

## MAIN ROADS.

16° GEO. V., No. LI.

No. 51 of 1925.

**AN ACT to make provision for the construction, maintenance, and supervision of Main and Developmental Roads ; and for other relative purposes.**

[Assented to 31st December, 1925.]

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

### *Preliminary.*

1. (1.) This Act may be cited as the *Main Roads Act, 1925*, and shall come into operation on a day to be fixed by proclamation.

Short title, commencement, and extent of operation.

(2.) This Act shall apply to such portions only of the State as shall from time to time be defined by proclamation.

2. From and after the commencement of this Act section one hundred and eighty-three of the Road Districts Act, 1919, shall not apply to any road that is within any portion of the State to which this Act applies.

Sec. 183 of Road Districts Act not to apply within proclaimed area.

3. In this Act, subject to the context,—

Interpretation.

“Board” means the Main Roads Board constituted by this Act;

“District” means a municipal or road district;

“Financial year” or “Year” means the period of twelve months ending on the thirtieth day of June in any year;

“Inspector” means an inspector appointed under and for the purposes of this Act;

“Local authority” means a municipal council or a road board;

“Main road” means a road declared by proclamation under this Act to be a main road, and includes any part of a main road;

“Minister” means the Minister for Works;

“Proclaimed area” means a portion of the State to which this Act applies;

“Road” means and includes any thoroughfare or highway which the public are entitled to use, and every part thereof, and all bridges and culverts and other things appurtenant thereto or used in connection therewith.

### *Main Roads Board.*

**Main Roads Board.** 4. (1.) A Board to be called the “Main Roads Board” is hereby constituted.

(2.) The Board shall consist of three members, who shall from time to time be appointed by the Governor.

(3.) Two of the members of the Board shall be engineers qualified by training and experience in modern road-making, and the third member shall be a skilled administrator.

**Term of office.** 5. (1.) Each member shall be appointed for a term not exceeding in any case five years; but he may be removed from office by the Governor at any time within the term for misbehaviour or incompetence, or if he becomes incapable of performing his duties, or absents himself from three consecutive meetings of the Board, except on leave granted by the Minister.

(2.) Any vacancy occurring on the Board, whether by expiration of a member’s term of office or otherwise, may be filled by the appointment of any eligible person.

(3.) In the case of the absence of a member of the Board the Governor may appoint some other similarly qualified person to act temporarily as a member of the Board in his place.

(4.) Any person ceasing to be a member by reason of the expiration of his term of office or otherwise shall (if otherwise qualified) be eligible for re-appointment.

**Defects in appointment not to invalidate proceedings of Board.**

6. (1.) No act or proceeding of the Board shall be invalid or illegal in consequence only of the number of members of the Board not being complete at the time of such act or proceeding.

(2.) All acts and proceedings of the Board shall, notwithstanding the discovery of any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if such member had been duly appointed and was qualified and entitled to be and to act, and had acted, as a member of the Board, and as if the Board had been properly and fully constituted.

7. (1.) The Governor shall appoint a member to be chairman of the Board, and another member to be deputy chairman thereof. Chairman of Board.

(2.) The chairman, when present, shall preside at any meeting of the Board. In the absence of the chairman from any meeting the deputy chairman shall preside.

(3.) All questions arising at any meeting of the Board shall be decided by the votes of the majority of those present; but, in the case of equality of voting, the person presiding for the time being shall have a casting as well as a deliberative vote.

8. (1.) The Board shall meet at such times and places as the Board from time to time determines. Meetings of Board.

(2.) Any two members shall constitute a quorum at any meeting of the Board.

(3.) The Board shall cause correct minutes of all its meetings to be kept, and shall submit to the Minister a copy of its decisions within fourteen days after each meeting.

9. For the purposes of this Act the Board shall be a body corporate under the name of the "Main Roads Board," and shall have perpetual succession and a common seal and power to acquire, hold, and dispose of real and personal property, and to sue and be sued, and to do and exercise all such acts and powers as may be necessary or convenient for carrying into effect any of the purposes or objects of this Act. Board to be a body corporate.

10. Each member of the Board shall receive such salary or fees as may be fixed by the Governor. Remuneration of members.

11. (1.) The Board, with the approval of the Minister, may make use of the services of any of the officers and employees of the Public Service, and the Governor may appoint any Officers and employees.

persons to be officers or employees of the Board for the purposes of this Act: Provided that all casual employees required by the Board for works of construction and maintenance may be employed by the Board.

(2.) Any member, acting member or officer of the Board who, at the date of his appointment to or under the Board by the Governor, was an officer of the Public Service shall, in respect of his service on or under the Board be deemed to serve in an established capacity in the permanent civil service of the Government so as to preserve any pension rights that may be accruing to him, and with reference to any question as to continuity of service; and in the event of his service on or under the Board being discontinued, or in the event of the dissolution of the Board, shall be eligible on the recommendation of the Minister, to be re-appointed to some office in the Public Service corresponding in classification and emolument to that which he held at the date of his appointment to or under the Board, as if he had not held any office on or under the Board.

Officers to be subject to control of Board.

12. Every assistant engineer, inspector, and other officer shall, in the exercise and discharge of their respective powers and duties under this Act, in all things be subject to the direction and control of the Board.

*Main Roads.*

Main roads may be proclaimed.

13. (1.) The Governor may, on the recommendation of the Board, declare by proclamation that any road shall be a main road, and may in the like manner and on the like recommendation declare that any main road shall cease to be a main road. The footpaths of any road may, by such proclamation or any subsequent proclamation, be excluded from the main road.

(2.) In considering whether to make any such recommendation the Board 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 nearest port or railway station;

- (c) whether or not 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 two or more large centres of population; and
- (d) whether the road is or will be the main route between the capital and any large producing area or any large centre of population.

(3.) The Board, before recommending to the Governor—

- (a) that any road be a main road;
- (b) that the maps, plans, and estimates of any proposed new main road or deviation from an existing main road be approved;
- (c) that plans and estimates of any permanent improvements to any main road or any part thereof be approved,

shall serve on each local authority in whose district such road is or new road or deviation is proposed to be made, or improvements are proposed to be made, notice of its intention to make such recommendation.

Such notice shall fix a day not less than 30 days from the service of the notice upon which any objections which may be made by any local authority concerned will be considered by the Board before making any recommendations:

Provided that any local authority which feels aggrieved by any such recommendation may, within 30 days after the consideration of such objections, appeal to the Minister, who may vary or disallow such recommendation.

(4.) All main roads shall, for the purposes of the Traffic Act, 1919, be deemed to be Government roads.

14. (1.) The Governor may on the recommendation of the Board authorise and empower the Board to provide and set out main roads, and every main road set out by the Board shall be deemed to have been proclaimed to be a main road under this Act.

Power to provide main roads.

(2.) Before making any such recommendation the Board shall take into account such matters as are mentioned in subsection (2) of the last preceding section.

15. Subject to the Public Works Act, 1902, and without prejudice to section two hundred and forty-two of the Municipal Corporations Act, 1906, and section one hundred and

Main roads vested in Crown.

ninety-two of the Road Districts Act, 1919, there shall vest in the Crown—

- (a) all main roads and the materials thereof and all things appurtenant thereto;
- (b) all ornamental trees and shrubs, and subject to the provisions of the Forests Act, 1918, the timber upon any main road;

and the Board shall have the care, control, and management thereof.

*Powers and Duties of Board.*

**Powers of Board.**

16. (1.) The Board may—

- (a) make, form, level, grade, pave, improve, and maintain all main roads, and do all things necessary for or incidental to the proper management thereof;
- (b) exercise in regard to any main road any power which a local authority could exercise in regard thereto if such road were within its district.

(2.) The powers of any local authority over any main road shall not be deemed to be taken away by this Act, but the exercise of such powers shall be subject to the control and direction of the Minister.

(3.) A local authority may, at the request of the Board, undertake on behalf of the Board the construction, maintenance, and repair of any main road within its district, or the construction of any developmental road within its district; and, subject to the work being done to the satisfaction of the Board, and except in so far as the expense is incurred by a local authority under the authority of paragraph (b) of section twenty-nine hereof, the cost thereof shall be payable to the local authority out of the Main Roads Trust Account.

**Board to conduct experiments.**

17. The Board, so far as any moneys legally available for the purpose permit, shall—

- (1) carry out all such surveys and investigations as may be necessary or expedient to ascertain—
  - (a) what roads shall be main roads;
  - (b) the nature and extent of the resources of the State in metals, minerals, and materials suitable for the purposes of road construction and maintenance, and the most effective and economical methods of dealing with the same and for apply-

ing the same to, and utilising the same for the said purposes in, the whole or any part of the State;

- (c) the most effective methods of road construction and maintenance for the whole or any part of the State; and
  - (d) what deviation (if any) in existing roads or what new roads should in its opinion be made so as to facilitate communication and improve conditions of traffic; and
- (2) conduct or cause to be conducted experiments with different materials to test their relative durability and suitability for the construction and maintenance of roads; and
- (3) record, publish, and make available for general information the results of all such surveys and investigations; and
- (4) purchase all land, machinery, tools, implements, and materials that may be needed for the purposes of this Act:

Provided that no contract involving an expenditure by the Board of an amount exceeding one thousand pounds shall be entered into by the Board without the written consent of the Minister being first obtained.

18. The Board shall also—

Other duties of the Board.

- (a) inspect and report on and construct or supervise roads and works when so desired by the Minister;
- (b) report to the Minister at least once a year, and on such other occasions as the Minister directs, on its proceedings under this Act;
- (c) keep a full and complete record of all stock, machinery, plant, and materials the property of the Board under this Act;
- (d) supervise the construction, improvement, and maintenance of main roads and developmental roads, and other works to be carried out under this Act; and
- (e) perform such other duties as may be prescribed.

19. The Board may request any local authority to furnish any information respecting any road or work under the control of such authority, and if the information is available it shall be furnished to the Board by the local authority within one month.

Board may request local authority to furnish information.

Power to lay tramways for transporting materials.

20. The Board may, with the approval of the Minister, construct tramways, aerial tramways, steel tracks, and other works on any road for the purpose of transporting materials for facilitating the exercise of its powers under this Act, and the approval so given shall be sufficient authority for the Board to construct and maintain such tramways, aerial tramways, steel tracks, and other works, and to use the same for the purpose aforesaid, and for all purposes incidental thereto.

#### Developmental Roads.

Developmental roads may be declared or provided.

21. (1.) The Governor may, on his own initiative or on the recommendation of the Board,—

- (a) declare any road to be a developmental road for the purposes of this Act;
- (b) authorise and empower the Board to lay out and provide any such developmental road.

(2.) The Governor may likewise, or on the like recommendation, revoke or vary any declaration made under this section, but without prejudice to anything previously done by virtue of such declaration.

(3.) All developmental roads shall be handed over to the local authority.

Board to investigate before making recommendation.

22. Before making any recommendation for the purposes of the last preceding section, the Board, in consultation with the local authority, shall make such investigations as may be prescribed, which shall include, in the case of a recommendation under subsection (1), an investigation as to whether the road or proposed road will serve to develop or further develop any district or part of a district, or will serve to develop any area of Crown or private land by providing access to a railway station or a shipping wharf, or to a road leading to a railway station or a shipping wharf.

Powers in respect of developmental roads.

23. The Minister, the Board, and the officers acting under this Act shall have the same powers with regard to the provision and construction of developmental roads as are by this Act conferred on them regarding main roads, and the provisions of this Act regarding the provision and construction of main roads shall, so far as practicable, apply *mutatis mutandis*, to developmental roads.



24. (1.) If after a developmental road is handed over to any local authority, such local authority fails to maintain to the satisfaction of the Board any developmental road, the Board shall by notice in writing direct the local authority to carry out, within a period to be named in the notice, such works of maintenance as are specified.

Provisions in case of default by local authority.

If the local authority fails to comply with any such direction, the Board may carry out such works. Any expenses so incurred by the Board shall be repaid by the local authority to the Board, and if not repaid within three months after demand by the Board, shall be deemed a debt due and payable to His Majesty, and all remedies therefor may be enforced in the name of His Majesty against the local authority and the revenues thereof.

(2.) 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.

(3.) Where, in the opinion of the Board, two or more districts derive benefit from any such developmental road, the Board shall determine the proportion which the local authority of each district shall contribute to such expenditure; and the provisions of section thirty of this Act relating to the apportionment of the amount expended on permanent works and maintenance shall, *mutatis mutandis*, apply, subject to such modifications thereof as may be prescribed to adjust and apply those provisions to this section.

#### *Land Resumption.*

25. Whenever any land is required for the purposes of this Act, such land may be entered upon, surveyed, and taken under the powers contained in and in accordance with the procedure prescribed by the Public Works Act, 1902.

Procedure for taking land.

#### *Protection to the Board and Officers.*

26. (1.) No matter or thing done by the Board or any of its officers in good faith for the purpose of executing this Act shall subject the Board or any of its officers to any liability in respect thereof.

Protection to Board and Officers.

(2.) No action shall be brought against the Board or any of its officers for or on account of any matter or thing done or committed by him or it in the execution or intended execution of his or its duty or office under this Act, unless such action is commenced within six months after the cause of action has arisen.

*The Main Roads Trust Account.*Main Roads Trust  
Account

27. There shall be paid every year to the credit of an account to be established at the Treasury and to be called "The Main Roads Trust Account" the annual amount of the fees and moneys following, that is to say:—

- (a) such proportion of the tax imposed on the unimproved capital value of land as has been for the time being appropriated by Parliament to the purposes of this Act;
- (b) all net revenue received by the Commissioner of Taxation under any Act imposing a tax on the income of vendors of motor spirit in addition to any other income tax payable by such vendors, if and so far as such tax is payable to a fund for the purposes of main roads;
- (c) all moneys paid to the Treasurer by any local authority in respect of permanent works and of the maintenance of main roads, and of the maintenance of developmental roads;
- (d) the amount received by the State Government during the year from the Government of the Commonwealth under the Main Roads Development Act, 1923, or any amendment thereof;
- (e) all moneys appropriated by Parliament for the purposes of this Act; provided that so far as any moneys so appropriated are raised under a Loan Act, the Main Roads Trust Account shall be charged with one-half of the amount of the annual interest and sinking fund contribution payable in respect of such moneys;
- (f) all moneys received by the Board under the provisions of this Act.

Appropriation of  
Main Roads Trust  
Account.

28. (1.) The amount of all fees and moneys paid into the Main Roads Trust Account—

- (a) shall in the first place be chargeable with the costs of collection as certified by the Minister, and secondly with the costs incidental to the administration of this Act, and the exercise of the functions of the Board;
- (b) subject as aforesaid shall be used and applied in such manner and proportions as the Governor, on the recommendation of the Board, shall from time to time determine in and for the purpose of defray-

ing the cost of and incidental to the provision, construction, maintenance, and supervision of main roads, and, subject as hereinafter provided, to the provision and construction of developmental roads, and of any other work executed and provided under this Act;

Provided that—

- (i) no moneys received from the Government of the Commonwealth under the Roads Development Act, 1923, or any Act amending that Act, shall be applied or used in the prescribed area to or in connection with any main road or developmental road which is not deemed to be a main road for the purposes of such Act; and
- (ii) no moneys to the credit of the trust account shall be applied to the provision or construction of developmental roads except so far as such moneys shall have been received from the Government of the Commonwealth as aforesaid, or expressly appropriated by Parliament for the purpose.

Provided also that notwithstanding that moneys received from the Government of the Commonwealth under the Main Roads Development Act, 1923, are paid to the credit of the Main Roads Trust Account, such moneys may be applied to the construction and maintenance of any roads in the State which are deemed to be main roads for the purposes of that Act:

Provided that no money to the credit of the trust account shall be applied to the provision or construction of developmental roads without the approval of the Governor.

(2.) The warrant of the Board shall be a sufficient authority to the Treasurer to make any payment provided for by this section.

(3.) The unexpended moneys in the account at the end of any year may be used under this section for any other year without fresh appropriation.

29. It shall be lawful for any local authority to expend out of its ordinary revenue, or money borrowed for the purpose under its borrowing powers, such sums as the local authority may, in its discretion, think fit—

Authority for expenditure by local authorities.

- (a) in payment to the Board of contribution to the cost of the construction of any main road, or developmental road; or

(b) in payment of the expense incurred by the local authority in the construction, maintenance, or repair of any main road or developmental road undertaken by the local authority,  
so far as any such road is within the district of the local authority.

Apportionment of the amount expended on permanent works and maintenance.

30. (1.) The Board shall, before the thirtieth day of June in each year, apportion half the amount expended on permanent works and maintenance on main roads during the preceding year between the various districts benefited thereby in the following manner:—

It shall, before the thirty-first day of January in each year, determine—

- (a) the permanent works and maintenance from which each of the districts respectively has benefited;
- (b) the proportion of the amount as aforesaid to be apportioned which is allocated to each such district having regard to the benefits it has obtained from the expenditure;
- (c) the amount of the contribution which each local authority of each such district shall pay in respect of the proportion so allocated.

The contributions from the local authorities need not be at a uniform rate, but may be varied in the case of each local authority according to the benefits from the respective works:

Provided that the total amount of the contributions from all local authorities concerned shall equal the amount as aforesaid to be apportioned.

A district may be benefited by expenditure on permanent works and maintenance, although such permanent works and the roads maintained are not situated within the district, if substantial traffic to or from the district passes over, or in the case of new roads will in the opinion of the Board pass over, a road on which such expenditure has been made.

(2.) Notwithstanding anything in this section, the Board, with the approval of the Governor, may in the case of any local authority reduce the amount of the contribution of such local authority determined as aforesaid in respect of the maintenance of any road where it is proved to the satisfaction of the Board that the cost of maintenance is excessive, and that such cost is due to motor traffic not of local origin or to timber traffic.

In exercising this authority the Board shall take into account the revenue, valuation, and rating of the local authority, and also its financial obligations on account of liability for loan expenditure incurred in respect of permanent works under this Act.

(3.) Before finally making the apportionment in subsection one hereof mentioned, the Board shall serve a notice upon each contributory local authority setting forth—

- (a) the amount which is to be apportioned between the districts;
- (b) the permanent works and maintenance, each separately stated, from which each of the said districts respectively is deemed to have benefited and the amount expended thereon;
- (c) the proportion of the amount expended on the said permanent works and maintenance, each separately stated, which it is proposed to allocate to each of the districts benefited;
- (d) the several proposed contributions of the said local authorities;
- (e) in cases where the contributions are not proposed to be charged at a uniform rate, the reasons for the variation.

Such notice shall be served not later than the twentieth day of February in each year, and shall fix a day, not less than sixty days from the day of the service of the notice, up to which objections to the proposed appointment will be received.

(4.) The Board shall consider all such objections, and if deemed necessary amend its apportionment accordingly. In so doing, it may include a district and local authority thereof not previously included (in which case, however, such local authority must first be notified and given the opportunity to object), or may exclude a district and local authority thereof previously included. The decision of the Board as to the amount each of the said local authorities shall pay in respect of permanent works and of maintenance shall, upon confirmation by the Governor in Council, be final and conclusive.

(5.) The amount of contribution from a local authority in respect of permanent works determined under this section shall, notwithstanding anything contained in any other Act, be and be deemed to be a loan for a period of thirty years advanced by the Treasurer to that local authority on which that local authority shall pay six and a-half per centum per annum

to cover interest and sinking fund, and the loan shall be deemed to have been advanced on the first day of July next ensuing after the apportionment of such amount.

The amount of contribution from a local authority in respect of maintenance shall be a debt due from such local authority to the Board, recoverable in any court of competent jurisdiction:

Provided that the Minister may, if he thinks fit, declare any part of the district of such local authority to be a benefited district with respect to the works in respect of which the contribution is apportioned, in which case the special rate so to be levied shall be a separate rate levied in and for such benefited district.

(6.) Where several local authorities are liable to contribute towards the amount expended pursuant to this Act on any permanent works or maintenance—

- (a) the Board may, in any case in which the works are not completed, postpone the apportionment of any such amount until the works are completed; and
- (b) in every such case the interest on that portion of the capital cost for which such local authorities are liable shall be calculated to the thirty-first day of January next preceding such apportionment, and be added to the said portion of the capital cost, and shall be paid by the local authorities together with the said portion of the capital cost accordingly.

### *Regulations.*

Power to make regulations.

31. The Governor may, on the recommendation of the Board, make regulations not inconsistent with this Act, prescribing all things which by this Act are required or permitted to be prescribed or which it may be necessary or convenient to prescribe for the purpose of giving effect to the objects and purposes of this Act, including regulations to authorise local authorities to grant permission for the erection on main roads, in return for advertising concessions, of highway lighthouses or beacons, and regulations prescribing the travelling expenses to be allowed to members of the Board; and may by such regulations prescribe penalties for offences against the regulations not exceeding in any case the sum of twenty pounds.