

## MAIN ROADS (AMENDMENT) ACT.

Act No. 40, 1936.

**Edward VIII,** An Act to amend the Main Roads Act, 1924–  
**No. 40, 1936.** 1931, the Sydney Harbour Bridge Act, 1922,  
and certain other Acts in certain respects;  
to validate certain matters; and for pur-  
poses connected therewith. [Assented to,  
27th July, 1936.]

**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
the same, as follows:—

Short title  
and citation.

**1.** (1) This Act may be cited as the “Main Roads  
(Amendment) Act, 1936.”

(2) The Main Roads Act, 1924-1931, as amended by  
subsequent Acts, is in this Act referred to as the Prin-  
cipal Act.

(3) The Principal Act as amended by this Act may  
be cited as the Main Roads Act, 1924-1936.

Amendment of  
Act No. 24,  
1924.

**2.** The Principal Act is amended—

Sec. 1.  
(Applica-  
tion of Act.)

(a) by omitting from subsection two of section one  
the words “municipalities of Balranald and Hill-  
ston which are in the Western Division of the  
State,” and by inserting in lieu thereof the  
words “Western Division of the State which  
are within the areas of municipalities”;

Sec. 3.  
(Interpre-  
tation.)

(b) (i) by inserting in section three after the de-  
finition of “Botany Road Trust” the fol-  
lowing new definition:—

“Commissioner” means the Commis-  
sioner for Main Roads appointed  
under the Transport (Division of  
Functions) Act, 1932.

(ii)

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- (ii) by inserting in the same section after the definition of "Developmental road" the following new definition:—

"Developmental work" means any work upon a road, route or means of access declared to be a developmental work under this Act or any part of such developmental work.

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

(2) Where any road which passes through a public reserve and connects with a main road has, although the same is not a public road, been proclaimed to be a main road, then in the application of any provision of this Act to or in respect of such road, unless the context or subject matter otherwise indicates or requires—

- (a) a reference to the council shall be construed as a reference to the trustees of such public reserve; and  
(b) a reference to the area of the council shall be construed as a reference to such public reserve.

**3. (1) The Principal Act is further amended—**

Further amendment of Act No. 24, 1924.

- (a) by inserting at the end of subparagraph (iii) of paragraph (b) of subsection two of section seven the words "as if he had continued as an officer of the public service";

Sec. 7 (2).  
(Officers.)

- (b) by omitting from the same paragraph the words "Service in the public service shall be deemed service with the board" and by inserting in lieu thereof the words "Service with the board shall be deemed service in the public service."

(2) Subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and twenty-nine.

(3) The Principal Act is further amended by inserting at the end of subsection four of section seven the words "and the Developmental Roads Fund."

Further amendment of Act No. 24, 1924.

Sec. 7 (4).  
(Division of administrative expenses.)

**4.**

**Main Roads (Amendment) Act.**

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Further  
amendment of  
Act No. 24,  
1924.  
New s. 7A.Leave of  
absence  
after  
years of  
serviceGratuity in  
lieu of ex-  
tended leave.**4. The Principal Act is further amended—**

- (a) by inserting next after section seven the following new section:—

7A. (1) A Commissioner or an Assistant Commissioner appointed under the Transport (Division of Functions) Act, 1932, and every officer who has had fifteen years' service shall be entitled to three months' leave on full pay or six months on half pay, and on the completion of twenty years' service shall be entitled to a further three months' leave on full pay or six months on half pay.

After completion of further service after twenty years and up to a total service of forty years in all he shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of six months or twelve months respectively for twenty years' service.

(2) A Commissioner, an Assistant Commissioner or an officer who has acquired a right to extended leave with pay and who retires from his office or from the service of the Commissioner shall be paid forthwith in lieu of such leave the money value thereof as a gratuity in addition to any gratuity to which he may otherwise be entitled.

Any pension to which any such Commissioner, Assistant Commissioner or officer is entitled under the Superannuation Act, 1916-1935, shall commence from the date following that upon which his extended leave, if taken, would have terminated.

(3) Any pension to which any officer referred to in subsection two of this section is entitled under the Civil Service Act 1884, shall commence from the date following that upon which his extended leave, if taken, would have terminated.

(4) A Commissioner or Assistant Commissioner appointed under the Transport (Division of Functions) Act, 1932, who, before  
his

his office as Commissioner or Assistant Commissioner expires is appointed by the Governor to any office under any Act, shall be entitled to continue to contribute to any superannuation fund or account to which he was, immediately before such last-mentioned appointment, a contributor, and shall be entitled to receive any deferred or extended leave or any payment in respect thereof in the same manner and to the same extent as he would have been entitled to contribute to such fund or account or to receive such leave or payment in respect thereof if he had continued in office as such Commissioner or Assistant Commissioner.

For such purposes his service in any office to which he may be so appointed shall be deemed to be service as such Commissioner or Assistant Commissioner as aforesaid.

This subsection shall be deemed to have commenced on the twenty-ninth day of April, one thousand nine hundred and thirty-five.

(5) For the purpose of this section service shall include aggregate years of service either before or after the commencement of the Main Roads (Amendment) Act, 1936, of—

- (a) a member of the board;
- (b) a Transport Commissioner appointed under the Ministry of Transport Act, 1932;
- (c) a Commissioner or Assistant Commissioner appointed under the Transport (Division of Functions) Act, 1932;
- (d) an officer or employee of the board or of the Transport Commissioners of New South Wales or of the Commissioner;

and, where any such Commissioner, Assistant Commissioner, officer, or employee was, immediately before his appointment to the board or as a Transport Commissioner, an officer or employee of the Public Service, shall include aggregate years of service in the Public Service.

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Nothing in this section contained shall affect or limit the rights conferred by any other provision of this Act on officers of the Public Service appointed as members of the board or as Transport Commissioners or to the service of the board or of the Transport Commissioners of New South Wales or of the Commissioner.

**Sec. 2.**  
(Division  
into  
Parts.)

(b) by omitting from section two from the matter relating to Part II the figure "7" and by inserting in lieu thereof the figure and letter "7A."

Further  
amendment of  
Act No. 24,  
1924.

**Sec. 8.**  
(Proclamation  
of main roads.)

**5.** The Principal Act is further amended by inserting in subsection one of section eight after the words "public road" the words "or any road, although the same is not a public road, which passes through a public reserve and connects with a main road."

Further  
amendment of  
Act No. 24,  
1924.

**Sec. 10**  
**(1) (a).**  
(Motor  
revenue.)

**6.** (1) The Principal Act is further amended by omitting from paragraph (a) of subsection one of section ten the words "after deducting a sum fixed by the Treasurer, not exceeding five per centum thereof, for cost of collection (which shall be paid to Consolidated Revenue Fund)."

(2) Subsection one of this section shall be deemed to have commenced on the first day of January, one thousand nine hundred and thirty-six.

Further  
amendment of  
Act No. 24,  
1924.

**7.** (1) The Principal Act is further amended by inserting at the end of subsection three of section eleven the following new proviso:—

**Sec. 11 (3).**  
(Levy upon  
county—con-  
tribution by  
councils.)

"Provided further that a council may, with the approval of the board, pay the contribution for the financial year ending on the thirty-first day of December, one thousand nine hundred and thirty-two, or for any financial year subsequent thereto, under such conditions and at such times (whether by way of monthly instalments or otherwise, and whether in the year in which the contribution becomes due and payable or in any subsequent year) as the board may approve."

(2) Subsection one of this section shall be deemed to have commenced upon the thirty-first day of December, one thousand nine hundred and thirty-one.

(3)

- (3) The Principal Act is further amended—
- (a) by omitting from subsection seven of section eleven the word “shall” and by inserting in lieu thereof the word “may”;
- (b) by inserting in the same subsection after the words “county of Cumberland” where thirdly occurring the words “or may be added to any rate levied for general purposes upon such ratable lands or ratable property.”
- 8.** (1) The Principal Act is further amended by inserting next after subsection one of section twelve the following new subsection:—
- (1A) The County of Cumberland Main Roads Fund may also be used for works of construction or maintenance on roads other than main roads in the county of Cumberland where—
- (a) the Commissioner is required or authorised by this or any other Act to carry out such works; and
- (b) such works are carried out upon roads situated within the county of Cumberland.
- (2) Subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and thirty-five.
- (3) The Principal Act is further amended by omitting subsections two and three of section twelve.
- 9.** The Principal Act is further amended—
- (a) by omitting from the heading to Division 3 of Part IV the words “main road work” and by inserting in lieu thereof the words “State highways and main roads.”
- (b) by omitting sections fourteen and fifteen and by inserting in lieu thereof the following new sections:—
14. (1) The Commissioner shall decide what works of construction or of maintenance shall be carried out on or in respect of a metropolitan State highway or a metropolitan main road.
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Further amendment of Act No. 24, 1924.

Sec. 11 (7).  
(Contribution added to rates.)

Further amendment of Act No. 24, 1924.

Sec. 12.  
(County of Cumberland Main Roads Fund.)

Further amendment of Act No. 24, 1924.

Sec. 12 (2) and (3).  
(Federal Aid Road payments.)

Further amendment of Act No. 24, 1924.

Heading to Div. 3, Part IV.

Substituted secs. 14 and 15.

Decision as to works.

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Who to  
execute  
works.

(2) Before so deciding the Commissioner shall consider the representations (if any) of the councils of the areas in which the works will be situated.

15. (1) Where the Commissioner has decided that any work of construction or of maintenance is necessary he may (except when otherwise authorised by the Governor) offer to place the carrying out of the work in the hands of the council and may make an agreement with the council accordingly.

This subsection shall extend to works for the construction and maintenance of a road which passes through a public reserve and connects with a main road and which has, although the same is not a public road, been proclaimed to be a main road. In any such case the offer may be made to and the agreement may be made with the council within whose area the public reserve is situated or to or with any other council.

(2) The Governor may in any special case direct that work be carried out by the Commissioner.

(3) Where an agreement is made under subsection one of this section the Commissioner shall pay the cost (or instalments thereof) from the County of Cumberland Main Roads Fund to the council in trust, to be expended on the said works in accordance with the agreement, and the council shall account to the Commissioner therefor.

(4) All work entrusted to a council shall be carried out to the satisfaction of the Commissioner.

(5) Where in consequence of any works of construction or of maintenance carried out, by or at the request of the Commissioner, on or in respect of a metropolitan State highway or a metropolitan main road, it becomes necessary to  
**make**

make any alterations in any side road the Commissioner shall pay, from the County of Cumberland Main Roads Fund, the cost of so much of such alterations as is attributable to such works of construction or of maintenance.

(6) (a) The Commissioner may require a council to pay a contribution towards the cost of works of drainage, kerbing, or guttering or of construction and paving of footways carried out by or at the request of the Commissioner on or in respect of a metropolitan State highway or main road.

A council may be required to pay a contribution under this subsection towards the cost of a work of drainage, which serves to drain portion of the area of the council outside the limits of the State highway or main road whether or not such work is wholly or partly outside the area of the council.

A council may be required to pay such sum as the Commissioner may consider reasonable, as a contribution towards the cost of constructing or paving the footway on a bridge situated wholly or partly within the area of the council whether such sum be greater or less than the actual cost of such of the works as are carried out in the area of that council.

(b) Any contribution required to be paid by a council under this subsection shall not exceed—

- (i) in respect of any works of drainage, the proportion of the cost thereof which the discharge of stormwater from the area of the council outside the limits of the State highway or main road bears to the total discharge of stormwater from the total area to be served by the said works;
- (ii) in respect of kerbing and guttering, three-quarters of the cost thereof constructed on the same side of the road as and adjacent to any land privately owned where no kerbing and/or guttering previously existed



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existed or where kerbing and/or guttering existed but no contribution in respect thereof has previously been paid by an owner of such land, and one-half of the cost of constructing kerbing and guttering on the same side of the road as and adjacent to any public reserve where no kerbing and/or guttering previously existed;

- (iii) in respect of construction and paving of footways (including footways on bridges) the cost of constructing and paving the footway where the footway was not previously constructed and/or paved, or the cost of any widening of the footway;

(c) Before any work towards the cost of which the Commissioner proposes to require any council to make a contribution under this subsection is proceeded with the Commissioner shall furnish to the council plans and specifications of the proposed work and shall serve notice upon the council of his proposals and the estimated amount of such contribution, and shall consider the representations (if any) of the council in connection therewith.

Any such representations shall be made in writing not later than three months after the date of service of such notice on the council.

If within three months after the date of service of notice of such proposals on the council no such representations have been made by the council to the Commissioner the work may be proceeded with.

Where any representations are so made the Commissioner shall within one month after the receipt by him of such representations, or in any case where the council has, in such representations, notified the Commissioner that it desires to be heard and to call evidence in respect of the matter, within one month after hearing the council, inform the council in writing of his decision thereon.

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(d) Any payment due to the Commissioner by way of contribution under this subsection shall be paid to the Commissioner by the council—

- (i) in any case where the contribution exceeds one thousand pounds, by instalments of such amounts and payable over such period not exceeding five years as may be agreed between the council and the Commissioner;
- (ii) in any other case, within three months after demand by the Commissioner or within such further time as the Commissioner may allow.

(e) Where any difference arises between the council and the Commissioner in respect of anything done or proposed to be done under this subsection or of the application of this subsection or of the amount of contribution payable to the Commissioner or of the period during which instalments of any such amount shall be paid or as to the extent to which any alterations in any side road are attributable to any works of construction or of maintenance carried out by or at the request of the Commissioner on or in respect of a metropolitan State highway or a metropolitan main road, such difference shall be submitted to a district court judge nominated for that purpose by the Governor to act as arbitrator.

The Arbitration Act, 1902, shall not apply to any submission to a district court judge under this paragraph.

Rules of court may be made by the judges of the district courts under the District Courts Act, 1912-1936, regulating the procedure in connection with any such submission and all other matters connected with or arising out of any such submission, in respect of which it may to them appear necessary or convenient to make rules of court.

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The decision of the judge in respect of any difference submitted to him for arbitration shall be final but no award as to costs of the council or of the Commissioner shall be made and the judge shall for the purposes of such arbitration have the same powers of procuring the attendance of witnesses and the production of documents as if the proceedings were an action in the district court.

In the case of the death or inability to act of the judge nominated as arbitrator the Governor may nominate a district court judge to act as a new arbitrator.

Sec. 2.  
(Division  
into  
Parts.)

- (c) by omitting from section two from the matter relating to Division 3 of Part IV the words "main road work" and by inserting in lieu thereof the words "State highways and main roads";
- (d) (i) by omitting from subsection one of section nineteen the words "and to those parts of the municipalities of Balranald and Hillston which are in the Western Division of the State";
- (ii) by inserting at the end of the same subsection the words "and shall also apply to those portions of the Western Division of the State which are within the areas of municipalities."

Further  
amendment of  
Act No. 24,  
1924.  
Sec. 20  
(1) (a).  
Motor  
revenue.

**10.** (1) The Principal Act is further amended by omitting from paragraph (a) of subsection one of section twenty the words "after deducting a sum fixed by the Treasurer, not exceeding five per centum thereof, to cover cost of collection (which shall be paid to Consolidated Revenue Fund)."

(2) Subsection one of this section shall be deemed to have commenced upon the first day of January, one thousand nine hundred and thirty-six.

Further  
amendment of  
Act No. 24,  
1924.  
Sec. 21.  
(Country Main  
Roads Fund.)

**11.** (1) The Principal Act is further amended by inserting next after subsection one of section twenty-one the following new subsection:—

(1A) The Country Main Roads Fund may also be used for works of construction or maintenance on roads

roads other than country main roads (including those in the Western Division referred to in subsection one of this section) where—

- (a) the Commissioner is required or authorised by this or any other Act to carry out such works; and
- (b) such works are carried out upon roads situated outside the county of Cumberland.

(2) Subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and thirty-five.

(3) The Principal Act is further amended by omitting from subsection (3A) of section twenty-one the words "on loans appropriated for country main roads or Federal Aid Roads in the Western Division, after the thirty-first day of December, one thousand nine hundred and twenty-four, and before the first day of July, one thousand nine hundred and twenty-eight," and by inserting in lieu thereof the following paragraphs:—

- (a) on loans appropriated for country main roads after the thirty-first day of December, one thousand nine hundred and twenty-four, and before the first day of July, one thousand nine hundred and twenty-eight;
- (b) on loans appropriated for Federal Aid Roads in the Western Division after the thirty-first day of December, one thousand nine hundred and twenty-four, and before the first day of July, one thousand nine hundred and thirty-one.

(4) Subsection three of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and thirty-three.

(5) The Principal Act is further amended—

- (a) by inserting in subsection four of section twenty-one after the words "to be proclaimed" the words "and until the thirtieth day of June, one thousand nine hundred and thirty-five";
- (b) by omitting from subsection (4A) of the same section the words "thirty-first day of December, one thousand nine hundred and thirty-six," and by inserting in lieu thereof the words "thirtieth day of June, one thousand nine hundred and thirty-five";

(c)

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Further  
amendment  
of Act  
No. 24, 1924.  
Sec. 21.  
(Country  
Main Roads  
Fund.)

Further  
amendment  
of Act  
No. 24, 1924.  
Sec. 21.  
(Country  
Main Roads  
Fund.)

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(c) by inserting in subsection seven of the same section after the word "thirty-three" the words "and ending on the thirtieth day of June, one thousand nine hundred and thirty-five";

(d) by inserting at the end of the same subsection the following new paragraph:—

There shall, for the period commencing on the first day of July, one thousand nine hundred and thirty-five and ending on the thirty-first day of December, one thousand nine hundred and thirty-five, be provided from the Country Main Roads Fund for the construction of developmental roads and developmental works the sum of sixty-seven thousand five hundred pounds.

(6) Subsection five of this section shall be deemed to have commenced on the thirtieth day of June, one thousand nine hundred and thirty-five.

(7) The Principal Act is further amended—

(a) by inserting in subsection one of section twenty-one after the word "section" the words "and in section sixty-five of this Act";

(b) by omitting subsections five and six of the same section.

Further amendment of Act No. 24, 1924. Sec. 21. (Country Main Roads Fund.)

**12.** The Principal Act is further amended—

(a) by omitting from subsection one of section twenty-four the word "one-third" and by inserting in lieu thereof the word "one-quarter";

(b) by omitting from the same subsection the word "one-half" and by inserting in lieu thereof the word "one-third";

(c) by omitting from paragraph (a) of subsection two of the same section the words "(not less than one year)";

(d) by omitting paragraph (b) of subsection five of the same section and by inserting in lieu thereof the following new paragraph:—

(b) The amount of any contribution by a council under this Part may be paid in the first place from the general fund (or in the case of a main road in an urban area from the appropriate fund of

Further amendment of Act No. 24, 1924. Sec. 24. (Contributions—country main roads.)

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of the urban area) and may be raised by a separate special or local rate. Where raised by a separate special or local rate it may be used to recoup the general fund (or appropriate fund of an urban area as the case may be) to the extent of the amount of contribution paid therefrom. Any such separate special or local rate may be levied notwithstanding that thereby the rates levied shall to that extent exceed any limit of rates laid down by or under the Local Government Act, 1919, or any other Act.

### 13. The Principal Act is further amended—

Further amendment of Act No. 24, 1924.

- (a) by omitting the heading "DEVELOPMENTAL ROADS" at the commencement of Part VI and by inserting in lieu thereof the heading "DEVELOPMENTAL ROADS AND DEVELOPMENTAL WORKS"; (Heading of Part VI.)
- (b) (i) by omitting from subsection one of section twenty-eight the words "any road" and by inserting in lieu thereof the words "or as a developmental work (as the case may be) any road or work"; Sec. 28. (Declaration of developmental road.)
- (ii) by inserting in subsection two of the same section after the words "developmental road" wherever occurring the words "or developmental work";
- (iii) by inserting in the same subsection after the words "such road" the words "or work";
- (c) (i) by omitting from paragraph (a) of subsection one of section twenty-nine the words "or the Public Works Fund for this purpose" and by inserting in lieu thereof the words "for the purposes of developmental roads or developmental works"; Sec. 29. (Developmental Roads Fund.)
- (ii) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraph:—
- (b) any sums apportioned for developmental roads and developmental works from moneys granted by the Government of the Commonwealth of Australia for road works;
- (iii)

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- (iii) by inserting in paragraph (c) of the same subsection after the words "developmental roads" the words "or for developmental works";
- (iv) by inserting in subsection two of the same section after the words "construction of developmental roads" wherever occurring the words "and developmental works";
- (v) by omitting from the same subsection the word "roads" where lastly occurring and by inserting in lieu thereof the words "road works";
- (vi) by inserting at the end of subsection three of the same section the following new paragraph:—

No sums shall be payable under this subsection in respect of any year after the year ended on the thirty-first day of December, one thousand nine hundred and thirty-five.

**Sec. 29A.**  
(Bridges which are national works.)

- (b) by omitting from subsection two of section 29A the words "Developmental Roads Fund" and by inserting in lieu thereof the words "Country Main Roads Fund";

**Sec. 30.**  
(Assistance for developmental road works.)

- (e) (i) by inserting at the end of subsection one of section thirty the words "or of a work as a developmental work";
- (ii) by inserting at the end of subsection two of the same section the words "or of a developmental work";
- (iii) by inserting at the end of subsection three of the same section the words "or of a developmental work";
- (iv) by inserting in subsection six of the same section after the words "developmental roads" wherever occurring the words "or developmental works";

**New sec. 30A.**

- (f) by inserting next after section thirty the following new section:—

Governor's reserve power to authorise Commissioner to do work.

30A. The Governor may, in any special case, direct that work be carried out by the Commissioner.

(g)

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- (g) (i) by inserting in subsection one of section thirty-one after the words "developmental road" the words "and every developmental work";
- (ii) by inserting in subsection two of the same section after the word "road" the words "or work";
- (iii) by inserting at the end of subsection four of the same section the words "or the carrying out of any developmental work in the council's area";
- (h) by omitting from section two from the matter relating to Part VI the words "DEVELOPMENTAL ROADS" and by inserting in lieu thereof the words "DEVELOPMENTAL ROADS AND DEVELOPMENTAL WORKS."

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Sec. 31.  
(Maintenance of developmental roads.)

Sec. 2.  
(Division into Parts.)

**14.** (1) The Principal Act is further amended by omitting from subsection four of section thirty the words "for a period of twenty years from the commencement of any work under this Part" and by inserting in lieu thereof the words "in respect of a period beginning upon the date of the commencement of any work under this Part and ending on the thirtieth day of June, one thousand nine hundred and thirty-five."

Further amendment of Act No. 24, 1924.  
Sec. 30.  
(Interest payable by councils.)

(2) Subsection one of this section shall be deemed to have commenced on the thirtieth day of June, one thousand nine hundred and thirty-five.

**15.** The Principal Act is further amended—

Further amendment of Act No. 24, 1924.

- (a) (i) by inserting in subsection one of section thirty-two after the words "developmental roads" the words "or to carry out any developmental work";
- (ii) by inserting next after the same subsection the following new subsection:—

Sec. 32.  
(Work done by board.)

(1A) Where the Commissioner carries out any work in connection with a metropolitan main road he shall, for that purpose, have all the powers of a council under the Local Government Act, 1919, and any other Acts conferring powers on a council.

(b)



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Sec. 36.

(Board given powers of council.)

- (b) by inserting in subsection one of section thirty-six after the words "developmental road" where firstly occurring the words "or a developmental work."

Further amendment of Act No. 24, 1924.

**16.** The Principal Act is further amended by inserting after subsection one of section thirty-six the following new subsection:—

Sec. 36.

(Width of main and developmental roads.)

- (1A) Any main road or developmental road opened before the commencement of the Main Roads (Amendment) Act, 1936, shall be deemed to have been validly opened notwithstanding that the road does not conform to the standard width prescribed by the Local Government Act, 1919, for a main road or a secondary road as the case may be.

Further amendment of Act No. 24, 1924.

Sec. 39.

(Obstructions in roads.)

**17.** The Principal Act is further amended—

- (a) by omitting from subsection one of section thirty-nine the word "clause" and by inserting in lieu thereof the word "section";
- (b) by inserting in subsection two of the same section after the word "rails" the words "kerbing, guttering, footway paving";
- (c) by inserting in subsection four of the same section after the word "person" the words "whether or not";
- (d) by omitting from the same subsection the words "or other thing whatsoever in" and by inserting in lieu thereof the words "petrol pump, stall, structure, gutter crossing, kerbing, guttering, footway paving, or other thing whatsoever in, upon, under or over";
- (e) by inserting in the same subsection after the word "board" where firstly occurring the words "Any such consent may be conditional upon the observance of such directions and stipulations as may be specified in the consent";
- (f) by omitting from the same subsection the word "approval" and by inserting in lieu thereof the word "consent";

(g)

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(g) by inserting at the end of subsection five of the same section the words "nor shall any person remove or cause damage or injury to any such tree, work or structure."

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18. The Principal Act is further amended by inserting next after section forty the following new section:—

Further amendment of Act No. 24, 1934.

New sec. 40A.

Reinstatement.

40A. (1) Where any person or statutory body or department of the Government in placing or removing any pipe, wire, rail, passage, tunnel, petrol pump, stall, structure, gutter crossing, kerbing, guttering, footway paving or thing whatsoever in, upon, under or over any main road, opens or breaks up the road, the Commissioner may require the person or statutory body or department of the Government opening or breaking up the road to fill in and repair to his satisfaction the part of the road opened or broken up.

(2) Where any main road is damaged as a result of a leakage from or of the breaking or bursting of any pipe, wire, rail, passage, tunnel or other thing whatsoever which is in, upon, under or over such main road the Commissioner may require—

(a) the person or statutory body or department of the Government responsible for the placing of any such thing in, upon, under or over such road or having the care or control of any such thing; or

(b) any person, statutory body or department of the Government (other than the person, statutory body or department of the Government referred to in paragraph (a) of this subsection) whose act or default has caused or occasioned such leakage, breaking or bursting,

to make good to his satisfaction any damage to the road resulting therefrom.

(3) The Commissioner may, in lieu of requiring any person, statutory body or department of the Government to fill in and repair the road or to make good any damage to the road, carry out the work himself and may recover the expenses thereof from such person, statutory body or department of the Government.

(4)

**Main Roads (Amendment) Act.**

No. 40, 1936.

(4) Where and in so far as any requirement by the Commissioner under this section relates to any matter in respect of which a duty is, by or under the Transport Act, 1930, as amended by subsequent Acts, imposed upon the Commissioner for Road Transport and Tramways, performance by that Commissioner of such duty shall be a sufficient compliance with such requirement.

Further amendment of Act No. 24, 1924.

Sec. 41.  
(Deviations of main roads by statutory bodies.)

**19.** The Principal Act is further amended—

- (a) (i) by inserting at the commencement of section forty-one the words “Notwithstanding anything in any Act whether passed before or after the commencement of the Main Roads (Amendment) Act, 1936”;
- (ii) by inserting in the same section after the word “made” the words “nor shall any level crossing, bridge or tunnel be constructed in a main road”;

Sec. 42.  
(Engineering and clerical charges.)

- (b) by inserting at the end of section forty-two the following new subsection:—

(2) In the case of any work in respect of which a notification that the work has been done to the satisfaction of the Commissioner, is given after the thirtieth day of June, one thousand nine hundred and thirty-six, the amount allowed as commission under this section shall be an amount equivalent to one pound ten shillings per centum of the cost of the works.

Further amendment of Act No. 24, 1924.

Sec. 46 (2).  
(Enforcement of Act.)

**20.** The Principal Act is further amended—

- (a) by inserting in subsection two of section forty-six after the word “thing” the words “or otherwise remedy the breach of the Act”;
- (b) by omitting the proviso from subsection one of section forty-nine, and by inserting in lieu thereof the following new proviso:—

Sec. 49 (1).  
(Resumption of land.)

Provided that when deemed necessary the notification shall state the depth below the surface to which the land is resumed or appropriated.

(c)

## Main Roads (Amendment) Act.

619

- (c) by inserting at the end of section fifty-one the following new subsection:—

No. 40, 1936.

Sec. 51.  
(Ordinances.)

(4) Where the weight of a vehicle or part thereof laden or unladen or the weight of load on a vehicle is ascertained or determined by any weighing device prescribed in any ordinances made under the authority of this section, the weight so ascertained or determined shall be prima facie evidence of the weight of the vehicle or part thereof or the weight of load on a vehicle.

Prima facie evidence of weight of vehicle and load.

- (d) by omitting from subsection one of section sixty the words "which may be constructed or established under the provisions of this Act upon any metropolitan main road or country State highway" and by inserting in lieu thereof the words "upon any metropolitan main road or country State highway, where such bridge or ferry is vested in or subject to the administration or control of the Commissioner, or is constructed or established under the provisions of this Act";

Sec. 60.  
(Power to establish toll bridges and ferries.)

- (e) (i) by omitting from subsection one of section sixty-one the words "a main road" and by inserting in lieu thereof the words "or constructing a main road or of opening a new main road";

Sec. 61.  
(Re-establishment of resumed buildings.)

- (ii) by omitting from subsection two of the same section the words "a main road" and by inserting in lieu thereof the words "or constructing a main road or of opening a new main road."

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

(3) In lieu of payment of compensation, purchase money or damages in respect of the acquisition of any land for the purposes of this Act or in respect of damage to land arising out of the alteration of road levels in connection with any work constructed under this Act, the Commissioner may, by agreement with the person to whom such compensation, purchase money or damages is payable, execute such works as may

be

No. 40, 1936.

be agreed upon in satisfaction either in whole or in part of such compensation, purchase money or damages.

New secs.  
63-65.

(g) by inserting after section sixty-two the following new sections:—

Debts.  
cf. Act No.  
41, 1919,  
s. 590.

63. (1) Any costs, tolls, charges or other money due to or recoverable by the Commissioner under this Act or under any ordinance may be recovered as a debt in any court of competent jurisdiction.

(2) Proceedings for the recovery of any costs, tolls, charges or other money so due to or recoverable by the Commissioner shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912;
- (c) section twenty-five of the Small Debts Recovery Act, 1912.

cf. Act No.  
41, 1919,  
s. 601 (2).

(3) A jurisdiction otherwise competent shall not be ousted on the ground that the matter in question relates to the taking of any duty to His Majesty, or any fee of office, or to any annual rent, or other matter in which rights in future may be bound, or to any general right or duty.

Validation  
of tolls and  
charges on  
Taren Point  
and  
Newcastle-  
Stockton  
ferries.

64. (1) To resolve doubts it is declared that so much of ordinance number thirty-three made under the Local Government Act, 1919, as relates to the levying of tolls and charges upon persons using the Taren Point Ferry and the Newcastle-Stockton Ferry, and to the amounts of such tolls and charges, shall be deemed to have been validly made under the said Act.

(2) Those provisions of the said ordinance which are validated by this section may be amended or repealed by ordinances made under the Local Government Act, 1919.

65. (1) The Governor may, on the joint recommendation of the Minister and the Minister for Public Works, by proclamation published in the Gazette, declare that any road, bridge or ferry specified in the proclamation shall be maintained, managed and administered by the Commissioner.

No. 40, 1936.  
Transfer of  
certain  
roads,  
bridges and  
ferries to  
the Commis-  
sioner.

(2) Any such proclamation may be made with respect to—

- (a) any road, bridge or ferry which is a national work within the meaning of the Local Government Act, 1919, whether the same is declared to be a national work before or after the commencement of the Main Roads (Amendment) Act, 1936;
- (b) any other road, bridge or ferry (including a road, bridge or ferry in the Western Division) which is maintained, managed and administered by the Minister for Public Works.

(3) Any such proclamation shall take effect from the date of publication or from a later date to be specified in the proclamation.

(4) As from the date upon which any such proclamation takes effect the road, bridge or ferry shall be maintained, managed and administered by the Commissioner.

(5) Where the road, bridge or ferry is a new work or a work in course of construction, the construction of the same shall be undertaken or continued by the Commissioner.

(6) (a) Where the road, bridge or ferry which is transferred to the Commissioner under this section is a national work within the meaning of the Local Government Act, 1919, or is within the Western Division, the Commissioner shall have and may exercise and perform in relation thereto all the powers, authorities, duties and functions conferred or imposed upon the Minister

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Minister for Public Works by section five hundred and thirty-seven of that Act, and for such purpose shall be the constructing authority for the purposes of the Public Works Act, 1912.

(b) In any case to which the provisions of paragraph (a) of this subsection do not apply, the Commissioner shall have and may exercise and perform in relation to the road, bridge or ferry transferred by this section all the powers, authorities, duties and functions conferred or imposed upon the Minister for Public Works by or under any Act, and which, immediately before the date upon which the proclamation relating to the road, bridge or ferry takes effect, were capable of being exercised and performed in relation to such road, bridge or ferry.

(7) All contracts, agreements and undertakings entered into with or by and all securities lawfully given to or by the Minister for Public Works in connection with any road, bridge or ferry transferred to the Commissioner under this section, and in force immediately before the date upon which the proclamation relating to such road, bridge or ferry takes effect, shall, as from such date, be deemed to be contracts, agreements and undertakings entered into with or by and securities given to or by the Commissioner.

The Commissioner may enforce and realise any such security as if the same were existing in favour of the Commissioner.

(8) (a) All lands, leases, licenses, rights, easements and user facilities which, immediately before the date upon which any proclamation under this section takes effect, were vested in the Minister for Public Works in connection with the road, bridge or ferry referred to in such proclamation, shall as from such date vest in the Commissioner.

(b) As soon as practicable after the publication of any proclamation under this section the Commissioner and the Minister for  
Public

Public Works shall arrange and agree upon a division of any other property (including lorries, road rollers, traction engines and other road making and testing machinery, plant and appliances) held or possessed and of any liabilities or obligations incurred by the Minister for Public Works for the purposes of or in connection with the construction, maintenance, management or administration of the road, bridge or ferry referred to in the proclamation.

(9) The Commissioner may use the appropriate fund under this Act for any of the purposes referred to in this section.

The purposes referred to in this section shall include the payment of any expenditure incurred in relation to any road, bridge or ferry, the maintenance, management and administration of which had, before the commencement of the Main Roads (Amendment) Act, 1936, been undertaken by the Commissioner at the request of the Minister for Public Works where such expenditure was incurred before the publication of a proclamation under this section relating to such road, bridge or ferry, and whether such expenditure was incurred before or after the commencement of the Main Roads (Amendment) Act, 1936.

(10) The provisions of any ordinance made under the Local Government Act, 1919 (whether or not so made in pursuance of this Act) relating to roads, bridges or ferries may be extended by the Governor by proclamation published in the Gazette, to any road, bridge or ferry transferred to the Commissioner under this section.

(11) The provisions of subsection three of section five hundred and thirty-seven of the Local Government Act, 1919, shall continue to apply to and in respect of any road, bridge or ferry which has been transferred to the Commissioner under this section.



## Main Roads (Amendment) Act.

No. 40, 1936.

Amendment  
of Act No. 41,  
1919, s. 243.  
(Paving, etc.)

**21.** (1) The Local Government Act, 1919, as amended by subsequent Acts, is amended—

- (a) by inserting after subsection one of section two hundred and forty-three the following new subsection:—

(1A) Where under an agreement between the Main Roads Board and the council the Main Roads Board or the council constructs or paves any footway or constructs any kerbing or guttering in any public roads as defined in the Main Roads Act, 1924, a reference in this section to a public road shall be deemed to include a reference to a public road as defined in the said Act; and where under any such agreement the work is carried out by the Main Roads Board such work shall, for the purposes of this section, be deemed to have been carried out by the council.

- (b) by omitting from subsection five of the same section the words “in concrete construction with or without an asphaltic top, the strip of such construction” and by inserting in lieu thereof the words “in a permanent manner, the strip of such roadway.”

(2) Subsection one of this section shall be deemed to have commenced on the first day of January, one thousand nine hundred and twenty-five.

Amendment of  
Act No. 28  
1922.

**22.** (1) The Sydney Harbour Bridge Act, 1922, as amended by subsequent Acts, is amended—

Sec. 9.

(Rate.)

- (a) by inserting in subsection (1A) of section nine after the words “each succeeding year” the words “up to and including the year one thousand nine hundred and thirty-five”;

- (b) by inserting next after the same section the following new subsection:—

(1B) For the year one thousand nine hundred and thirty-six and for each succeeding year the rate of one-half of a penny in the pound imposed by subsection one of this section is hereby reduced to a rate of two-ninths of a penny in the pound.

(2) Subsection one of this section shall be deemed to have commenced on the first day of January, one thousand nine hundred and thirty-six.

(3)

(3) Where before the commencement of this Act any council has levied a rate of one-third of a penny in the pound for the year one thousand nine hundred and thirty-six—

No. 40, 1936.

- (a) any person who has paid such rate shall be entitled to a refund of the amount overpaid or to have such overpayment credited to him on account of rates payable pursuant to the Sydney Harbour Bridge Act, 1922, as amended by subsequent Acts, for the year one thousand nine hundred and thirty-seven;
- (b) any person who has not paid such rate shall be liable in respect of so much only of the rate levied as is equivalent to a rate of two-ninths of a penny in the pound.

23. (1) The Sydney Harbour Bridge (Administration) Act, 1932, is amended—

Amendment of Act No. 2, 1932.

- (a) (i) by omitting from subsection one of section eight the words "so certified" and by inserting in lieu thereof the words "provided out of loan moneys (after deducting such amounts fixed by agreement between the Treasurer and the Board as represent the value of the land vested otherwise than for the purpose of a public road or highway, pursuant to subsection three of section eleven of this Act in the Crown or in any of the bodies mentioned in subsection two of that section)";
- (ii) by omitting from the same subsection the words "at the date of the certificate" and by inserting in lieu thereof the words "at the date to which the certificate relates";
- (iii) by inserting at the end of the same subsection the following new subsections:—

Sec. 8. (Interest, sinking fund, etc.)

(1A) The Treasurer shall, as soon as practicable after the commencement of the financial year commencing on the first day of July, one thousand nine hundred and thirty-two, certify the amount expended on the bridge since the twentieth day of March, one thousand nine hundred and thirty-two,

out

No. 40, 1936.

out of loan moneys provided by the Treasury and the amount so certified shall be added to and form part of the capital cost of the bridge for the purposes of this section.

(1B) The Treasurer shall, as soon as practicable after the commencement of the financial year commencing on the first day of July, one thousand nine hundred and thirty-three, and of each succeeding financial year, certify the amount expended on the bridge during the preceding financial year out of loan moneys provided by the Treasury and the amount so certified shall be added to and form part of the capital cost of the bridge for the purposes of this section.

(2) Subsection one of this section shall be deemed to have commenced on the twentieth day of March, one thousand nine hundred and thirty-two.

(3) The Sydney Harbour Bridge (Administration) Act, 1932, is further amended—

Further amendment of Act No. 2, 1932. Sec. 11. (Power to dedicate, sell, etc.)

(a) (i) by inserting in subsection three of section eleven after the word "section" the words "or in the Crown or in any statutory body representing the Crown";

(ii) by omitting from the same subsection the words "but no part of the said lands shall be so vested or dedicated for park or recreation purposes until a proposal therefor has been approved by resolutions passed by both Houses of Parliament";

New sec. 11A.

(b) by inserting next after the same section the following new section:—

Erection of buildings, etc., by Commission on leased lands.

11A. (1) The Commissioner for Main Roads appointed under the Transport (Division of Functions) Act, 1932, may for the purpose of or in connection with any lease granted by him of the lands within the arches under the approaches of the Sydney Harbour Bridge, erect or otherwise provide such buildings, shops and offices as he may think fit.

The

**Income Tax (Management) Act.**

**627**

(2) The cost of any work carried out under this section shall be paid from the Sydney Harbour Bridge Account. <sup>No. 40, 1936.</sup>

(3) This section shall be deemed to have commenced on the twenty-ninth day of December, one thousand nine hundred and thirty-two.

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