

FEDERAL AID ROADS AND
WORKS ACT.

Act No. 22, 1937.

George VI,
No. 22, 1937. An Act to authorise and approve an agreement
between the Commonwealth of Australia
and the State of New South Wales relating
to the making available by the Common-
wealth of moneys for the purpose of the
construction, reconstruction, maintenance
and repair of roads or other works connected
with transport; to provide for the carrying
into effect of that agreement and for the
application

application of the moneys paid thereunder; to amend the Main Roads Act, 1924-1936, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 15th December, 1937.]

No. 22, 1937.

BE it enacted by the King's Most Excellent Majesty, by 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 "Federal Aid Roads and Works Act, 1937," and shall be read and construed with the Main Roads Act, 1924-1936.

Short title and citation.

(2) The Main Roads Act, 1924-1936, as amended by this Act, may be cited as the "Main Roads Act, 1924-1937."

2. (1) The agreement, a copy of which is set out in the Schedule to this Act, is hereby authorised and approved and the doing or performance of all such acts, matters or things as are to be or may be done or performed under or in pursuance of the agreement is hereby authorised and the agreement may be carried into effect notwithstanding the provisions of any other Act.

Authorisation and approval of agreement.

(2) Without prejudice to the generality of subsection one of this section all acts, matters and things for or with respect to which provision is made in the agreement or which, by the agreement, are agreed, directed, authorised or permitted to be done or performed by or on behalf of the State, are hereby sanctioned, authorised and confirmed.

Giving effect to agreement.

3. (1) The Main Roads Act, 1924-1936, is amended—

Amendment of Act No. 24, 1924.

(a) by omitting paragraph (e) of subsection one of section ten and by inserting in lieu thereof the following paragraph:—

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

(e) that proportion of the moneys paid to the State by the Commonwealth of Australia under the Federal Aid

Roads

No. 22, 1957.

Roads and Works Agreement each year commencing from the first day of July one thousand nine hundred and thirty-seven or under any amendment or extension of that agreement, which is equal to the proportion the amount paid for that year into the County of Cumberland Main Roads Fund in accordance with paragraph (a) of this subsection bears to the total amount paid for that year into that fund and into the Country Main Roads Fund in accordance with the said paragraph (a) and paragraph (a) of subsection one of section twenty of this Act respectively.

Sec. 20.
(Country
Main Roads
Fund.)

(b) by omitting paragraph (d) of subsection one of section twenty and by inserting in lieu thereof the following paragraph:—

(d) that proportion of the moneys paid to the State by the Commonwealth of Australia under the Federal Aid Roads and Works Agreement each year commencing from the first day of July one thousand nine hundred and thirty-seven or under any amendment or extension of that agreement, which is equal to the proportion the amount paid for that year into the Country Main Roads Fund in accordance with paragraph (a) of this subsection bears to the total amount paid for that year into that fund and into the County of Cumberland Main Roads Fund in accordance with the said paragraph (a) and paragraph (a) of subsection one of section ten of this Act respectively.

Amendment
of Act No.
49, 1931.
(Conse-
quential.)

(2) The Federal Aid Roads (Further Agreement) Act, 1931, is amended by omitting paragraphs (a) and (b) of subsection one of section four.

4. (1) That part of the County of Cumberland Main Roads Fund and of the Country Main Roads Fund which consists of sums provided under subclause one of clause two of the agreement authorised and approved by this Act (in this section hereinafter referred to as "the agreement") shall be expended under and in accordance with the Main Roads Act, 1924-1937, upon the construction, reconstruction, maintenance or repair of main roads.

No. 22, 1937:

Purposes
for which
moneys paid
under the
agreement
may be
expended.

(2) That part of the County of Cumberland Main Roads Fund and of the Country Main Roads Fund which consists of sums provided under subclause two of clause two of the agreement shall be expended—

- (a) under and in accordance with the Main Roads Act, 1924-1937, upon the construction, reconstruction, maintenance or repair of roads; or
- (b) upon the construction, reconstruction, maintenance or repair of any such other work connected with transport in this section hereinafter referred to as "work connected with transport" as may be declared by the Minister, by notification published in the Gazette to be a work connected with transport, within the meaning of the agreement; or
- (c) upon any works of maintenance and repair which the State may be required to carry out under clause five of the agreement.

(3) (a) The Minister may in any notification published under paragraph (b) of subsection two of this section or in any subsequent notification specify the person by whom the particular work connected with transport shall be carried out.

(b) Any work connected with transport shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as amended by subsequent Acts, and the person specified in any notification under paragraph (a) of this subsection shall, by virtue of this Act, be empowered to carry out the work connected with transport and shall be the constructing authority for the same within the meaning of the said Act as so amended, and shall enter into such contracts and take all such necessary steps for the proper execution thereof as such authority may think proper. The

No. 22, 1937.

The provisions of the said Act as so amended, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of such work connected with transport.

(c) Without prejudice to the generality of paragraph (b) of this subsection, the provisions of section thirty-eight of the said Act, as so amended, shall apply to and in respect of any contracts referred to in that paragraph.

(d) The Commissioner shall, except where he is the person specified in a notification under paragraph (a) of this subsection, pay the cost of carrying out the work connected with transport to the constructing authority on trust to be expended on the said work, and the constructing authority shall account to the Commissioner therefor.

(4) (a) The Commissioner may, except where authorised by the Governor to carry out any work referred to in paragraph (c) of subsection two of this section, offer to place the carrying out of the work in the hands of the council and to make an agreement with the council accordingly.

(b) Where an agreement is made the Commissioner shall pay the cost or instalments thereof, to the council in trust, to be expended on the said work in accordance with the agreement, and the council shall account to the Commissioner therefor.

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

(5) The Commissioner may, for the purpose of meeting the cost of carrying out the works referred to in paragraphs (b) and (c) of subsection two of this section, use that part of both or either of the main roads funds which consists of sums provided under subclause two of clause two of the agreement.

SCHEDULE.

No. 22, 1937.

Sec. 2.

AGREEMENT made the thirteenth day of August One thousand nine hundred and thirty-seven BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this Agreement called "the Commonwealth") and THE STATE OF NEW SOUTH WALES (in this Agreement called "the State"):

WHEREAS by an Agreement in the form contained in the Schedule to the Federal Aid Roads Act 1926 of the Commonwealth and made on the seventeenth day of June One thousand nine hundred and twenty-seven between the Commonwealth and the State (which Agreement was approved adopted authorised and ratified by the Federal Aid Roads Act, 1927 of the State and is hereinafter called the "Original Agreement") it was agreed (inter alia) that the Commonwealth would subject to and for the purposes of the Agreement provide the sum therein mentioned during the period of ten years commencing on the first day of July One thousand nine hundred and twenty-six and that subject as therein mentioned the State would provide the additional sum therein mentioned for the purposes of the Agreement:

AND WHEREAS the Original Agreement was varied by two Amending Agreements as follows, namely:—

- (a) An Agreement in the form contained in the Schedule to the Federal Aid Roads Act 1931 of the Commonwealth and made on the twenty-fifth day of September One thousand nine hundred and thirty-one between the Commonwealth and the State which Agreement was approved adopted authorised and ratified by the Federal Aid Roads (Further Agreement) Act 1931 of the State and varied the Original Agreement and extended it for the period of six months from the first day of July One thousand nine hundred and thirty-six: and
- (b) An Agreement in the form contained in the Schedule to the Federal Aid Roads Act 1936 of the Commonwealth and made on the twenty-eighth day of October One thousand nine hundred and thirty-six between the Commonwealth and the State which Agreement was approved adopted authorised and ratified by the Federal Aid Roads (Agreements Extension) Act 1936 of the State and extended the Original Agreement as varied by the Amending Agreement aforesaid for six months from the first day of January One thousand nine hundred and thirty-seven:

AND WHEREAS the Commonwealth proposes to make available to the several States for the purposes hereinafter mentioned the amounts hereinafter mentioned in each year during the period of ten years commencing on the first day of July One thousand nine hundred and thirty-seven:

AND WHEREAS the Commonwealth proposes to distribute the said amounts between the several States on the following basis, namely, five per centum to the State of Tasmania, and ninety-five per centum between

Federal Aid Roads and Works Act.

No. 22, 1937.

between the several States (excluding Tasmania) as to three-fifths of such ninety-five per centum, according to their respective populations as at the thirtieth day of June One thousand nine hundred and thirty-six, and as to two-fifths of such ninety-five per centum according to their respective areas:

NOW IT IS HEREBY AGREED as follows:—

1. This Agreement shall have no force or effect and shall not be binding on either party unless and until it is authorised or approved by the Parliaments of the Commonwealth and of the State.

2.—(1) The Commonwealth will subject to this Agreement and for the purposes mentioned in subclause (1) of clause 4 of this Agreement provide in each year during the period of ten years commencing on the first day of July One thousand nine hundred and thirty-seven a sum equivalent to 281/1000ths of the aggregate of the following amounts, namely:—

- (a) so much of the duties of customs payable and collected under the Tariff Item specified in this paragraph in respect of the goods specified in this paragraph as shall be equal to 2½d. per gallon of all those goods which shall be entered for home consumption during that year that is to say, the duties of customs payable and collected under Tariff Item 229 (c) in the Schedule to the Customs Tariff 1933-1936 or under that Tariff Item as amended or proposed to be amended during the continuance of this Agreement in respect of petroleum and shale products, viz.: naphtha, benzine, benzoline, gasoline, pentane, petrol and any other petroleum or shale spirit; and
- (b) so much of the duties of excise payable and collected under the Tariff Item specified in this paragraph in respect of the goods specified in this paragraph as shall be equal to 1½d. per gallon of all those goods which shall be entered for home consumption during that year, that is to say, the duties of excise payable and collected under Tariff Item 11 in the Schedule to the Excise Tariff 1921-1936 or under that Tariff Item as amended or proposed to be amended during the continuance of this Agreement in respect of—
 - (A) petroleum or shale products, viz.: petrol, benzine, benzoline, gasoline, naphtha, pentane, and any other petroleum or shale spirit as described in that Item;
 - (B) petroleum or shale distillates, viz.: turpentine substitutes; and
 - (C) coal tar and coke oven distillates (including benzol) suitable for use as petrol substitutes as described in that Item.

(2)

(2) The Commonwealth will subject to this Agreement and for the purposes mentioned in subclause (2) of clause 4 of this Agreement provide in each year during the period of ten years last aforesaid a sum equivalent to 281/1000ths of the aggregate of the following amounts, namely:—

No. 22, 1937.

- (a) so much of the duties of customs payable and collected under the Tariff Item specified in paragraph (a) of subclause (1) of this clause in respect of the goods specified in that paragraph as shall be equal to $\frac{1}{2}$ d. per gallon of all those goods which shall be entered for home consumption during that year;
- (b) so much of the duties of excise payable and collected under the Tariff Item specified in paragraph (b) of subclause (1) of this clause in respect of the goods specified in that paragraph (other than benzol) as shall be equal to $\frac{1}{2}$ d. per gallon of all those goods which shall be entered for home consumption during that year.

(3) All the sums provided under subclauses (1) and (2) of this clause will be paid by the Commonwealth into a Trust Account established for the purpose under section 62A of the Audit Act 1901-1934.

(4) Payments will be made monthly to the State out of the moneys for the time being in the said Trust Account and the Minister shall when each payment is made notify the State of the portions of the payment which are made from the sums provided under subclauses (1) and (2) of this clause, respectively.

3.—(1) The Commonwealth will in each year during the period of ten years last aforesaid withdraw from moneys in the said Trust Account and pay into the Sinking Fund an amount equal to Two pounds ten shillings per centum (£2 10s. per cent.) per annum accruing from day to day on so much of the moneys which have been provided by the State for the purposes of the Original Agreement as have been provided from loan moneys.

(2) The State will on the thirty-first day of December (or on such other date as may be agreed upon between the Commonwealth and the State) in each year after the expiration of the period of ten years last aforesaid pay into the Sinking Fund an amount equal to Two pounds ten shillings per centum (£2 10s. per cent.) per annum accruing from day to day on the amount of loan moneys which have been provided by the State for the purposes of the Original Agreement until the amounts paid into the Sinking Fund under the Original Agreement as varied as aforesaid and under this Agreement and any amendment of this Agreement in respect of such loan moneys together with the Sinking Fund contributions in respect of such loan moneys provided for by the Financial Agreement are sufficient to provide for the redemption of the said loan moneys. For the purposes of this clause the said payments and contributions shall be deemed to accumulate at the rate of four and a half per centum ($4\frac{1}{2}$ per cent.) per annum compounded.

(3)

No. 22, 1937.

(3) The Sinking Fund hereinbefore referred to is the National Debt Sinking Fund established under the National Debt Sinking Fund Act 1923-1934 of the Commonwealth or any amendment thereof or any Sinking Fund established in lieu thereof and all moneys paid into such Funds shall be applied as if they were Sinking Fund contributions paid under the Financial Agreement in respect of the Public Debt of the State.

(4) The Financial Agreement hereinbefore referred to is the Agreement set forth in the Schedule to the Financial Agreement Validation Act 1929 of the Commonwealth and in the Schedule to the Financial Agreement Ratification Act 1928 of the State and validated and approved by those Acts.

(5) Subclause (2) of clause 4 of the Original Agreement as varied as aforesaid shall cease to have effect upon the first day of July One thousand nine hundred and thirty-seven.

4.—(1) All moneys paid to the State from the sums provided under subclause (1) of clause 2 of this Agreement shall be expended upon the construction reconstruction maintenance or repair of roads.

(2) All moneys paid to the State from the sums provided under subclause (2) of clause 2 of this Agreement shall be expended upon the construction reconstruction maintenance or repair of roads or other works connected with transport as the State may think fit.

5.—(1) Whenever so required by the Minister the State during the period of ten years commencing on the first day of July One thousand nine hundred and thirty-seven and not thereafter will to the reasonable satisfaction of the Minister make provision for the proper maintenance and repair, to a standard necessary to meet the requirements of the Commonwealth and other traffic using such roads, of public roads adjoining or of approach to properties of the Commonwealth within the State.

(2) The State shall not be required to make any provision under this clause—

(a) in any year in excess of an amount equivalent to one-twelfth of the moneys paid to the State in that year from the sums provided under subclause (2) of clause 2 of this Agreement; or

(b) with respect to roads within the boundaries of the properties of the Commonwealth.

(3) In this clause "properties of the Commonwealth" includes establishments, works and activities of the Commonwealth.

6. Any notice, requirement or other communication to be given or made by the Commonwealth or the Minister to the State under this Agreement shall be deemed to have been duly given

given or made if signed by or on behalf of the Minister and delivered by hand or sent by prepaid post addressed to the Minister for Transport at his office in Sydney.

7. In this Agreement "the Minister" means the Minister of State of the Commonwealth for the Interior for the time being and includes any Minister of State of the Commonwealth or member of the Federal Executive Council for the time being acting for and on behalf of the Minister.

IN WITNESS whereof the Prime Minister of the Commonwealth and the Premier of the State have hereunto set their hands the day and year first above written.

SIGNED by the RIGHT HONORABLE
JOSEPH ALOYSIUS LYONS, C.H.,
the Prime Minister of the
Commonwealth in the presence
of—

(Sgd.) J. A. LYONS.

(Sgd.) F. STRAHAN.

Signed by the HONORABLE BERTRAM
SYDNEY BARNSDALE STEVENS
the Premier of the State of
New South Wales in the
presence of—

(Sgd.) B. S. STEVENS.

(Sgd.) J. G. LEE.
