

Queensland



ANNO UNDECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 6

**An Act to Amend “The Main Roads Acts, 1920 to 1960,”
in certain particulars**

[ASSENTED TO 22ND MARCH, 1962]

BE it enacted by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as “*The Main Roads Acts Amendment Act of 1962.*” Short title

(2) “*The Main Roads Acts, 1920 to 1960,*” are in Principal Act this Act referred to as the Principal Act.

(3) The Principal Act and this Act may be Collective title collectively cited as “*The Main Roads Acts, 1920 to 1962.*”

Amendments
of s. 2

2. Section two of the Principal Act is amended—
(a) by inserting after the definition “Area” the following definition :—

Assistant
Commissioner

“ “Assistant Commissioner” —An Assistant Commissioner of Main Roads appointed under this Act : The term includes a person appointed to act in, or for the time being performing the duties of the office of an Assistant Commissioner of Main Roads ;” ;

(b) by adding to the definition “Commissioner”, after the words “under this Act”, the words “ : The term includes a person appointed to act in, or for the time being performing the duties of the office of the Commissioner of Main Roads ” ;

(c) by inserting after the definition “Declared road” the following definition :—

Deputy
Commissioner and
Chief
Engineer

“ “Deputy Commissioner and Chief Engineer” —The Deputy Commissioner of Main Roads and Chief Engineer appointed under this Act : The term includes a person appointed to act in, or for the time being performing the duties of the office of the Deputy Commissioner of Main Roads and Chief Engineer ;” ;

(d) by omitting from the definition “Land” the numerals and word “1950 to 1951” and inserting in their stead the numerals and word “1906 to 1955” ;

(e) by inserting in the definition “Maintenance”, after the words “effected thereto”, the words “and all works of every description relating to that declared road, and any drain draining that declared road, which are in the opinion of the Commissioner calculated to eliminate or reduce the cost of recurring works” ;

(f) by omitting from paragraph (iii) of the definition “Maintenance” the words “planting of” and inserting in their stead the words “replacement of planted” ;

(g) by omitting from the definition “Minister” the words “The Secretary for Public Works” and inserting in their stead the words “The Minister for Development, Mines, Main Roads and Electricity” ; and

(h) by inserting in the definition “Permanent works”, after the words “developmental road”, the words “or secondary road” .

3. Section three of the Principal Act is amended— Amendments of s. 3

(a) by omitting from subsection (1) the words “five years” and inserting in their stead the words “seven years” ;

(b) by omitting from subsection (1) the second paragraph and inserting in its stead the following paragraph :—

“Any person appointed to the office of Commissioner of Main Roads shall—

(a) (i) Hold a degree in civil engineering ; or
(ii) be a chartered engineer of at least five years standing ;

(b) Have had extensive experience in road and bridge location, design, construction and maintenance ; and

(c) Have had extensive administrative experience.” ; and

(c) by omitting subsection (3).

4. The following sections are inserted after section three of the Principal Act :— New ss. 3A, 3B

“ [3A.] (1.) The Governor in Council may from time to time appoint a Deputy Commissioner of Main Roads and Chief Engineer. Appointment of Deputy Commissioner and Chief Engineer

Subject to this Act, every such appointee shall be appointed to and hold his office under, subject to and in accordance with “ *The Public Service Acts, 1922 to 1960.*”

(2.) The person who, immediately prior to the commencement of “ *The Main Roads Acts Amendment Act of 1962,*” held the office of Deputy Commissioner of Main Roads and Chief Engineer shall, without further or other appointment whatsoever, be deemed to have been appointed under “ *The Public Service Acts, 1922 to 1960,*” as the Deputy Commissioner of Main Roads and Chief Engineer and shall hold office accordingly.

(3.) Any person appointed to the office of Deputy Commissioner of Main Roads and Chief Engineer shall—

(a) (i) Hold a degree in civil engineering ; or
(ii) be a chartered engineer ;

(b) Have had extensive experience in road and bridge location, design, construction and maintenance ; and

(c) Have had administrative experience.

Appointment
of Assistant
Commis-
sioners

[3B.] (1.) The Governor in Council may from time to time appoint such and so many Assistant Commissioners of Main Roads as he considers necessary.

Subject to this Act, every such appointee shall be appointed to and hold his office under, subject to and in accordance with “ *The Public Service Acts, 1922 to 1960.*”

An Assistant Commissioner may be appointed generally or in respect of a specified portion of the State.

(2.) An Assistant Commissioner shall give such advice and assistance to the Commissioner as the Commissioner requires, and shall perform such duties as the Commissioner from time to time directs.

(3.) Any person appointed to the office of Assistant Commissioner shall—

(a) (i) Hold a degree in civil engineering ; or
(ii) be a chartered engineer ; and

(b) Have had extensive experience in road and bridge location, design, construction and maintenance.”

Repeal of and
new s. 4

5. Section four of the Principal Act is repealed and in its stead the following section is inserted :—

Judicial
notice of
appoint-
ments, &c.

“ [4.] All courts, Judges, justices and persons acting judicially shall take judicial notice of the appointment of the Commissioner, the Deputy Commissioner and Chief Engineer, the Secretary and an Assistant Commissioner, and of their respective signatures, and of the seal of the Commissioner affixed to any document, notice or other writing whatsoever, and, until the contrary is proved, shall presume that any such signature or such seal, as the case may be, was duly affixed to any document, notice, or other writing whatsoever.”

Amendments
of s. 6

6. Section six of the Principal Act is amended—
(a) by omitting the first paragraph of subsection (1) and inserting in lieu thereof the following paragraphs :—

“ The Governor in Council shall appoint a Secretary of the Commissioner of Main Roads and may appoint all such officers as he deems necessary for the due and proper administration of this Act.

The Secretary and other officers shall be appointed and hold their respective offices under, subject to and in accordance with “*The Public Service Acts, 1922 to 1960.*”

The Secretary and all other officers appointed under this Act and holding office immediately prior to the commencement of “*The Main Roads Acts Amendment Act of 1962*” shall, without further or other appointment, be deemed appointed to their respective offices pursuant to and for the purposes of this Act.” ;

(b) by omitting the third paragraph of subsection (1), being the paragraph commencing with the words “The Chief Engineer” ;

(c) by omitting from the fifth paragraph of subsection (1), being the paragraph commencing with the words “Subject always to”, the words “of the Court of Industrial Arbitration” and inserting in their stead the words “under “*The Industrial Conciliation and Arbitration Act of 1961,*” ” ;

(d) by omitting the final paragraph of subsection (1) ; and

(e) by omitting subsection (2).

7. Section eight of the Principal Act is repealed Repeal of and new s. 8 and in its stead the following section is inserted :—

“[8.] (1.) Except as provided in subsection (2) of this section, every decision of the Commissioner shall be submitted for his confirmation to the Minister within fourteen days after that decision has been placed on record under the hand of the Commissioner or of the Secretary. Confirmation of decisions of Commissioner

A decision of the Commissioner shall not take effect unless and until it has been so confirmed by the Minister.

(2.) The provisions of subsection (1) of this section shall not apply in respect of any decision of the Commissioner as to any matter which the Governor in Council declares to be a routine matter or a matter of minor importance.” Routine, &c., matters

8. Section eleven of the Principal Act is amended— Amendments of s. 11

(a) by omitting the marginal note to subsection (1) and inserting in its stead the following marginal note :—“Commissioner to recommend what roads shall be declared” ;

(b) by omitting subsection (2) ;

(c) by inserting the following marginal note to subsection (3) :—“ Governor in Council may confirm recommendation ” ; and

(d) by adding to subsection (4) the following paragraphs :—

“ No provision of any other Act and, without limiting the generality of this paragraph, no provision of “ *The Regulation of Sugar Cane Prices Acts, 1915 to 1954,*” or of any Order thereunder of the Central Sugar Cane Prices Board shall authorise, or be deemed to authorise, any tramway owner to construct, manage or work a tramway or any part of a tramway in, along, upon, across, under or over any declared road, or any bridge which is part of a declared road, save in compliance in every respect with the regulations under this Act.

The preceding paragraph of this subsection shall apply to tramways or parts of tramways constructed before as well as on or after the date of its enactment save that it shall not commence to apply to any tramway constructed by an owner of a sugar mill prior to the twenty-fifth day of October, one thousand nine hundred and forty-eight, until one year after the date of its enactment.”

Amendments
of s. 11A

9. Section 11A of the Principal Act is amended—

(a) by omitting subsection (1) and inserting in its stead the following subsection :—

“ (1.) (a) Where any State highway or main road is, in the opinion of the Commissioner, used primarily or principally as a through road, the Commissioner may recommend to the Governor in Council that access to that State highway or main road be limited.

(b) Where the Commissioner, pursuant to subsection (2) of section thirteen of this Act, recommends to the Governor in Council that a new State highway or main road, or deviation from or widening of an existing State highway or main road be made, and the Commissioner is of opinion that that new State highway or main road or deviation from or widening of a State highway or main road will be used principally or primarily as a through road, the Commissioner may, at the time he makes such recommendation, or at any later time, recommend to the Governor in Council that, when that new State

highway or main road or deviation from or widening of a State highway or main road is made, access to that new State highway or main road or deviation from or widening of a State highway or main road be limited.

(c) Where the Commissioner satisfies the Governor in Council that any road or part of a road which is not a declared road will be required at some future time as, or as part of, a State highway or main road, and the Commissioner is of opinion that such road or part of a road will, when so required, be used primarily or principally as a through road, the Commissioner may recommend to the Governor in Council that access to that road or part of a road be limited, notwithstanding that it is not a declared road.

(d) Where the Commissioner, in respect of any land to which subsection (7) of section thirteen of this Act applies, satisfies the Governor in Council, in accordance with that subsection, that the land will be required at some future time for the purposes of this Act, and the Commissioner is of opinion that any road to be made on that land will, when so made, be used primarily or principally as a through road, the Commissioner may, at the time he so satisfies the Governor in Council, or at any later time, recommend to the Governor in Council that access to any road made on that land be limited.

(e) Where the Commissioner, in pursuance of this Act, has acquired land for the purposes of making thereon at some future time a State highway or main road, or a deviation from or widening of a State highway or main road, and the Commissioner is of opinion that that State highway or main road or deviation from or widening of a State highway or main road when so made will be used primarily or principally as a through road, the Commissioner may at any time after he has acquired that land recommend to the Governor in Council that, when such State highway or main road or deviation from or widening of a State highway or main road is made, access thereto be limited.” ;

(b) by omitting from the first paragraph of subsection (3) the words “ to any declared road ” ;

(c) by omitting the third paragraph of subsection (3);

(d) by adding to subsection (3) the following paragraph :—

“ On and from the date so fixed in respect of a recommendation access to the declared road (or, in the case of a recommendation referred to in paragraphs (c), (d) or (e) of subsection (1) of this section, access to the declared road or the part of a declared road comprised by the road, part of a road, or land) in respect whereof the recommendation was made shall be limited according in every respect to the recommendation.” ;

(e) by omitting from paragraph (d) of subsection (4) the word “ new ”, twice occurring ;

(f) by adding to subsection (7) the following paragraphs :—

“ Any permit given by the Commissioner under this subsection may be revoked or altered by him at any time.

Any person having an estate or interest in land in respect of which a permit under this subsection has been revoked or altered shall be entitled to recover from the Commissioner compensation for any loss or damage sustained by him by reason of that permit having been so revoked or altered, and for which loss or damage compensation has not already been made under subsection (10) of this section.

Compensation under this subsection shall not be payable unless a claim therefor shall have been served on the Commissioner not later than twelve calendar months after the date of revocation or alteration of the permit.

Subject to the provisions of this subsection, the provisions of subsection (10) of this section shall apply, with all necessary adaptations and modifications, in respect of any claim for compensation arising out of this subsection.” ;

(g) by omitting from paragraph (iv) of the proviso to paragraph (c) of subsection (10) the words “ such limitation is applied ” and inserting in their stead the words “ a recommendation under subsection (1) of this section is made ” ;

(h) by inserting in subparagraph (a) of paragraph (iv) of the proviso to paragraph (c) of subsection (10), after the words “ deviation from ”, the words “ or widening of ” ;

(i) by omitting from paragraph (v) of the proviso to paragraph (c) of subsection (10) the words “ paragraph (d) ” and inserting in their stead the words “ paragraphs (c), (d) or (e) ” ;

(j) by inserting in paragraph (b) of subsection (11), after the words “ declared road ”, the words “, or land ” ; and

(k) by omitting from paragraph (b) of subsection (11) the words “ paragraph (c) ” and inserting in their stead the words “ paragraphs (c), (d) or (e) ”.

10. Section thirteen of the Principal Act is ^{Amendments} amended—
of s. 13

(a) by inserting after subsection (2) the following subsection :—

(2A.) (a) Where the estimated cost of any new road, deviation, widening, permanent improvements, drainage works or other necessary works of a protective nature, excluding the cost of taking the land necessary therefor, does not exceed such amount as the Governor in Council may from time to time determine, the Minister may approve of the making of that new road, deviation or widening, or of the carrying out of those permanent improvements, drainage works or other necessary works of a protective nature.

Any such approval shall not apply in respect of the taking of land referred to in subsection (2) of this section.

(b) If the actual cost of such new road, deviation, widening, permanent improvements, drainage works or other necessary works of a protective nature, excluding the cost of taking the land necessary therefor, is in

excess of the amount approved therefor by the Minister under paragraph (a) of this subsection, the Minister, if satisfied that the excess is reasonable and justified in all the circumstances, may approve of the excess.

(c) Where approval is given under paragraphs (a) or (b) of this subsection all the provisions of this Act shall apply to such new road, deviation, widening, permanent improvements, drainage works or other necessary works of a protective nature in respect of which any such approval is given, as if approval therefor had been given under subsection (3) of this section.

(d) The Minister may rescind or, subject to the determination made by the Governor in Council, amend any approval given by him under this subsection.

The Minister shall notify in the *Gazette* every approval given by him under this subsection, and any rescission or amendment by him of any such approval.” ; and

(b) by, in subsection (4)—

(i) omitting the words “ public highway ”, where appearing in the first paragraph, and inserting in their stead the word “ road ” ;

(ii) omitting the words “ or a developmental road ”, where appearing in the first paragraph, and inserting in their stead the words “, a developmental road, or a secondary road ” ;

(iii) omitting the words “ public highway ”, where appearing in the fourth paragraph, and inserting in their stead the word “ road ” ; and

(iv) inserting after the words “ within the meaning ”, where appearing in the fourth paragraph, the words “ of this Act and ”.

Amendments
of s. 19

11. Section nineteen of the Principal Act is amended—

(a) by omitting from subsection (10) the word “ September ” and inserting in its stead the word “ October ” ; and

(b) by omitting from subsection (10) the words “ next ensuing after the charging of such amount ” and inserting in their stead the words “ in the financial year in which such amount is charged ”.

12. The following section is inserted after section New s. 22 twenty-one of the Principal Act :—

“ [22.] (1.) Notwithstanding anything contained in Restrictions on roads joining State highway or main road any other Act—

(a) No Local Authority shall approve any plan of a road ;

(b) No person (including a Local Authority) shall construct or lay out, or commence to construct or lay out a road, or authorise or direct or permit any person to construct or lay out, or commence to construct or lay out a road,

if that road would join or intersect a State highway or a main road, without the prior approval in writing of the Commissioner.

(2.) Any approval of the Commissioner under subsection (1) of this section may be granted subject to such terms and conditions as the Commissioner may deem necessary or desirable.”

13. Section twenty-four of the Principal Act is Amendment of s. 24 amended by inserting after the numerals and brackets “ 35 (10) ” the numerals and brackets “ 35 (10A), ”.

14. The following sections are inserted after section New ss. 26D, 26E 26C of the Principal Act :—

“ [26D.] Where the Commissioner proposes to make Commissioner may acquire lands in vicinity of new road, &c. a new road or a deviation from an existing declared road or to widen an existing declared road or to make to the Governor in Council a recommendation under subsection (1) of section 11A of this Act, he may purchase or resume land in the neighbourhood of that new road, deviation or widening, or road or land in relation to which he proposes to make to the Governor in Council a

recommendation under subsection (1) of section 11A of this Act, and may hold, replan, subdivide and lease or sell all or any of the land so purchased or resumed, and may carry out therein any necessary works connected with that replanning or subdivision.

Declared
road reserves

[26E.] (1.) The Governor in Council, on the recommendation of the Commissioner, may by Proclamation create a declared road reserve in and through, or in or through, any land not being in a city or town and not being built upon at the date of such creation.

(2.) As from the date of the publication in the *Gazette* of that Proclamation, no owner or other person having an interest in the land affected by that Proclamation shall construct, build or place any structure or building or any portion of any structure or building on that declared road reserve.

(3.) Except as provided by this section, the interests of any owner or occupier of land comprised in a declared road reserve shall not be affected until—

- (a) The Commissioner acquires title to so much of the land comprised in that declared road reserve as is required for road purposes ; or
- (b) That land is dedicated for use as a public road.

(4.) Unless before the expiration of a period of seven years from the date of publication in the *Gazette* of a Proclamation under subsection (1) of this section the Commissioner has acquired title to any land affected by such Proclamation or such land has been dedicated for use as a public road the owner of such land may, by requisition in writing, delivered to the Commissioner, require—

- (a) That the Commissioner acquire title thereto ;
or
- (b) That the land be excluded from the Proclamation.

Forthwith upon receipt of such requisition the Commissioner shall—

- (a) Proceed to acquire title to such land ; or
- (b) Recommend to the Governor in Council that such land be excluded from the Proclamation :

Provided that the Commissioner may, on receipt of such requisition, proceed to acquire title to part only of such land and, in any such case, shall recommend to the Governor in Council that the remainder of such land be excluded from the Proclamation.

For the purposes of effecting any exclusion as referred to in this subsection the Governor in Council may by further Proclamation amend any Proclamation under this section.”

15. Section thirty-three of the Principal Act is amended— Amendments
of s. 33

(a) by omitting paragraph (c) of subsection (2) and inserting in its stead the following paragraph :—

“(c) The amount to be charged to any Local Authority on account of being benefited by the construction of permanent works on a developmental road shall not exceed an amount equal to interest for a period of twenty years on one-fifth of the total cost of construction of such permanent works, the rate of such interest being the rate fixed by the Treasurer not exceeding the rate charged to Local Authorities as interest on ordinary loans at the time the moneys are deemed to have been advanced.”;

(b) by inserting in paragraph (d) of subsection (2), after the words “ The amount ”, where those words first occur, the words “ to be ” ; and

(c) by omitting from paragraph (e) of subsection (2) the words “, and in the case of secondary roads used principally by tourist traffic the amount to be charged shall be as agreed under the provisions of this Act”.

Amendments
of s. 33A

16. Section 33A of the Principal Act is amended—

(a) by omitting from subsection (1) the words “next ensuing after the charging of such amount” and inserting in their stead the words “in the financial year in which such charge is made”; and

(b) by omitting subsection (4) and inserting in its stead the following subsection :—

“(4.) (a) In any case where works under this Act (whether permanent works or maintenance, or both) are not completed or where, with respect to works under this Act (whether permanent works or maintenance, or both) the Commissioner considers that information additional to that at his disposal is necessary to enable an apportionment to be made, he may postpone the determination of the amount to be charged to any Local Authority in respect of such works until such works have been completed or such additional information has been obtained.

(b) In every such case the interest on that portion of the capital cost for which such Local Authority is liable shall be calculated to the thirty-first day of December of the year in which such determination is made and be added to the said portion of the capital cost, and shall be paid by the Local Authority together with the said portion of the capital cost accordingly.”

Amendments
of Schedule

17. The Schedule to the Principal Act is amended—

(a) by inserting in the paragraph in clause thirteen, which commences with the words “Exempting certain vehicles”, after the words “or classes of vehicles”, the words “or vehicles used for certain purposes”;

(b) by inserting in the paragraph in clause thirteen, which commences with the words “ Prohibiting the use upon any road ”, after the words “ in any other respect ”, the words “ and, for the purposes of any such prohibition, defining the term “ road ” ” ;

(c) by omitting clause thirty ; and

(d) by inserting the following marginal note to clause thirty-four :—“ Stopping of vehicles and production of records ”.
