

Main Roads Amendment Bill 2015

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Western Australia

LEGISLATIVE ASSEMBLY

Main Roads Amendment Bill 2015

A Bill for

An Act to amend the *Main Roads Act 1930* and make consequential amendments to the *Environmental Protection Act 1986*, and for related purposes.

The Parliament of Western Australia enacts as follows:

1
2
3
4
5
6
7
8
9

Part 1 — Preliminary

1. Short title

This is the *Main Roads Amendment Act 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

1 **Part 2 — Main Roads Act 1930 amended**

2 **3. Act amended**

3 This Part amends the *Main Roads Act 1930*.

4 **4. Long title amended**

5 In the long title delete “**access to roads**” and insert:

6

7 **access to roads, undertaking related works**

8

9 **5. Section 6 amended**

10 (1) In section 6 delete the definitions of:

11 *proclaimed area*

12 *road construction* and *construct*

13 (2) In section 6 insert in alphabetical order:

14

15 *adjoining works*, in relation to a road, means works —

16 (a) on land adjoining the road; or

17 (b) relating to any watercourse that adjoins or
18 intersects the road,

19 necessitated by works on, or the use of, that road;

20 *agreement* includes a contract or business
21 arrangement;

22 *business arrangement* means a company, a
23 partnership, a trust, a joint venture, an arrangement for
24 sharing profits or an arrangement for sponsorship;

25 *carry out* includes supervise;

26 *clearing* has the meaning given in the *Environmental*
27 *Protection Act 1986* section 51A;

s. 5

1 **enter**, into an agreement that is a business arrangement,
2 includes form, promote, establish, manage, dissolve,
3 wind-up, and do anything incidental to the participating
4 in a business arrangement;

5 **environmental offset works** means works or other
6 actions designed to offset the environmental effects of
7 main roads works, including —

- 8 (a) establishing and maintaining native vegetation,
9 as defined in the *Environmental Protection*
10 *Act 1986* section 51A, on land other than land
11 on which clearing has been undertaken; or
12 (b) making monetary contributions to a fund
13 maintained for the purpose of establishing or
14 maintaining such vegetation;

15 **local government** includes a regional local
16 government;

17 **main roads works** means the following —

- 18 (a) road works;
19 (b) adjoining works;
20 (c) road service centre works;
21 (d) environmental offset works;
22 (e) clearing;
23 (f) any other works the Commissioner is
24 empowered to carry out under this Act or
25 another written law;

26 **prescribed** means prescribed by the regulations;

27 **road service centre** means an area that adjoins and is
28 accessible from a highway or main road and that
29 comprises —

- 30 (a) a commercial premises, including those that are
31 mobile, that provide goods and services for
32 vehicles and road users; or

- 1 (b) any other place that permits road users to rest or
2 engage in recreational activities;
- 3 **road works** means works relating to a road;
- 4 **works** includes the following —
- 5 (a) the construction of something;
- 6 (b) the improvement and reconstruction of
7 something;
- 8 (c) the maintenance of the things constructed,
9 improved or reconstructed under paragraphs (a)
10 and (b);
- 11 (d) the repair, reconstruction or maintenance of
12 anything affected by the things constructed,
13 improved or reconstructed under paragraphs (a)
14 and (b);
- 15 (e) the provision and maintenance of any
16 equipment or service necessary for or incidental
17 to the proper management of the things
18 constructed, improved or reconstructed under
19 paragraphs (a) and (b);
- 20 (f) the acquisition of land for the purposes of the
21 construction, improvement or reconstruction
22 referred to in paragraphs (a) and (b);
- 23 (g) clearing;
- 24 (h) any other demolition or removal of something;
- 25 (i) the administration of anything referred to in
26 paragraphs (a) to (h), including planning,
27 research, investigation, survey and design;
- 28 (j) the purchase and maintenance of plant, and the
29 supply of labour, materials and water for the
30 purposes of anything referred to in
31 paragraphs (a) to (h);

s. 6

1 (k) the taking or defending of legal proceedings for
2 the purposes of anything referred to in
3 paragraphs (a) to (j).
4

5 (3) In section 6 in the definition of *road* delete “approaches and
6 other things appurtenant thereto or used in connection with the
7 road;” and insert:

8
9 approaches, paths for pedestrians, cyclists or both, and other
10 things related to, or used in connection with, the road;
11

12 (4) In section 6 in the definition of *secondary road* delete “thereof.”
13 and insert:

14
15 of the road;
16

17 **6. Section 7 amended**

18 (1) In section 7(2) delete “powers and perform all the duties” and
19 insert:

20
21 functions
22

23 (2) In section 7(3):

24 (a) in paragraph (c) delete “duties” and insert:

25
26 functions
27

28 (b) in paragraph (d) delete “contract made” and insert:

29
30 agreement entered into
31

1 (c) in paragraph (d) delete “any such contract.” and insert:
2
3 that agreement.
4

5 **7. Section 9 amended**

6 In section 9 delete “acts and powers” and insert:

7
8 functions
9

10 **8. Section 9AA inserted**

11 After section 9 insert:

12
13 **9AA. Status of Commissioner**

14 The Commissioner is an agent of the State and has the
15 status, immunities and privileges of the State.
16

17 **9. Sections 10, 10A and 10B replaced**

18 Delete sections 10, 10A and 10B and insert:
19

20 **10. Staff of Commissioner**

21 (1) The Commissioner may, for the purposes of this Act,
22 appoint persons to be officers of the Commissioner.

23 (2) The Commissioner may —

24 (a) employ such employees as are required for
25 main roads works; and

26 (b) in accordance with the regulations, employ
27 persons as cadets; and

28 (c) employ and remunerate students; and

s. 9

1 (d) with the approval of the chief executive officer
2 of an agency, as those terms are defined in the
3 *Public Sector Management Act 1994*, make use
4 of the services of any officer or employee
5 employed in that agency.

6 (3) A person referred to in subsection (2) must not —
7 (a) in any way participate, or claim to be entitled to
8 participate, in the profits of or in any benefit or
9 emolument arising from any agreement entered
10 into by or on behalf of the Commissioner; or
11 (b) acquire any Crown lands without the approval
12 of the Minister.

13 **10A. Minister may delegate functions to Commissioner**

14 The Minister may, either generally or as provided by a
15 written instrument signed by the Minister, delegate to
16 the Commissioner any of the Minister's functions
17 under this Act other than this power of delegation or
18 the function referred to in section 18D.

19 **10B. Other delegation**

20 (1) In this section —
21 **COP** means the Commissioner of Police.
22 (2) The Commissioner may, either generally or as
23 otherwise provided by a written instrument signed by
24 the Commissioner, delegate to an officer of the
25 Commissioner any of the Commissioner's functions
26 under this Act or another written law, other than this
27 power of delegation.
28 (3) The Commissioner may delegate to the COP any of the
29 Commissioner's functions under section 16A.
30 (4) The COP may, either generally or as otherwise
31 provided by an instrument, delegate a function

- 1 delegated to the COP under subsection (3) to a
2 specified police officer or police officers of a specified
3 class.
- 4 (5) A police officer to whom a function is delegated under
5 subsection (4) cannot delegate that function.
- 6 (6) If a function of the Commissioner is performed in
7 accordance with a delegation under this section, that
8 function is deemed to be performed by the
9 Commissioner.
10

11 **10. Section 11 amended**

12 In section 11 delete “powers and duties” and insert:
13
14 functions
15

16 **11. Part 3 deleted**

17 Delete Part 3.

18 **12. Section 13 amended**

- 19 (1) In section 13(1):
20 (a) delete “be —” and insert:
21
22 be or cease to be —
23
- 24 (b) in paragraph (b) delete “road,” and insert:
25
26 road.
27
- 28 (c) delete the passage that begins with “or shall cease” and
29 continues to the end of the subsection.

s. 13

- 1 (2) In section 13(2):
2 (a) in paragraph (e) delete “areas.” and insert:
3
4 areas; and
5
6 (b) after paragraph (e) insert:
7
8 (f) where part of the road is a related path for
9 pedestrians, cyclists or both, whether the path is
10 or will be the principal route for pedestrian or
11 cycle traffic following the general direction of
12 that road.
13

14 **13. Section 14 amended**

- 15 In section 14(1) delete “proclaimed” and insert:
16
17 declared
18

19 **14. Section 15 amended**

- 20 In section 15(3)(a) delete “appurtenant thereto; and” and insert:
21
22 related to the highways and main roads; and
23

24 **15. Section 15A amended**

- 25 (1) In section 15A(1) delete “consent” and insert:
26
27 approval
28

1 (2) At the end of section 15A(1) insert:

2

3 Penalty for this subsection: a fine of \$10 000.

4

5 (3) In section 15A(2) delete the Penalty and insert:

6

7 Penalty for this subsection: a fine of \$10 000.

8

9 **16. Section 15AA inserted**

10 After section 15A insert:

11

12 **15AA. Charges for use of prescribed roads by heavy**
13 **vehicles**

14 (1) In this section —

15 *heavy vehicle* has the meaning given in the *Road*
16 *Traffic (Vehicles) Act 2012* section 3(1);

17 *prescribed charge* means a charge prescribed for the
18 purposes of this section;

19 *prescribed road* means a road prescribed for the
20 purposes of this section;

21 *responsible person*, for a heavy vehicle, means a
22 person responsible for the vehicle under the *Road*
23 *Traffic (Administration) Act 2008* section 6.

24 (2) A prescribed charge is payable by the responsible
25 person for a heavy vehicle when that vehicle is used on
26 a prescribed road.

27 (3) The amount of any prescribed charge payable under
28 subsection (2) is recoverable by the Commissioner in a
29 court of competent jurisdiction as a debt due to the
30 State.

31 (4) The amount of any prescribed charge paid under
32 subsection (2) or recovered under subsection (3) must
33 be credited to the Consolidated Account.

s. 17

- 1 (5) The Commissioner may enter into an agreement with
2 any person for the collection of prescribed charges on a
3 prescribed road.
- 4 (6) The regulations may —
- 5 (a) specify one or more prohibited roads in relation
6 to any prescribed road; and
- 7 (b) prescribe that it is an offence to use a heavy
8 vehicle on a prohibited road without lawful
9 excuse; and
- 10 (c) provide that a prescribed charge is payable for
11 the use of the heavy vehicle on the prohibited
12 road as if the vehicle were being used on the
13 prescribed road in relation to which the
14 prohibited road was specified.
15

16 **17. Part 5 heading amended**

17 In the heading to Part 5 delete “**Powers**” and insert:

18

19 **Functions**

20

21 **18. Section 15B inserted**

22 At the beginning of Part 5 insert:

23

24 **15B. General functions of the Commissioner**

- 25 (1) The Commissioner’s functions include the
26 following —
- 27 (a) carrying out works in relation to —
- 28 (i) highways, main roads and secondary
29 roads; and

- 1 (ii) other roads under the functions
2 conferred by this Act;
- 3 (b) carrying out works in relation to, and
4 management of, infrastructure for controlling
5 traffic on —
- 6 (i) highways, main roads and secondary
7 roads; and
- 8 (ii) other roads under the functions
9 conferred by this Act;
- 10 (c) identifying, assessing and ameliorating the
11 effects of these works on land adjoining the
12 relevant roads or on the environment generally;
- 13 (d) other main roads works;
- 14 (e) the other functions conferred on the
15 Commissioner under this Act or another written
16 law.
- 17 (2) In carrying out the functions referred to in
18 subsection (1), the Commissioner must —
- 19 (a) identify, implement and promote measures
20 to —
- 21 (i) improve the safety of roads in the State;
22 and
- 23 (ii) reduce the deaths of people, the injuries
24 to people, and the damage to property,
25 resulting from incidents occurring on
26 roads in the State; and
- 27 (b) act in a way that supports the sustainable
28 economic, social and environmental
29 management and development of the State.
30

s. 19

1 **19. Section 16 amended**

2 (1) Delete section 16(1) and insert:

3

4 (1) The Commissioner may exercise in regard to any
5 highway or main road any power which a local
6 government may exercise for a road within its district.

7

8 (2) In section 16(1b) delete “highway or main”.

9 (3) In section 16(1c) delete “operate traffic signs and traffic control
10 signals and similar devices, the erection of which is authorised
11 by those regulations.” and insert:

12

13 erect, establish or display traffic or road signs, road markings,
14 traffic control signals and similar devices referred to in those
15 regulations.

16

17 (4) After section 16(1c) insert:

18

19 (1D) Despite the *Surveillance Devices Act 1998*, the
20 Commissioner has power under this Act, and is to be
21 taken to have always had power under this Act, to —

22 (a) install and operate cameras and any electronic
23 equipment necessary for or incidental to —

24 (i) carrying out main roads works; and

25 (ii) monitoring traffic on a highway or main
26 road; and

27 (iii) investigating and prosecuting alleged
28 offences under this Act;

29 and

- 1 (b) share images or other information obtained
2 from the equipment with another public
3 authority.
4
- 5 (5) After section 16(2) insert:
6
- 7 (3A) Nothing in subsection (2) requires the Commissioner’s
8 approval to be obtained before each exercise by a local
9 government of its powers over a highway or main road.
10
- 11 (6) In section 16(3):
- 12 (a) delete “contract with the Commissioner for the
13 construction of any highway or main road within its
14 district, or the construction of any secondary road within
15 its district; and, subject to the work” and insert:
16
- 17 agreement with the Commissioner for main roads works
18 within its district, and, subject to the works
19
- 20 (b) delete “the contract,” and insert:
21
- 22 the agreement,
23
- 24 (c) delete “such request or contract,” and insert:
25
- 26 the request or agreement,
27
- 28 (7) Delete section 16(4) and insert:
29
- 30 (4) If the Minister administering the *Land Administration*
31 *Act 1997* delegates a power to the Commissioner under
32 Part 9 Division 4 of that Act —
- 33 (a) section 203 of that Act applies; and

s. 20

1 (b) the *Public Works Act 1902* section 113A
2 applies as if the power had been conferred
3 under that Act.
4

5 (8) In section 16(5) delete “provide, construct and supervise all or
6 any of the works and undertakings” and insert:

7
8 carry out all or any of the works
9

10 **20. Section 16A amended**

11 (1) In section 16A(2) delete “consent” (each occurrence) and insert:

12
13 approval
14

15 (2) In section 16A(3) and (4) delete the Penalty and insert:

16
17 Penalty for this subsection: a fine of \$10 000.
18

19 **21. Section 17 amended**

20 In section 17:

21 (a) in paragraph (a)(ii) delete “road construction,” and
22 insert:

23
24 main roads works,
25

26 (b) in paragraph (a)(iii) delete “road construction” and
27 insert:

28
29 main roads works
30

- 1 (c) in paragraph (a)(iv) delete “traffic;” and insert:
2
3 traffic; and
4
5 (d) after paragraph (a)(iv) insert:
6
7 (v) what road service centres (if any) are
8 required for particular highways and
9 main roads; and
10 (vi) what environmental offset works (if
11 any) are necessary or desirable;
12
13 (e) in paragraph (b) delete “the construction of roads; and”
14 and insert:
15
16 main roads works; and
17

18 **22. Section 18 deleted**

19 Delete section 18.

20 **23. Section 18A amended**

- 21 (1) Delete section 18A(1).
22 (2) In section 18A(2):
23 (a) delete “a contract” and insert:
24
25 an agreement
26

s. 24

1 (b) delete “perform any road or other construction that the
2 Commissioner is empowered to perform under this Act
3 or any other written law.” and insert:

4
5 carry out main roads works.
6

7 Note: The heading to amended section 18A is to read:

8 **Agreements for others to carry out main roads works**

9 **24. Sections 18B replaced**

10 Delete section 18B and insert:
11

12 **18B. Agreements for the Commissioner to carry out**
13 **main roads works for others**

14 (1) The Commissioner has, and is to be taken to have
15 always had, the power to enter into an agreement with
16 any person to carry out main roads works for that
17 person.

18 (2) An agreement under subsection (1) may provide for an
19 agreed amount or an agreed rate to be paid to the
20 Commissioner for main roads works carried out.

21 **18C. Agreements for contributions towards**
22 **Commissioner’s expenditure**

23 (1) The Commissioner has, and is to be taken to have
24 always had, the power to enter into an agreement with
25 any person providing for that person to pay for, or
26 contribute towards, the expenditure to be incurred by
27 the Commissioner in relation to main roads works.

28 (2) Without limiting subsection (1), the agreement may
29 relate to any of the following —

30 (a) works comprising modifications of, or
31 placement of infrastructure on or under, roads

- 1 to accommodate mining operations or property
2 developments;
3 (b) road service centre works.

4 **18D. Agreements requiring Minister's approval**

5 The Commissioner cannot, without first obtaining the
6 written approval of the Minister, enter into —

- 7 (a) an agreement relating to road service centre
8 works entered into using the powers set out in
9 section 18E(2)(a); or
10 (b) an agreement involving an expenditure by the
11 Commissioner of an amount exceeding the
12 prescribed amount; or
13 (c) any other agreement of a kind specified in the
14 regulations.

15 **18E. Other powers**

16 (1) In this section —

17 *acquire* includes acquire —

- 18 (a) by way of a lease, licence, easement or
19 bailment; or
20 (b) in any other manner in which an interest in
21 property may be acquired;

22 *business arrangement* does not include a research
23 body;

24 *dispose of* includes dispose of —

- 25 (a) by way of a lease, licence, easement or
26 bailment; or
27 (b) in any other manner in which an interest in
28 property may be disposed of;

29 *participate in*, a business arrangement, includes form,
30 promote, establish, enter into, manage, dissolve,

s. 24

- 1 wind-up, and do things incidental to participating in,
2 the business arrangement;
- 3 **property** means property of every kind, whether real or
4 personal, tangible or intangible, corporeal or
5 incorporeal, and any interest in property;
- 6 **research body** means a body, whether incorporated or
7 not, which —
- 8 (a) has its principal office within the
9 Commonwealth; and
- 10 (b) has among its principal objects the carrying out
11 of research, investigation, inquiries or studies
12 into roads or their management or related
13 matters within the Commonwealth.
- 14 (2) The Commissioner may do all or any of the
15 following —
- 16 (a) acquire, develop, dispose of, and otherwise deal
17 with, property;
- 18 (b) subject to section 18, participate in any
19 business arrangement or research body and
20 acquire, hold and dispose of shares, units or
21 other interests in, or relating to, a business
22 arrangement or research body;
- 23 (c) develop and turn to account any technology,
24 software, resource or intellectual property and,
25 for that purpose, apply for, hold, receive,
26 exploit and dispose of any intellectual property;
- 27 (d) use the expertise and resources of the
28 department to provide consultancy, advisory or
29 other services for profit;
- 30 (e) enter into a contract or arrangement for the
31 purposes of anything referred to in
32 paragraphs (a) to (d).

- 1 (3) In exercising any power under this section the
2 Commissioner may act in conjunction with —
3 (a) any person or firm, or public authority; or
4 (b) any department of the Public Service, or any
5 agency, of the Commonwealth.

6 **18. Agreements requiring Minister’s and Treasurer’s**
7 **approval**

- 8 The Commissioner cannot, without first obtaining the
9 written approval of the Minister and the Treasurer,
10 enter into an agreement —
11 (a) that is a business arrangement; or
12 (b) by which the Commissioner acquires, holds or
13 disposes of shares, units or other interests in, or
14 relating to, a business arrangement; or
15 (c) that involves the exercise of the
16 Commissioner’s power under section 29(2) for
17 the purposes of section 22C.

18
19 **25. Section 19 amended**

- 20 In section 19:
21 (a) in paragraph (a) delete “construct or supervise roads
22 and” and insert:
23 carry out main roads
24 carry out main roads
25 carry out main roads
26 (b) delete paragraph (d).

27 **26. Section 21 amended**

- 28 In section 21 delete “work” and insert:
29 road works
30 road works
31

s. 27

1 **27. Section 22 replaced**

2 Delete section 22 and insert:

3

4 **22A. Intellectual property**

5 (1) In this section —

6 *intellectual property* means intellectual property —

7 (a) created or acquired in the course of the
8 performance of the Commissioner’s functions
9 under this Act; or

10 (b) otherwise created in the course of the
11 performance of functions by a person in that
12 person’s capacity as an officer or employee of
13 the Commissioner.

14 (2) Any intellectual property, or right to apply for, hold,
15 receive, exploit or dispose of intellectual property, that
16 the State acquires is, by operation of this section,
17 assigned to the Commissioner.

18 **22B. Adjoining works**

19 (1) The Commissioner may carry out adjoining works in
20 relation to highways and main roads.

21 (2) The Commissioner may, by negotiation or agreement,
22 enter upon the land adjoining the highway or main road
23 to perform the adjoining works.

24 (3) Nothing in this section affects any power of the
25 Commissioner to enter the land under another written
26 law.

27 (4) This section does not authorise the Commissioner to do
28 anything referred to in the *Rights in Water and*
29 *Irrigation Act 1914* section 17(1) unless the
30 Commissioner holds a permit granted by the Minister

1 under that Act authorising the Commissioner to do the
2 thing.

3 **22C. Road service centres on highways and main roads**

- 4 (1) The Commissioner may carry out road service centre
5 works in relation to a highway or main road.
- 6 (2) The Commissioner may facilitate the operation of road
7 service centres for the purposes of exercising the
8 Commissioner's functions under section 15B(2)(a).
- 9 (3) The Commissioner may do anything necessary in the
10 exercise of the power referred to in subsection (2),
11 including —
- 12 (a) enter into an agreement with any person under
13 which the person is to operate a road service
14 centre;
- 15 (b) for the purposes of paragraph (a), exercise the
16 Commissioner's power under section 29(2).

17 **22D. Environmental offsets**

18 Subject to the *Environmental Protection Act 1986*, the
19 Commissioner may carry out, or do anything necessary
20 for the purposes of carrying out, environmental offset
21 works in relation to a highway or main road.

22 **22E. Clearing works**

- 23 The Commissioner, in performing functions conferred
24 by this Act, may carry out any clearing or other
25 vegetation removal that is —
- 26 (a) necessary for facilitating the performance of
27 those functions; or
- 28 (b) necessary to protect the safety of people or to
29 protect the environment.

- 1 **22. Incidental works to roads**
- 2 (1) In addition to the functions referred to in sections 15B,
3 16, 22B, 22C, 22D and 22E, the Commissioner may,
4 with the approval of the Minister, carry out any works
5 necessary for facilitating the performance of the
6 functions conferred on the Commissioner by this Act,
7 including works on any land under the care, control
8 and management of the Commissioner.
- 9 (2) The Minister's approval is sufficient authority for the
10 carrying out of any works incidental to the
11 performance of the functions.
- 12 **23A. Directions by Minister to local government**
- 13 (1) The Minister, on the recommendation of the
14 Commissioner, may give written directions to a local
15 government with respect to the performance of any of
16 its functions that relate to, or might affect —
- 17 (a) a highway or main road; or
18 (b) the flow of traffic on a highway or main road.
- 19 (2) Before making a recommendation referred to in
20 subsection (1), the Commissioner must consult with the
21 local government.
- 22 (3) If a local government fails to comply with a direction
23 given under subsection (1), the Commissioner may
24 carry out any works required to effect the compliance.
- 25 (4) Any expenses incurred by the Commissioner in
26 exercising the power conferred by subsection (3) must
27 be repaid by the local government to the Commissioner
28 within 3 months after demand by the Commissioner.
- 29 (5) The amount of those expenses is recoverable by the
30 Commissioner in a court of competent jurisdiction as a
31 debt due to the State.

- 1 (6) All moneys repaid by, or recovered from, a local
2 government under this section must be credited to the
3 Main Roads Trust Account.
4

5 **28. Section 23 amended**

- 6 (1) In section 23 delete “shall be guilty of an offence and liable on
7 conviction to a penalty not exceeding \$40.” and insert:

8
9 commits an offence.
10

- 11 (2) At the end of section 23 insert:

12
13 Penalty: a fine of \$5 000.
14

15 **29. Section 24 amended**

- 16 (1) In section 24(1)(b) delete “provide and construct” and insert:

17
18 carry out works on
19

- 20 (2) In section 24(4) delete “the construction of” and insert:

21
22 works on
23

- 24 (3) In section 24(6) delete “construction”.

- 25 (4) Delete section 24(7) and insert:

26
27 (7) Where a local government fails to comply with a
28 direction given under subsection (6), the Commissioner

1 as far as practicable and with appropriate
2 modifications, to those roads and that land.
3

4 **31. Section 27A replaced**

5 Delete section 27A and insert:
6

7 **27A. Commissioner's powers as to roads that are not**
8 **highways, main roads or secondary roads**

- 9 (1) In this section —
10 *local government*, in relation to a road, means the local
11 government of the district in which the road is located;
12 *road* includes part of a road.
- 13 (2) The Commissioner may carry out works on a road for
14 the development of an area or for any other purpose,
15 and the road need not be declared to be a highway, a
16 main road or a secondary road.
- 17 (3) The Commissioner must consult with the local
18 government before commencing works on the road
19 under this section.
- 20 (4) When the works have been carried out, the road is the
21 responsibility of the local government and must be
22 maintained by the local government.
- 23 (5) The Commissioner and officers acting under this Act
24 have the same functions with regard to roads under this
25 section as are by this Act conferred on them regarding
26 highways and main roads.
- 27 (6) The provisions of this Act regarding highways and
28 main roads, adjoining land and land on which
29 environmental offset works are being carried out apply,
30 as far as practicable and with appropriate
31 modifications, to those roads and that land.
32

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1 **32. Section 28 amended**

2 Delete section 28(1) and insert:

3

4 (1) In this section —

5 *construction*, of something, includes any other works
6 in relation to the thing;

7 *relevant authority* means —

8 (a) in relation to a highway or main road, the
9 Commissioner; and

10 (b) in relation to a secondary road, the
11 Commissioner or the local government when
12 acting as agent of the Commissioner.
13

14 **33. Part 9 heading replaced**

15 Delete the heading to Part 9 and insert:

16

17 **Part 9 — Specific powers in relation to land**

18

19 **34. Part 9 Division 1 heading and section 28AA inserted**

20 At the beginning of Part 9 insert:

21

22 **Division 1 — Control of access**

23 **28AA. Terms used**

24 In this Division —

25 *COA road section* means a road section subject to
26 control of access;

27 *road section* means a section or part of a road.
28

- 1 **35. Section 28A amended**
- 2 (1) In section 28A(1A):
- 3 (a) in paragraph (a) delete “section or part of a road should
- 4 have control of access” and insert:
- 5
- 6 road section should be a COA road section
- 7
- 8 (b) in paragraph (b) delete “road section with control of
- 9 access,” and insert:
- 10
- 11 COA road section,
- 12
- 13 (2) In section 28A(1B):
- 14 (a) in paragraph (a) delete “such a section or part of a road
- 15 is subject to control of access,” and insert:
- 16
- 17 the road section is a COA road section,
- 18
- 19 (b) in paragraph (b) delete “road section subject to control
- 20 of access.” and insert:
- 21
- 22 COA road section.
- 23
- 24 (3) In section 28A(1F) delete “powers” and insert:
- 25
- 26 functions
- 27
- 28 (4) In section 28A(2A) delete “section or part of a road subject to
- 29 control of access” and insert:
- 30
- 31 COA road section
- 32

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- 1 (5) After section 28A(2A) insert:
2
- 3 (2BA) The Commissioner may grant a right of access in
4 respect of a COA road section to an owner or occupier
5 of land adjoining the road section.
- 6 (2BB) The right of access may be granted subject to such
7 conditions and undertakings as the Commissioner
8 thinks fit having regard to the purposes of the COA
9 road section.
10
- 11 (6) In section 28A(2B):
12 (a) delete “section or part of a road not subject to control of
13 access” and insert:
14
15 section that is not a COA road section
16
- 17 (b) delete “section or part is” and insert:
18
19 road section is
20
- 21 (c) delete “section or part being declared to be subject to
22 control of access,” and insert:
23
24 road section becoming a COA road section,
25
- 26 (7) In section 28A(2D) delete “section or part of the road to be
27 subject to control of access” and insert:
28
29 COA road section
30

- 1 (8) In section 28A(2E) delete “section or part of the road to be
2 subject to control of access” and insert:
3
4 COA road section
5
- 6 (9) In section 28A(2G)(c):
7 (a) delete “section or part of a road subject to control of
8 access” and insert:
9
10 COA road section
11
- 12 (b) delete “section or part of a road subject to control of
13 access he” and insert:
14
15 COA road section the Commissioner
16
- 17 (10) In section 28A(2H) delete “to (2K) applies *mutatis mutandis*”
18 and insert:
19
20 and (2B) to (2K) applies, with appropriate modifications,
21
- 22 (11) In section 28A(2I) delete “to (2K),” and insert:
23
24 and (2B) to (2K),
25
- 26 (12) In section 28A(2J)(b):
27 (a) delete “the construction or improvement,” and insert:
28
29 works
30

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- 1 (b) delete “section or part of the road to be subject to
2 control of access,” and insert:
3
4 COA road section,
5
6 (c) delete “section or part of the road to be subject to
7 control of access.” and insert:
8
9 COA road section.
10
- 11 (13) Delete section 28A(3) and (4) and insert:
12
- 13 (3) Sections 13(4), 15 to 19, 21 to 23 and 29 to 35 apply,
14 with appropriate modifications, in respect of COA road
15 sections.
- 16 (4) Despite the provisions of any Act a person must not
17 without the approval of the Commissioner use a COA
18 road section for movement of livestock, except by
19 transport in a vehicle in accordance with the provisions
20 of this Act and the regulations.
21
- 22 (14) Delete section 28A(5A) and insert:
23
- 24 (5A) The Commissioner may undertake works to provide
25 local access and may carry a road to provide local
26 access over or under any COA road section, or may
27 carry a COA road section over or under a road to
28 provide local access.
29

1 (15) Delete section 28A(5B) and insert:
2

3 (5B) The provisions of section 24(5) apply, with appropriate
4 modifications, to a road to provide local access.
5

6 (16) In section 28A(6) delete “section or part of a road subject to
7 control of access” and insert:
8

9 COA road section
10

11 (17) In section 28A(7):

12 (a) in paragraph (a) delete “section or part of a road subject
13 to control of access” and insert:
14

15 COA road section
16

17 (b) delete paragraph (b) and insert:
18

19 (b) without the approval of the Commissioner,
20 constructs, forms or lays out any means of
21 access to a COA road section or does not
22 comply with the conditions of the approval
23 where approval is given; or
24

25 (c) delete paragraphs (e) and (f) and insert:
26

27 (e) without the approval of the Commissioner uses
28 a COA road section for movement of livestock,
29 except by transport in a vehicle, in accordance
30 with the provisions of this Act and the
31 regulations; or

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- 1 (f) uses a zone of a COA road section for traffic
2 otherwise than in accordance with the
3 regulations,
4

5 (18) In section 28A(7) delete the Penalty and insert:
6

7 Penalty:

- 8 (a) for an offence under subsection (7)(a), (d),
9 (e) or (f), a fine of \$2 500;
10 (b) for an offence under subsection (7)(b) or (c),
11 a fine of \$5 000.
12

13 **36. Section 28B replaced**

14 Delete section 28B and insert:
15

16 **28B. Structures on roads subject to control of access**

- 17 (1) In this section —
18 **COA land section** includes any land acquired, set apart
19 or taken or resumed for a COA road section;
20 **on** includes over or under;
21 **person** includes —
22 (a) an agency or an organisation as those terms are
23 defined in the *Public Sector Management*
24 *Act 1994*; or
25 (b) a body, corporate or unincorporate, that is
26 established or continued for a public purpose
27 under a written law, other than the
28 Commissioner; or
29 (c) a local government or regional local
30 government;
31 **remove** includes pull down or take up;

- 1 **structure** includes a tower, pole, wire, pipe or
2 apparatus.
- 3 (2) Despite the provisions of any Act, a person must not,
4 without the prior approval in writing of the
5 Commissioner, place a structure on a COA land
6 section.
- 7 (3) The Commissioner may by notice in writing, direct a
8 person who has contravened subsection (2) to remove
9 the structure placed on the COA land section within a
10 time specified in the notice.
- 11 (4) Where the person fails to comply with the notice, the
12 Commissioner may remove the structure specified in
13 the notice.
- 14 (5) Any expenses incurred by the Commissioner in
15 exercising the power conferred by subsection (4) must
16 be repaid by the person to the Commissioner within
17 3 months after demand by the Commissioner.
- 18 (6) The amount of those expenses is recoverable by the
19 Commissioner in a court of competent jurisdiction as a
20 debt due to the State.
- 21 (7) All moneys repaid by, or recovered from, a person
22 under this section must be credited to the Main Roads
23 Trust Account.
- 24

25 **37. Part 9 Division 2 heading inserted**

26 After section 28B insert:

27

28 **Division 2 — Acquiring and leasing land for main roads**
29 **works and road service centres**

30

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1 **38. Section 29 amended**

2 (1) In section 29(1):

3 (a) delete “When and as often as land is required for the
4 purposes of this Act,” and insert:

5

6 Without limiting section 18E(2)(a), when land is
7 required for main roads works

8

9 (b) in paragraph (b) delete “Part 9 of the *Land*
10 *Administration Act 1997.*” and insert:

11

12 the *Land Administration Act 1997* Parts 9 and 10.

13

14 (2) Delete section 29(2) and insert:

15

16 (2) Without limiting section 18E(2)(a), the Commissioner
17 may grant to any person upon such terms and
18 conditions, approved by the Minister, as the
19 Commissioner thinks fit —

20 (a) a lease or licence to occupy —

21 (i) freehold land acquired by the
22 Commissioner under this section; or

23 (ii) any other land otherwise under the care,
24 control and management of the
25 Commissioner;

26 and

27 (b) any interest in land referred to in
28 paragraph (a)(i).

29

1 (3) In section 29(4) delete “and dealing with any land acquired” and
2 insert:

3

4 of, and dealing with, land

5

6 (4) In section 29(6) delete “proclaimed,”.

7 Note: The heading to amended section 29 is to read:

8 **Acquiring and leasing land**

9 **39. Section 31 amended**

10 In section 31(1):

11 (a) in paragraph (aa) delete “a contract, or”;

12 (b) in paragraph (c) delete “construction,” and insert:

13

14 works,

15

16 (c) in paragraph (e) delete “Commissioner.” and insert:

17

18 Commissioner except under section 15AA.

19

20 **40. Section 32 amended**

21 (1) In section 32(1)(b) delete “road construction; and” and insert:

22

23 main roads works; and

24

25 (2) In section 32(1)(e):

26 (a) delete “road construction and other works,” and insert:

27

28 main roads works,

29

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- 1 (b) delete “road construction,” and insert:
2
3 main roads works,
4
5 (c) delete “construction, erection and maintenance of” and
6 insert:
7
8 works on
9

10 **41. Section 33C amended**

11 In section 33C(1)(a) delete “powers and”.

12 Note: The heading to amended section 33C is to read:

13 **Commissioner may delegate functions under regulations to local**
14 **government**

15 **42. Part 12 replaced**

16 Delete Part 12 and insert:
17

18 **Part 12 — Miscellaneous**

19 **34. Orders costs or expenses for loss or damage**

20 If a court convicts a person of an offence against
21 section 15A, 16A(3) or (4), 23 or 28A(7), the court
22 may, in addition to any other penalty imposed, order
23 the convicted person to pay to the Commissioner costs
24 or expenses for any loss or damage incurred by the
25 Commissioner as a result of the commission of the
26 offence, or an amount for or towards the costs or
27 expenses.

1 **35A. Protection from liability for wrongdoing**

- 2 (1) An action in tort does not lie against a person other
3 than the Commissioner for anything that the person has
4 done, in good faith, in the performance or purported
5 performance of a function under this Act.
- 6 (2) The protection given by subsection (1) applies even
7 though the thing done as described in that subsection
8 may have been capable of being done whether or not
9 this Act had been enacted.
- 10 (3) Despite subsection (1), neither the Commissioner nor
11 the State is relieved of any liability that it might have
12 for another person having done anything as described
13 in that subsection.
- 14 (4) In this section, a reference to the doing of anything
15 includes a reference to the omission to do anything.

16 **35. Regulations**

- 17 (1) The Governor may make regulations prescribing all
18 matters that —
- 19 (a) are required or permitted by this Act to be
20 prescribed; or
- 21 (b) are necessary or convenient to be prescribed for
22 giving effect to the purposes of this Act.
- 23 (2) Without limiting subsection (1), regulations may be
24 made for any or all of the following purposes —
- 25 (a) prescribing matters for or in respect of which
26 fees may be charged under this Act and
27 prescribe the amounts of such fees;
- 28 (b) regulating the employment by the
29 Commissioner of persons as cadets;

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- 1 (c) regulating the access to, and movement of,
2 prescribed types of vehicles on highways and
3 main roads;
- 4 (d) regulating road train assembly and break down
5 areas on highways and main roads;
- 6 (e) regulating the parking or standing of vehicles
7 on highways and main roads;
- 8 (f) regulating the removal, storage, forfeiture and
9 sale or other disposal of vehicles, goods and
10 animals left on highways and main roads;
- 11 (g) empowering the Commissioner to —
- 12 (i) enter into an agreement with another
13 person relating to the removal, storage,
14 forfeiture and sale or other disposal of
15 vehicles, goods and animals left on any
16 road under the care, control and
17 management of that person; and
- 18 (ii) arrange for the removal, storage,
19 forfeiture and sale or other disposal of
20 vehicles, goods and animals in
21 accordance with the agreement;
- 22 (h) regulating activities, including works, by
23 persons other than the Commissioner in relation
24 to highways and main roads;
- 25 (i) providing for corrective works necessitated by
26 activities regulated under paragraphs (f), (g)
27 and (h);
- 28 (j) providing for the recovery of the
29 Commissioner's costs in relation to a matter
30 referred to in paragraph (e), (f), (g), (h) or (i).
- 31 (3) The regulations may provide that contravention of a
32 regulation is an offence, and provide, for an offence
33 against the regulations, a penalty not exceeding a fine
34 of \$2 000.

1 **Part 13 — Transitional provisions for the *Main***
2 ***Roads Amendment Act 2015***

3 **36. Main Roads Advisory Board abolished**

- 4 (1) In this section —
- 5 *commencement day* means the day on which the *Main*
6 *Roads Amendment Act 2015* section 11 comes into
7 operation;
- 8 *Main Roads Advisory Board* means the Board —
- 9 (a) established under section 12A as in force before
10 the commencement day; and
- 11 (b) in existence immediately before
12 commencement day.
- 13 (2) On commencement day, the Main Roads Advisory
14 Board is to be taken to be abolished and its members
15 go out of office.
- 16

17 **43. First Schedule deleted**

18 Delete the First Schedule.

1 **Part 3 — *Environmental Protection Act 1986* amended**

2 **44. Act amended**

3 This Part amends the *Environmental Protection Act 1986*.

4 **45. Schedule 6 amended**

5 After Schedule 6 item 9 insert:

6

7 10A. Clearing by the Commissioner of Main Roads under the
8 *Main Roads Act 1930* section 22E(b).

9

10
