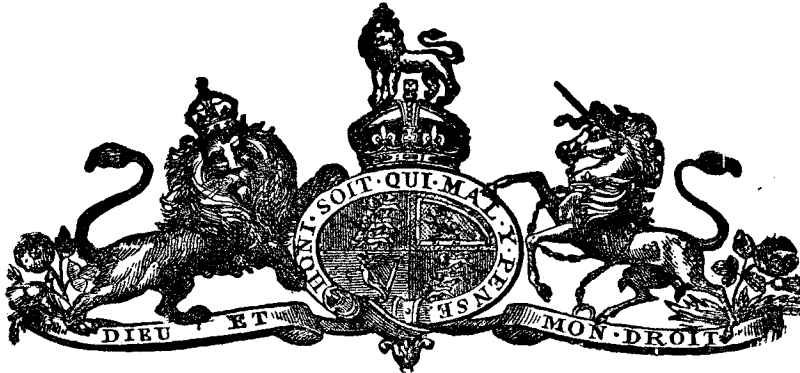
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T A S M A N I A.



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GEORGII V. REGIS.

No. 33.

AN ACT to provide for the Declaration of Main Roads and the Maintenance thereof, and for other purposes [7 December, 1926.]

A.D. 1926.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1 This Act may be cited as "The Main Roads Maintenance Act, 1926." Short title.

2 The Main Roads Maintenance Act, 1918 (hereinafter referred to as "the repealed Act"), save and except Section Forty thereof, is hereby repealed: Provided, however, that such repeal shall not, nor shall anything in this Act, apply in respect of, or affect the carrying out and completion of, any scheme of main roads maintenance works prepared and approved in accordance with the provisions of the repealed Act, and which has not been fully carried out and completed previously to the commencement of this Act. Repeal. 9 Geo. V. No. 38.

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Interpretation.

3 In this Act unless the context otherwise requires—

“ Association ” means the Municipal Association of Tasmania:

“ Board ” means the Main Roads Maintenance Board constituted under this Act:

“ Chairman ” means the Chairman of the Board, and any person for the time being acting in that capacity:

“ Commissioner ” means the Commissioner of Main Roads, under and for the purposes of this Act:

“ Council ” means the council of any municipality:

“ Councillor ” means a councillor of some municipality, the council of which is a member of the Association:

“ Department ” means the Department of Public Works of the Public Service of the State:

“ Maintenance ” includes the improving, widening, diverting, altering, and repairing of any road:

“ Main Road ” means any road declared to be a main road under the provisions of this Act, and any part of such road, and includes—

I. Every bridge, the original cost of which was not more than Fifty Pounds;

II. All fences erected at the cost of the State for the protection of traffic; and

III. All culverts—

upon or used in connection with any main road:

“ Member ” means a member of the Board:

“ Motor taxes ” means the taxes on motor-vehicles imposed by or under the Motor Vehicles Tax Act, 1917:

“ Municipal member ” means the member of the Board, the appointment of whom is vested in the Governor:

“ Municipality ” means a municipality constituted or proclaimed under the Local Government Act, 1906.

8 Geo. V. No. 30

6 Ed. VII. No. 31.

Minister for
Lands and Works
to be Commis-
sioner of Main
Roads.**4** The Minister for Lands and Works shall be the Commissioner of Main Roads, under and for the purposes of this Act, and in the exercise and execution of his powers and authorities under this Act he shall be so styled.

PART II.

MAIN ROADS MAINTENANCE BOARD.

The Main Roads
Maintenance
Board.**5—(1)** For the purposes of this Act there shall be a Board to be called “ The Main Roads Maintenance Board.”

Main Roads Maintenance.

- (2) The Board shall consist of three members, of whom— A.D. 1926.
- I. Two shall be permanent members, and shall be the persons for the time being holding, or performing the duties of, the following respective offices, namely:— Constitution.
Permanent members.
- (a) The Roads Engineer; and
- (b) The Engineer of Public Works:
- II. The other member of the Board shall be a councillor of some municipality, the council of which is a member of the Municipal Association of Tasmania, and shall be appointed by the Governor on the nomination of the executive committee of the Association. Such nomination shall be made as soon as practicable, after the commencement of each financial year, beginning with the year which commenced on the first day of July, one thousand nine hundred and twenty-six, and the member appointed in pursuance of any such nomination shall, subject as hereinafter mentioned, hold office until the end of the financial year in which he is so appointed, when he shall retire from office. Every such nomination as aforesaid shall be under the seal of the Association, and be delivered to the Commissioner, who shall certify the same to the Governor. Appointment of municipal member.
- 6** In any case in which there has, in the opinion of the Commissioner, been unreasonable delay in the nomination of a municipal member for appointment by the Governor, the Commissioner may make the nomination, and, upon the same being certified to the Governor in writing under the hand of the Commissioner, the Governor shall appoint the person so nominated to be the municipal member. Commissioner may in certain event nominate member for appointment as municipal member.
- 7** Where any vacancy occurs in the office of the municipal member, otherwise than by effluxion of time, the Governor may appoint any councillor to be the municipal member, and he shall hold office until the expiration of the period for which the member in whose place he has been appointed would have held such office, when he shall retire from office. Casual vacancies.
- 8** The Governor shall appoint one of the permanent members of the Board to be the Chairman thereof. Chairman.
- 9**—(1) The Governor may appoint, for a period not exceeding three months, any councillor to act in place of the municipal member, if such member is absent from the State, or incapacitated by illness or other temporary cause from discharging his duties as such member. Appointment of acting municipal member.

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(2) Such acting member as aforesaid shall discharge the duties of the member who is so absent or incapacitated, until the return to the State, or removal of the incapacity of such member or the expiry of the period for which the acting member was appointed whichever event first happens.

Vacation of office of member.

- 10** The office of a member shall be vacated in case of his—
- I. Death, lunacy, or bankruptcy, or taking or applying to take the benefit of any law relating to bankrupt or insolvent debtors: or
 - II. Ceasing (being the municipal member) to be a councillor: or
 - III. Absence without leave of the Board from three consecutive ordinary meetings of the Board, if such absence is followed by a resolution of the Board passed not later than six weeks after the last of such consecutive meetings: or
 - IV. Absence from the State for a period of three months without leave of the Board:
 - V. Becoming incapable of performing his duties as a member of the Board: or
 - VI. In any wise participating or claiming to be entitled to participate in the profit of, or in any benefit or emolument arising from, any contract or agreement made by the Board on behalf of the Minister: or
 - VII. Voting at any meeting of the Board in respect of any matter in which he is (otherwise than as a member of the general public, or as a councillor, ratepayer, or resident of any municipality, or a shareholder in any incorporated company in which there are more than twenty members, and of which he is not a director or officer) directly or indirectly interested, or remaining at any meeting of the Board when such matter is under discussion: or
 - VIII. Resignation by notice in writing delivered to the Board.

Procedure of Board.

- 11** —(1) The Chairman shall have a deliberative vote only.
- (2) If the Chairman is absent from any meeting of the Board at the time appointed for the holding thereof, the other permanent member present shall act as chairman at such meeting.
- (3) Any two members of the Board shall be a quorum for the transaction of business.
- (4) When there is an equal division of votes on any question the decision of such question shall be deferred till the next meeting of the Board at which all the members are present.
- (5) The first meeting of the Board shall be held at such place and time as the Chairman shall, by written notice to each member, appoint.

Main Roads Maintenance.

(6) The Board shall cause entries of all its proceedings, with the names of all the members present at each meeting, and the names of all members voting upon any question for the decision of which a division is called to be duly made from time to time in books to be provided for that purpose, and every such entry shall be signed by the Chairman of the meeting at which such proceeding has taken place. AD. 1926.

(7) Any notice, demand, or certificate authorised or required under this Act to be given or made by the Board shall be in writing, and shall be signed by the Chairman, or by some person acting on behalf or with the authority of the Board.

(8) Subject to this Act the Board may regulate its own procedure.

12 The Board may call upon any council for any information it requires for carrying out its duties under this Act, and it shall be the duty of such council, when called upon so to do, to supply to the Board all such information, if, and so far as, the same is in its possession or reasonably available to it. Board may require information from councils.

13—(1) Every member of the Board shall be entitled to be paid out of the Main Roads Trust Fund hereinafter mentioned, all such sums as may be necessary to defray the travelling expenses incurred by him for the purpose of carrying out his duties as such member. Travelling expenses.

(2) The municipal member of the Board shall be entitled to be paid a sustenance allowance of One Pound Five Shillings for each day on which he is engaged in the performance of his duties under this Act. Allowances.

(3) The certificate of the Chairman shall be a sufficient warrant and discharge to the Treasurer for the payment of any such expenses or allowances as aforesaid.

14 For the purposes of carrying out the powers, duties, and authorities conferred or imposed upon the Board by this or any other Act, the Board may, with the approval of the Commissioner, make use of the services of any of the officers or employees of the Department. Power to employ officers of the Public Works Department.

PART III.

FINANCIAL.

15 An account shall be opened in the books of the Treasury to be known as the Main Roads Trust Fund, hereinafter referred to as "the said fund." Main Roads Trust Fund.

Main Roads Maintenance.

A.D. 1926.

Annual appropriation.

To be credited to fund.

Treasurer may issue and apply moneys.

Fund to be available for purposes of Act.

Credit to be given the Treasurer in his accounts.

Contributions by councils to be made towards maintenance of main roads.

Payment of contributions into fund.

Separate accounts to be kept by Department.

Accounts to be subject to the Audit Act, 1918.
9 Geo. V. No. 3.

Statement of expenditure to be submitted annually to Parliament.

16—(1) Out of the Consolidated Revenue there shall be appropriated, issued, and applied annually in each financial year commencing with the year ending the thirtieth day of June, one thousand nine hundred and twenty-seven, for the purposes of this Act, in the manner hereinafter provided, a sum equal to the total amount of the motor taxes collected and paid into the Treasury in the immediately preceding financial year, less Three Pounds per centum of such amount.

(2) The said sum representing the motor taxes collections shall be annually paid into and credited by the Treasurer to the said fund.

17 The Treasurer is hereby authorised and empowered to issue and apply or cause to be applied, for the purposes of this Act, the moneys paid into the said fund as aforesaid.

18 The said fund shall be available to satisfy the warrants under the hand of the Governor in respect of the purposes of this Act.

19 The Treasurer shall be allowed credit in his accounts, relating to the said fund, for any sums of money paid by him in pursuance of any such warrant as aforesaid; and the receipts of the respective persons to whom the same are so paid shall be a full and valid discharge to the Treasurer in passing his said accounts for any such sums as are therein mentioned, and he shall receive credit for the same accordingly.

20—(1) There shall be payable annually by each council to the Treasurer towards the maintenance of the main roads within its municipality such contribution as shall (subject to the approval of the Commissioner), be fixed and determined by the Board under the provisions of Part V. of this Act.

(2) All such contributions as aforesaid shall, as and where received by him, be paid into and credited by the Treasurer to the said fund.

21 Distinct and separate accounts in detail, in accordance with the directions of the Auditor-General, shall be kept in the books of the Department, of and respecting the expenditure against the sums provided out of the Consolidated Revenue and contributed by councils for each financial year.

22 The accounts of the said fund shall be subject to the provisions of the Audit Act, 1918, so far as such provisions are not inconsistent with the provisions of this Act.

23 A statement of the expenditure in connection with the said fund shall be submitted annually to Parliament by the Treasurer until the accounts of the said fund are closed.

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PART IV.

PROCLAMATION OF MAIN ROADS.

24—(1) Notwithstanding anything contained in any Act to the contrary, such roads as the Governor shall, pursuant to the provisions in that behalf hereinafter contained, from time to time by proclamation, declare to be main roads of this State, shall be main roads under and for the purposes of this Act and of all other Acts or enactments relating to or affecting main roads.

Governor to proclaim main roads pursuant to provisions of this Act.

(2) The Governor may from time to time, pursuant to the provisions hereinafter contained, rescind any such proclamation by a subsequent proclamation so far as relates to any main road or portion of a main road specified in the subsequent proclamation, and thereupon the main road or portion thereof so specified shall cease to be a main road as from a date fixed by the rescinding proclamation, or if no date is so fixed, as from the date of the rescinding proclamation, and shall be deemed to be a crossroad under the Roads Act, 1884, within the limits of the respective municipalities through which such road or portion thereof so specified may pass, and the provisions of Section Ten of the lastmentioned Act shall apply.

Governor may, pursuant to provisions of this Act, rescind proclamation declaring main roads as regards roads specified in rescinding proclamation.
48 Vict. No. 28.

25—(1) The Board, from time to time—

- I. Shall carry out all such investigations as may be necessary or expedient to ascertain what roads in Tasmania should, in the opinion of the Board by reason of their importance, be proclaimed main roads:
- II. As occasion requires shall make out lists of the roads which the Board recommends should be proclaimed main roads, and by resolution certify such lists to be provisional lists of main roads for Tasmania. In making out such lists the Board shall endeavour to provide a connected system of main roads through the settled portions of the State, connecting the various centres of population with each other:
- III. May by resolution recommend that any proclamation declaring main roads should by a proclamation (hereinafter referred to as a rescinding proclamation) be rescinded as regards any specified main road or portion of a main road, which in the opinion of the Board is no longer of sufficient importance to be considered a main road.

Board to carry out investigations.

And to make out lists of proposed main roads.

Board may by resolution recommend the rescinding of a proclamation as regards specified road.

(2) Every such list shall be signed by the Chairman, and shall be printed.

Lists to be signed and printed.

Main Roads Maintenance.

A.D. 1926.

Copy of list and rescinding resolution to be supplied to every council affected.

(3) A copy of—

I. Every such list: and

II. Every rescinding resolution—

certified to be correct by writing under the hand of the Chairman shall be supplied by the Board to the council for every municipality through which passes any road mentioned in the list, or affected by the rescinding resolution.

Council feeling aggrieved by resolution may object.

26—(1) Any council which feels aggrieved by—

I. The inclusion in or exclusion from any provisional list of any road within its municipality: or

II. Any such rescinding resolution,

may object to such inclusion or exclusion, or to the rescinding resolution.

Objection to be made by resolution of council.

(2) Every such objection shall be made and signified by a resolution of a majority of the members of the objecting council present at a meeting convened for the purpose, and the resolution shall set forth the grounds of objection.

Copy to be delivered or posted to Chairman.

A copy of the resolution certified to be correct by writing under the hand of the warden of the objecting council, shall be delivered or posted to the Chairman on or before a date to be fixed by the Board.

Objections to lists to be considered by Board.

27—(1) The Board shall consider the objections to any provisional list, and may revise, alter, or amend the list.

Amendments.

Board to submit list to Commissioner for approval.

After the Board shall have reconsidered and dealt with any list, it shall submit the same to the Commissioner for his approval, forwarding to him at the same time all the objections not allowed by the Board.

Commissioner to settle list, approve same, and submit it to Governor.

(2) The Commissioner shall consider the said list and objections and settle the list, and certify his approval thereof by an endorsement thereon under his hand.

The Commissioner shall then submit the approved list to the Governor.

Governor to proclaim roads in such list to be main roads.

28 The Governor, upon the said approved list being submitted to him, shall, by proclamation, declare the roads mentioned in such list to be main roads of this State.

Objections to rescinding resolution to be considered by Board.

29—(1) When any rescinding resolution is objected to under this Act, the Board shall consider the objections and may—

I. Allow any objection and withdraw the rescinding resolution: or

II. Disallow the objections altogether: or

III. Alter or amend the rescinding resolution.

Such resolutions not withdrawn to be submitted to Commissioner for approval.

Any rescinding resolution not withdrawn by the Board shall be submitted to the Commissioner for his approval, and all objections to the resolution shall be forwarded therewith to the Commissioner for his consideration.

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(2) The Commissioner shall consider the proposed rescinding resolution and objections (if any), and may vary or disallow the resolution.

If the Commissioner approves of the resolution (with or without variations) he shall certify his approval thereof by an endorsement thereon under his hand, and submit the approved resolution to the Governor.

30 The Governor, upon the said rescinding resolution so approved being submitted to him shall, by proclamation in accordance with the resolution, and to the extent thereby indicated, rescind any former proclamation, the rescinding whereof has been recommended by the resolution.

A.D. 1926.

Commissioner to consider same

If approved, resolution to be submitted to Governor.

Governor to give effect to rescinding resolution by proclamation.

PART V.

MAINTENANCE OF MAIN ROADS.

31—(1) The Board shall, subject to the approval of the Commissioner—

- I. Annually, after enquiry and investigation, prepare estimates of the expenditure to be undertaken in respect of the maintenance of the main roads within each municipality, having regard to the moneys available for the year, and fix and determine the maintenance work in respect of main roads to be carried out in each municipality: and
- II. Annually fix and determine the proportions in which the moneys payable annually out of the Consolidated Revenue to the credit of the said fund shall be allocated between the various municipalities for the purpose of carrying out the maintenance work in respect of main roads fixed and determined for each respective municipality: and
- III. Annually fix and determine the contribution each council shall pay towards the maintenance of the main roads within its municipality and the manner and time of the payment thereof, and such council shall pay such contribution to the Treasurer accordingly. The contributions from the councils need not be at a uniform rate, but may be varied in the case of each municipality, provided that the contribution to be paid by a council shall in no case be fixed at less than three-eighths nor more than the full amount of the sum allocated to such municipality out of the annual sum paid out of the Consolidated Revenue into the fund: and
- IV. Make such enquiries and reports and advise the Commissioner upon such matters relating to main roads as he may direct, or as the Board shall think fit.

Powers of Board exercisable subject to approval of Commissioner.

Annually to prepare estimates of proposed expenditure and fix maintenance work to be carried out.

Annually to allocate moneys between the various municipalities.

Annually to fix the contribution payable by each council.

Need not be at a uniform rate.

Proviso.

Main Roads Maintenance.

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Total contributions to be £20,000.

55 Vict. No. 25.

Board to prepare annual scheme of proposed main roads maintenance works according to form in schedule and submit it to Commissioner for approval.

Commissioner to consider scheme, and when settled to approve same. Thereupon same to be the scheme for year and be binding.

Copy of scheme supplied to councils.

Board to carry out maintenance works.

Board may allow council to carry out work.

Payments where council carries out work.

(2) The total amount to be paid annually by all the councils under this section shall be Twenty thousand Pounds.

(3) The contribution from the council of any municipality shall constitute a debt by the municipality to His Majesty, and payment thereof may be recovered and enforced under the Crown Remedies Act, 1891.

32—(1) After the Board shall have so determined—

I. The maintenance works to be carried out: and

II. The allocation of the said moneys: and

III. The contribution to be paid by each council,

for any year pursuant to the provisions of the next preceding section, the Board shall, as soon as practicable, prepare a scheme of main roads maintenance work to be carried out for such year (hereinafter referred to as the scheme of main roads maintenance works) embodying its several determinations in the form set forth in the schedule to this Act or to the like effect, and containing the particulars therein indicated; and shall submit such scheme to the Commissioner for his approval.

The Commissioner shall consider the said scheme, and, when he shall have settled same, shall certify his approval thereof by an endorsement thereon under his hand, and such scheme shall thereupon be the scheme of the main roads maintenance works for such year, and shall be printed, and the provisions thereof applicable to any council referred to therein shall be binding upon such council.

(2) A copy of every scheme of main roads maintenance works so approved as aforesaid shall be supplied by the Board to every council.

33 Subject as hereinafter mentioned, the Board shall, in each year, on behalf of the Commissioner, out of the total amount of the moneys allocated to, and contributed by the council of, each respective municipality for such year, and so far as such moneys shall thereunto extend, repair, and keep in good repair, the main roads within such municipality, in accordance with the provisions of the scheme of main roads maintenance works for such year.

34 The Board may, in any case in which it deems it advisable so to do, instead of itself carrying out on behalf of the Commissioner the main roads maintenance work fixed for a municipality in any year, give to the council of such municipality the option of carrying out such work under the supervision, and subject to the directions of an inspector of the Department, nominated by the Board.

35 Where a council, pursuant to the provisions of the immediately preceding section of this Act, elects, within the prescribed time, to carry out the main roads maintenance work

Main Roads Maintenance.

fixed for its municipality, the total amount of the moneys allocated to, and contributed by the council of, such municipality for the year in respect of which such work is to be carried out, shall be payable by advance or progress payments as the work proceeds, but the final payment on account of such work shall not be made except upon a certificate in writing of the Board that good value has been given for the total expenditure incurred. A.D. 1926.

Notwithstanding anything hereinbefore contained if, in any case in which the council of any municipality has, in pursuance of the option given to it by the Board, elected to carry out any main road maintenance work, the Board is satisfied that such work is not being carried out, or is being carried out in an unsatisfactory manner, or without proper regard to economy, the Board may, on behalf of the Commissioner, take over, carry out, and complete such work out of any moneys available for that purpose, including any unexpended balance of any moneys which have been advanced to the council for such work, which unexpended balance shall, on demand by the Board, be repaid by the council to the Treasurer, to the credit of the said fund, and in default of such repayment the same shall be deemed to be a debt due by the municipality concerned to His Majesty, and payment thereof may be recovered and enforced under the Crown Remedies Act, 1891. Board may in certain events take over and complete works entrusted to councils. 55 Vict. No. 25.

PART VI.

REGULATIONS.

36 The Governor may make regulations prescribing all matters which he deems necessary or expedient for carrying out or giving effect to this Act. Regulations.

Main Roads Maintenance.

A.D. 1926.

SCHEDULE.

Main Roads Maintenance Scheme for the Year ending the Thirtieth day of June, 19 .

Main Roads Maintenance		Approximate Length of Road to be Maintained.	Rate of Maintenance per Mile.	Total Sum available for Road.	Sources of Revenue.	
Road to be Maintained.	Municipality in which Road to be maintained is situate or through which it passes.				Contributions to be paid by Councils.	Allocation of £ out of the Consolidated Revenue.
			£	£	£	£