

**MAIN ROADS AND SYDNEY HARBOUR BRIDGE
(ADMINISTRATION) AMENDMENT ACT.**

Act No. 56, 1963.

Elizabeth II, An Act relating to the contribution by councils to the
No. 56, 1963 County of Cumberland Main Roads Fund; to
enable the borrowing of moneys for the purposes
of the Main Roads Act, 1924-1961, and the
Sydney Harbour Bridge (Administration) Act,
1932-1962; for these and other purposes to amend
the said Acts; and for purposes connected
therewith. [Assented to, 19th December, 1963.]

BE

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BE it enacted by the Queen's Most Excellent Majesty, by No. 56, 1963
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
follows :—

1. (1) This Act may be cited as the "Main Roads and
Sydney Harbour Bridge (Administration) Amendment Act,
1963". Short title
and citation.

(2) The Main Roads Act, 1924, as amended by sub-
sequent Acts and by this Act, may be cited as the Main Roads
Act, 1924-1963.

(3) The Sydney Harbour Bridge (Administration)
Act, 1932, as amended by subsequent Acts and by this Act,
may be cited as the Sydney Harbour Bridge (Administration)
Act, 1932-1963.

2. (1) The Main Roads Act, 1924, as amended by sub-
sequent Acts, is amended— Amendment
of Act No.
24, 1924.

(a) by inserting in subsection two of section one after
the words "areas of" the word "cities"; Sec. 1(2).
(Application
of Act.)

(b) by inserting in section two after the matter relating
to Part VII the following new matter :— Sec. 2.
(Division
into Parts.)

PART VIIA.—POWER TO BORROW MONEYS—
ss. 42A-42M.

(c) (i) by inserting in the definition of "Area" in sub-
section one of section three after the word
"means" the word "city"; Sec. 3.
(Interpre-
tation.)

(ii) by inserting in the definition of "Council" in
the same subsection after the words "of any"
the word "city";

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- (iii) by inserting at the end of the same section the following new subsection : —

(3) A reference in any provision of this Act as enacted before the commencement of the Main Roads and Sydney Harbour Bridge (Administration) Amendment Act, 1963, to loans or loan moneys shall be read and construed as being a reference to loans or loan moneys other than loans or loan moneys within Part VIIA of this Act.

Sec. 8.
(Proclamation of main roads.)

- (d) by omitting subsection six of section eight;

Sec. 9.
(Application of this Part.)

- (e) by inserting in subsection one of section nine after the word "those" the word "cities";

Sec. 10.
(County of Cumberland Main Roads Fund.)

- (f) (i) by omitting from paragraph (a) of subsection one of section ten the figures "1951" and by inserting in lieu thereof the figures "1962";

- (ii) by inserting next after paragraph (g) of the same subsection the following new paragraph : —

(g1) moneys borrowed pursuant to Part VIIA of this Act for the construction of works under this Act within the County of Cumberland and the acquisition of property in connection therewith;

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- (g) (i) by omitting subsection four of section eleven and by inserting in lieu thereof the following subsections : —

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Sec. 11.

(Levy upon
county—
contribution by
councils.)

(4) The contribution under this section by each council shall be calculated—

- (a) at such a uniform rate in the pound upon the unimproved capital value of ratable land in their respective areas as the Commissioner may fix, but not in any case exceeding one half-penny in the pound on the said value; or
- (b) at such a uniform percentage between ten and fifteen per centum as the Commissioner may fix of the income of the rates to be levied by the respective councils for the year in which the contribution is to be paid,

whichever is the less.

(4A) The contribution payable by the Council of the City of Sydney in respect of ratable land within the Inner City shall for the year one thousand nine hundred and sixty-four and for the year one thousand nine hundred and sixty-five be one-half of the amount which but for this subsection would otherwise be payable.

- (ii) by omitting from subsection (7A) of the same section the words "In this subsection 'ratable lands' does not include ratable lands which are situated within the inner city.";

- (h) by inserting next after subsection (1c) of section twelve the following new subsections : —

Sec. 12.
(Use of
fund.)

(1D) That part of the County of Cumberland Main Roads Fund which consists of moneys paid into that fund under paragraph (g1) of subsection one of section ten of this Act may only be used by
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the Commissioner for the expenses of any agreement hereafter in this Act referred to in connection with the borrowing of moneys as referred to in the said paragraph and for the purposes for which such moneys were borrowed.

(1E) The County of Cumberland Main Roads Fund may be used by the Commissioner for the transfer of moneys to the reserve for loan repayment created in that fund under section 42C of this Act.

Sec. 19.
(Application
of Part V.)

(i) by inserting in subsection one of section nineteen after the words "areas of" the word "cities";

Sec. 20.
(Country
Main Roads
Fund.)

(j) (i) by omitting from paragraph (a) of subsection one of section twenty the figures "1951" and by inserting in lieu thereof the figures "1962";

(ii) by inserting next after paragraph (f) of the same subsection the following new paragraph : —

(f1) moneys borrowed pursuant to Part VIIA of this Act for the construction of works under this Act within those parts of the State to which this Part applies and the acquisition of property in connection therewith;

Sec. 21.
(Expen-
diture.)

(k) by inserting next after subsection (1B) of section twenty-one the following new subsections : —

(1C) That part of the Country Main Roads Fund which consists of moneys paid into that fund under paragraph (f1) of subsection one of section twenty of this Act may only be used by the Commissioner for the expenses of any agreement hereafter in this Act referred to in connection with the borrowing of moneys as referred to in the said paragraph and for the purposes for which such moneys were borrowed.

(1D)

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(1D) The Country Main Roads Fund may be used by the Commissioner for the transfer of moneys to the reserve for loan repayment created in that fund under section 42C of this Act. No. 56, 1963

- (l) by inserting in subsection one of section 27F after the words "in a" the words "city or"; Sec. 27F.
(Proclama-
tion of
main road
reserves.)
- (m) by inserting next after section forty-two the following new Part :— New Part
VIIA.

PART VIIA.

POWER TO BORROW MONEYS.

42A. The Commissioner may, from time to time, with the approval of the Governor on the recommendation of the Treasurer, borrow moneys for— Purposes
for which
moneys
may be
borrowed.

- (a) the construction of works under this Act and the Warringah Expressway Approach under the Sydney Harbour Bridge (Administration) Act, 1932, as amended by subsequent Acts, and the acquisition of property in connection therewith; cf. Act No.
36, 1954,
s. 34.

- (b) the renewal of loans raised under this Part.

42B. Loans raised under this Part shall be deemed to be secured upon the income of the Commissioner from whatever source arising. Security
for loans.
Ibid. s. 35.

42C. (1) The Commissioner shall establish a reserve for loan repayment in— Reserves
for repay-
ment.

- (a) the County of Cumberland Main Roads Fund; *Ibid.* s. 36.
- (b) the Country Main Roads Fund; and
- (c) the Sydney Harbour Bridge Account under the Sydney Harbour Bridge (Administration) Act, 1932, as amended by subsequent Acts,

in respect of which any loan or renewal loan or any part thereof has been raised by the Commissioner.

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(2) The Commissioner shall during each year transfer to the reserve for loan repayment in any such fund or account from the moneys of the appropriate fund or account a sum not less than the Commissioner in his application for approval of the loan intimated that he proposed to set apart as aforesaid.

(3) Where any land or property of any kind which has been provided out of loan moneys is sold before the loan has been wholly repaid, the nett proceeds of the sale shall be added to the reserve for loan repayment in the appropriate fund or account or paid directly to the lender or used for the provision or purchase of other land or property chargeable upon the fund or account to which the proceeds belong.

(4) Moneys held as reserve for loan repayment may be invested in Government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Commissioner, or in any securities guaranteed by the Government of the said State, or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve fund for loan repayment in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan, but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(5) Where the Commissioner decides to cancel debentures and inscribed stock of the Commissioner purchased from the reserve for repayment of the loan for which they were issued, then,
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in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Commissioner shall, subject to any agreement to which he is a party whereby he undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan. No. 56, 1963

(6) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

(7) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for loans primarily charged on the income of the fund in which the reserve is provided.

42D. (1) For securing repayment of the principal and interest on any moneys borrowed, the Commissioner may issue debentures, inscribed stock or other securities. Debentures,
etc.
Act No. 36,
1954, s. 37.

(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Commissioner.

(4) Debentures or inscribed stock issued under this Part shall, both as regards the issue and any transfer thereof for full consideration in money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, as amended by subsequent Acts, contained in the Second Schedule to that Act, as so amended.

The Governor may by proclamation published in the Gazette provide for the exemption from stamp duty of any other prescribed security.

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(5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Commissioner of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon and of any loan in respect of which any other security is issued and the interest thereon shall be a charge upon the income and revenue of the Commissioner, and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Commissioner to sell or convey any property vested in him free of any such charge.

**Raising
loan in
any country.
Act No. 36,
1954, s. 38.**

42E. (1) Notwithstanding anything contained in this Part any moneys which the Commissioner is authorised to borrow may be borrowed by a loan raised wholly or in part in such country as the Governor may approve, and may be negotiated and raised in any currency.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where such loan is raised and the Commissioner may establish and conduct in such country registries relating to the securities issued in respect of such loan.

(3) The Commissioner may in respect of any such loan agree that a sinking fund shall be established and controlled at such place, by such person and in such manner as may be found necessary or expedient in the circumstances of the case, and where any such sinking fund is so established the

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the provisions of section 42C of this Act shall apply with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(4) In connection with the raising of any loan under this section, the Commissioner may enter into such agreements as the Commissioner shall think fit with respect to the form of such debentures, bonds, stock or other securities, or for the sale of such debentures, bonds, stock or other securities, or the granting of an option to purchase such debentures, bonds, stock or other securities, or for services to be performed by any person in Australia or in any other part of the world in connection with such loan or with the issue, management, and redemption of or otherwise with respect to such debentures, bonds, stock or other securities, and such agreements may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Commissioner shall think fit.

Copies of any such agreement shall be forwarded to the Minister who shall cause the same to be laid before both Houses of Parliament as soon as possible after the loan is raised.

(5) The Governor may upon the recommendation of the Commissioner appoint two or more persons to enter into for and on behalf of the Commissioner all such agreements as the Commissioner is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Part, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

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The production of a copy of the Gazette containing a notification of any such appointment, variation or revocation as aforesaid shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment, variation or revocation.

(6) All debentures, bonds, stock or other securities bearing the signatures of such persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Commissioner and the principal moneys and interest secured thereby shall be deemed to be a charge upon the income and revenue of the Commissioner from whatsoever source arising, and the due repayment of such principal moneys and interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures of such persons shall be deemed to have been lawfully made or issued by the Commissioner, and if the same shall purport to have been sealed by such persons to have been lawfully executed by the Commissioner under seal.

A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of such security was in fact duly authorised.

(7) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to such loan and the securities issued in connection therewith the provisions of this Part other than subsection one of section 42D and subsections three and four of section 42G of this Act shall apply, *mutatis mutandis*, to and in respect of such loan and such securities.

Trustees.
Act No. 36,
1954, s. 39.

42F. (1) Any trustee, unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock
inscribed

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inscribed by the Commissioner, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act. No. 56, 1963

(2) Any debenture issued or stock inscribed by the Commissioner shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied, or constructive, shall be received by the Commissioner or by any officer of the Commissioner in relation to any debenture or coupon issued or stock inscribed by the Commissioner.

42G. (1) If any debenture issued by the Commissioner is lost or destroyed or defaced before the same has been paid, the Commissioner may, subject to the provisions of this section, issue a new debenture in lieu thereof. Lost
debentures.
Act No. 36,
1954, s. 40.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;

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- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Commissioner to indemnify him against any double payment if the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Commissioner for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed or defaced coupon.

(6) In case of the loss, theft, destruction, mutilation, or defacement of any debenture or bond issued under section 42E of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Commissioner of such loss, theft, or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Commissioner receiving security or indemnity satisfactory to him against double payment if the missing debenture or bond be at any time thereafter presented for payment.

**Receivers.
Act No. 36,
1954, s. 41.**

42H. (1) If for six months default is made by the Commissioner in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Commissioner, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Commissioner.

(2) A receiver may be appointed in respect of the income of the Commissioner either generally or as regards specified income.

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(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

42I. (1) A receiver shall have power to collect all income payable to the Commissioner which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Commissioner and may exercise all the powers of the Commissioner.

Powers and
duties of
receivers.
Act No. 36,
1954, s. 42.

(2) The receiver shall discharge such duties of the Commissioner or any officers of the Commissioner as may be prescribed by order of the Court.

42J. The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Commission
to receiver.
Ibid. s. 43.

42K. The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say :—

Application
of moneys
received.
Ibid. s. 44.

- (a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration;

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- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;
- (c) thirdly, in payment of all the residue of the moneys to the Commissioner.

Protection
of investors.
Act No. 36,
1954, s. 45.

42L. (1) A person advancing money to the Commissioner shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Commissioner shall, in favour of a lender and of any holder of a security given by the Commissioner, be conclusive evidence that all conditions precedent to the borrowing have been complied with, and where the approval notified is to the borrowing by the Commissioner in a country outside New South Wales and in a particular currency shall also be conclusive evidence in favour of such persons of the approval of the Governor to the borrowing in the country and in the currency specified in the notification.

Debentures,
bonds and
securities
to rank
pari passu.
Ibid. s. 46.

42M. All debentures, bonds, or other securities which are secured upon the income and revenue of the Commissioner shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

Sec. 65.
(Transfer
of certain
roads,
bridges and
ferries to the
Commis-
sioner.)

- (n) by omitting from subsection thirteen of section sixty-five the word "municipality" wherever occurring and by inserting in lieu thereof the words "city municipality".

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(2) The amendments made by subparagraph (i) of paragraph (f) and subparagraph (i) of paragraph (j) of subsection one of this section shall be deemed to have commenced upon the first day of January, one thousand nine hundred and sixty-three. No. 56, 1963

3. The Sydney Harbour Bridge (Administration) Act, 1932, as amended by subsequent Acts, is amended— Amendment
of Act No. 2,
1932.

(a) by inserting at the end of subsection two of section seven the following new paragraph :— Sec. 7.
(The Sydney
Harbour
Bridge
Account.)

(v) moneys borrowed pursuant to Part VIIA of the Main Roads Act, 1924, as amended by subsequent Acts, for the Warringah Expressway Approach and the acquisition of property in connection therewith.

(b) by inserting at the end of the same section the following new subsections :—

(4) That part of the Sydney Harbour Bridge Account which consists of moneys paid into that Account under paragraph (v) of subsection two of this section may only be used by the Commissioner for Main Roads for the expenses of any agreement in connection with the borrowing of moneys as referred to in the said paragraph and for the purposes for which such moneys were borrowed.

(5) The Sydney Harbour Bridge Account may be used by the Commissioner for Main Roads for the transfer of moneys to the reserve for loan repayment created in that Account under section 42c of the Main Roads Act, 1924, as amended by subsequent Acts.

MINING