



ANNO DUODECIMO

GEORGI V REGIS.

A.D. 1921.

No. 1475.

An Act to make further and better provision for the Construction, Maintenance, and Supervision of Roads and Works, and for other purposes.

[Assented to, December 1st, 1921.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as the " Roads Improvement Act, 1921." Short title.
2. This Act shall come into force on a date to be fixed by proclamation. Commencement of Act.
3. The Acts mentioned in the Schedule are repealed, to the extent therein mentioned. Repeal of Acts.
4. The provisions of this Act are arranged as follows :— Arrangement of Act.
 - PART I.—Preliminary.
 - PART II.—Administration, and Supervision of Roads.
 - PART III.—Financial Provisions relating to the Construction and Maintenance of Main Roads.

PART I.

Roads Improvement Act.—1921.

Interpretation of terms.

Cf. Act 1141, 1913, s 2.

5. In this Act, unless some other meaning is clearly intended—

“Board” means the Roads Advisory Board constituted by this Act :

“Council” means a Municipal or District Council :

“District” means a District Council District or a Municipality :

“Engineer” means the Engineer for Roads and Bridges, and includes any officer acting under the authority of the Engineer for Roads and Bridges :

“Financial year” means the period of twelve months ending on the thirtieth day of June in any year :

“Inspector” means Inspector of Roads and Bridges appointed under this Act :

“Main road” means any road which is declared under this Act to be a main road :

“Member” means member of the Board :

“Road” means any street, road, thoroughfare, terrace, court, lane, alley, cul-de-sac, or place commonly used by the public, or to which the public are permitted to have access, and includes main road :

“Work” includes any footpath, bridge, ford-crossing, causeway, road-ferry, culvert, drain, embankment, fence, and any work connected with any road.

PART II.

PART II.

ADMINISTRATION, AND SUPERVISION OF ROADS.

Constitution of Roads Board.

6. (1) A Board, to be called the “Roads Advisory Board,” is hereby constituted.

(2) The Board shall consist of three members, each of whom shall be a member of the Public Service of the State.

(3) The members shall be appointed by the Governor.

(4) When a vacancy occurs on the Board, whether by expiration of a member’s term of office or otherwise, the Governor shall appoint a member to fill the vacancy.

(5) Notice of every appointment or removal from office shall be published in the *Government Gazette*.

Term of office.

7. (1) Each member shall be appointed for a term, not exceeding in any case five years.

(2) Any person ceasing to be a member by reason of the expiration of his term of office shall be eligible for re-appointment.

8. (1) No

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8. (1) No act or proceeding of the Board shall be invalid or illegal in consequence only of the number of the members of the Board not being complete at the time of such act or proceeding.

Defects in appointment not to invalidate proceedings of Board.

(2) All acts and proceedings of the Board shall, notwithstanding the discovery of any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if such member had been duly appointed and was qualified and entitled to be and to act, and had acted, as a member of the Board, and as if the Board had been properly and fully constituted.

9. (1) The Governor shall appoint a member to be Chairman of the Board, and another member to be Deputy Chairman thereof.

Chairman of Board.

(2) The Chairman, when present, shall preside at any meeting of the Board. In the absence of the Chairman from any meeting, the Deputy Chairman shall preside.

(3) The person presiding for the time being shall have a casting as well as a deliberative vote.

10. (1) The Board shall meet at such times and places as the Board from time to time determines.

Meeting of Board.

(2) Any two members shall constitute a quorum at any meeting of the Board.

(3) The Board shall cause correct minutes of all its meetings to be kept, and shall submit to the Minister a copy of its decisions within fourteen days after each meeting.

11. (1) The Governor may, on the recommendation of the Board, by proclamation declare any road to be a main road, and may in like manner and on the like recommendation declare that any main road shall cease to be a main road: Provided that if it is intended to make any such proclamation with respect to any road situated within any District, the Council of such District shall be informed of such intention one month at least before the date on which it is intended to make such proclamation.

Main roads may be proclaimed.

Cf. Local Govt. (Main Roads) Bill, 1919 (N.S.W.), Part xxxii., s. 662

(2) In considering whether to make any such recommendation, the Board shall take into account—

- (a) the moneys voted, or likely to be voted, by Parliament for main roads;
- (b) whether the road is or will be the main trunk route connecting any large producing area, or any area capable of becoming in the near future a large producing area, with its market or nearest port or railway station;
- (c) whether or not the road is or will be the main trunk route of inter-communication between two or more large producing areas, or areas capable of becoming in the near future large producing areas, or between two or more large centres of population;
- (d) whether

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- (d) whether the road is or will be the main trunk route between the capital and any large producing area or any large centre of population ;
- (e) whether the road is or will be the main trunk route between the capitals of this State and any other State ; and
- (f) whether the area through which the road passes is, or in the near future will be, sufficiently served by a railway or railways.

No. 1224 of 1915.

(3) All lines of road, together with all public works connected therewith, declared by the Roads Amendment Act, 1915, to be main roads, shall be deemed to be roads declared under this Act to be main roads.

Appointment of Inspectors.

1141, 1913, s. 11.

12. (1) The Governor may appoint Inspectors of Roads and Bridges for the purposes of this Act.

(2) Any Inspector of Roads and Bridges appointed under any Act hereby repealed shall be deemed to be appointed under this Act.

Engineer and Inspectors to be subject to control of Minister.

13. The Engineer and every Inspector shall, in the exercise and discharge of their respective powers and duties under this Act, in all things be subject to the direction and control of the Minister.

The Minister to be a body corporate for the purposes of the Act.

14. (1) For the purposes of this Act, the Minister shall be a body corporate under the name of "Minister for Local Government," and shall have perpetual succession and a common seal.

Cf. *ibid.*, s. 3.

(2) All Courts, Judges, and persons acting judicially shall take judicial notice of such seal when affixed to any instrument, and shall, in the absence of proof to the contrary, presume that the same was properly affixed thereto.

General powers of the Minister.

Ibid., s. 4.

15. Subject to the provisions of this Act, the Minister in his corporate name may—

- (a) purchase, take, receive, accept, hold, acquire, and possess lands, tenements, and hereditaments in fee simple or for any less estate or interest, or for any term of years or otherwise, and may contract for the right to remove materials from any lands, tenements, and hereditaments for the purposes of this Act ; and, with the consent of the Governor, may sell, grant, convey, transfer, demise, assign, or otherwise dispose of and assure any lands, tenements, or hereditaments vested in him for any estate or interest therein ;
- (b) acquire, by purchase or hire or otherwise, goods and chattels, including stock, machinery, and road-making plant and materials of all kinds ;
- (c) sue and be sued, and submit to arbitration, in all Courts and before all Judges, Magistrates, Justices, and arbitrators whomsoever, in all actions, suits, causes, disputes, and matters whatsoever ; and
- (d) do

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- (d) do and exercise all such further acts and powers as he is by this Act authorised to do and exercise, or as may be necessary or convenient for carrying into effect any of the purposes or objects of this Act.

16. The Minister may—

- (a) sell or otherwise dispose of, on such terms as he thinks fit, to any Council any of the properties or things mentioned in section 15 which are not required for the purposes of this Act; and
- (b) let or hire out, on such terms as he thinks fit, to any Council any of the properties or things mentioned in section 15.

Minister may dispose of surplus plant.

Ibid., s. 5.

May hire out.

17. The Engineer shall conduct experiments with different materials to test their relative durability and suitability for the construction and maintenance of roads, and shall make investigations to ascertain—

Engineer to conduct experiments.

Cf. Country Roads Act, 1915 (Vic.), s. 15.

- (a) the nature and extent of the resources of the State in metals, minerals, and materials suitable for the purposes of road construction and maintenance, and the most effective and economical methods of dealing with the same and for supplying the same to, and utilising the same for the said purposes in, the whole or any part of the said State; and
- (b) the most effective methods of road construction and maintenance for the whole or any part of the State,

and shall record, publish, and make available for general information the results of such investigations in such manner as is directed by the Minister.

18. The Engineer shall also—

- (a) when directed by the Minister so to do, advise any Council, or any officer of a Council, on any question concerning the construction, reconstruction, maintenance, or repairing of roads or works, including the suitability for such purposes of the stone from any quarry or any other material proposed to be used;
- (b) inspect and report on roads and works as directed by the Minister;
- (c) report to the Minister at least once a year, and on such other occasions as the Minister directs, on his proceedings under this Act;
- (d) keep a full and complete record of all stock, machinery, plant, and materials the property of the Minister under this Act;

Other duties of the Engineer.

1141, 1913, s. 9.

(e) furnish

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- (e) furnish to the Board any information with respect to any main or other public road, or any work connected therewith (if such information is available to the Engineer), required by the Board for the purposes of this Act; and
- (f) carry out such other duties as the Minister directs.

Engineer may request Council to furnish information.
Ibid., s. 13.

19. The Engineer may request any Council, or any officer of a Council, to furnish him with information respecting any public road or work within the District of such Council, and such Council or officer shall, if the information requested is available to it or him, furnish the Engineer therewith.

Duties of Inspectors
Cf. *ibid.*, s. 12, as amended by 1164, 1914, s. 5

20. It shall be the duty of every Inspector, subject to the direction of the Engineer—

- (a) to inspect and report on public roads and works;
- (b) to supervise and inspect works being carried out by any Council on or in connection with roads and works, wholly or partly by means of moneys by this Act required to be expended by a Council on main roads;
- (c) to supervise and inspect works being carried out by any Council on or in connection with public roads and works, wholly or partly by means of money voted by Parliament for the purpose; and
- (d) to inspect the materials used in carrying out any of such works, and to advise such Councils as to the methods to be adopted, and the materials to be used, in carrying out any of such works.

Minister may authorise Engineer to inspect, repair, and reconstruct roads and works.

Cf. *ibid.*, s. 6.

21. (1) ~~The Minister~~ may authorise the Engineer to inspect or to construct or to reconstruct or to repair any public road or any work connected therewith.

(2) When so authorised, the Engineer shall have and may exercise, for such purpose, all or any of the powers for the inspection or the construction, reconstruction, or repair of such road or work which the Council within whose District such road or work is situated has or may exercise with respect to such road or work under any Act, and the exercise by the said Council of such powers shall thereupon be suspended, except so far (if at all) as directed by the Minister.

Engineer to certify completion of work

(3) On the completion by the Engineer of the work so authorised, the Engineer shall certify the completion thereof to the said Council by writing signed by him, addressed to the Clerk of such Council and posted at any post office in the State.

(4) Upon such posting as aforesaid the suspension of the powers of the said Council shall cease.

(5) The powers of the Engineer under this section are in addition to his general powers under this Act.

22. (1) All

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22. (1) All work to be carried out under this Act shall be carried out by the Engineer under the authority of the Minister.

Engineer to carry out work under this Act. Ibid., s. 7.

(2) All lands, tenements, and hereditaments, and all stock, machinery, plant, and materials, acquired under this Act shall be under the care, control, and management of the Engineer.

Property acquired to be under care of Engineer.

23. The Minister may authorise the Engineer to construct tramways, aerial tramways, steel tracks, and other works on any road for the purpose of transporting materials for facilitating the exercise of his powers under this Act; and the authority so given shall be sufficient authority for the Engineer to construct and maintain such tramways, aerial tramways, steel tracks, and other works, and to use the same for the purpose aforesaid, and for all purposes incidental thereto.

Tramways may be laid on roads for transporting materials. Cf. *ibid.*, s. 10.

24. (1) The Minister may grant to any person desirous of constructing and working tramways, aerial tramways, steel tracks, or any other work for the conveyance of agricultural products, minerals, timber, or other things, a permit to construct, manage, and work such tramway, aerial tramway, steel track, or work, or any part thereof, upon, across, under, or over any road which is not situated within any District.

Minister may authorise private persons to construct and work tramways, etc., on roads. Cf. D.C. Bill, 1921.

(2) Such consent of the Minister may be given upon and subject to such conditions, reservations, restrictions, and stipulations as the Minister thinks proper.

(3) Any permit granted under subsection (1) hereof shall be sufficient authority for the person to whom it is granted to construct, maintain, manage, and work the tramway, aerial tramway, steel track, or other work specified in the permit subject to the conditions, reservations, restrictions, and stipulations subject to which such permit is granted, and save insofar as such conditions, reservations, restrictions, and stipulations are not complied with and observed by the person to whom such permit is granted, such person shall not be liable in any action or proceeding, whether for nuisance or otherwise, by reason only of the existence, managing, or working of such tramway, aerial tramway, steel track, or other work.

Permit sufficient authority to construct and work tramway, steel track, or other work.

25. In such cases as the Minister directs, and in such other cases as the Engineer deems advisable, all moneys allocated to a Council under this Act for main roads, or provided out of moneys voted by Parliament for other public roads, shall be expended upon such roads and works and in such manner as the Engineer directs, and subject to his approval.

Expenditure by Councils from public moneys to be subject to direction of Engineer. Cf. 1164, 1914, s. 6.

26. (1) No matter or thing done by the Board or the Engineer or any Inspector or other officer in good faith for the purpose of executing this Act shall subject the Board, the Engineer, or such Inspector or officer, to any liability in respect thereof.

Protection to officers.

(2) No

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(2) No action shall be brought against the Board or the Engineer or any Inspector or other officer for or on account of any matter or thing done or committed by him in the execution or intended execution of his duty or office under this Act, unless such action is commenced within six months after the cause of action arises.

PART III.

PART III.

FINANCIAL PROVISIONS RELATING TO THE CONSTRUCTION AND MAINTENANCE OF MAIN ROADS.

Board to advise Minister as to moneys to be expended on main roads.

Cf. 1141, 1913, s. 8.

27. (1) The Board shall annually advise the Minister as to—

- (a) the moneys which, in its opinion, should during any financial year be expended by each Council on the construction, maintenance, and keeping in repair of the main roads within its District; and
- (b) the amount of the moneys which, in its opinion, should be allocated to each Council out of the annual subsidy to be granted by Parliament for distribution between the Councils towards the construction, maintenance, and keeping in repair of the main roads vested in them.

(2) In advising the Minister as aforesaid, the Board shall take into account—

- (a) the total amount of the moneys available or likely to be available for distribution between the Councils for main roads;
- (b) the amount of the revenue received by each Council during the preceding financial year, and the amount appropriated and carried to the account of the Main Roads Fund by each Council;
- (c) the balance standing to the credit of the Main Roads Fund of each Council;
- (d) the relative mileage of main roads within the Districts of the Councils, and the traffic thereon; and
- (e) the cost of constructing, reconstructing, or repairing any main or other public road within the District of any Council, or of carrying out any work connected therewith.

M.C. Act, 1890, s. 110 (part).

Minister to determine amount of each Council's contribution.

28. The Minister shall, having regard to the advice of the Board and the matters therein stated, determine—

- (a) the total amount of the moneys to be expended by each Council for the purpose of the construction, maintenance, and keeping in repair of the main roads within its District during any particular financial year;

(b) the

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- (b) the amount of the moneys (if any) to be allocated to each Council for the said purpose out of the moneys available for distribution between the Councils for the said purpose; and
- (c) the amount of the moneys (if any) to be expended by each Council out of its revenue for the said purpose during such financial year in addition to its proportion of the annual subsidy allocated to it pursuant to a determination under subdivision (b) hereof:

Provided that in no case shall the amount of the moneys determined under subdivision (c) hereof exceed one-half of the amount of the moneys determined under subdivision (b) hereof.

29. (1) The amount of the moneys mentioned in subdivision (c) of section 28 shall be appropriated by the Council out of its revenue.

Council's contribution may be paid out of revenue or raised by special rate.

(2) For the purpose of raising the money to pay such amount, or any part of such amount, the Council may, without the consent of the ratepayers, declare a special rate not exceeding Four Pence in the Pound on the ratable property within its District, or in the case of any District as regards which Part II. of the Land Values Assessment Act, 1893, is in operation not exceeding an amount in the Pound that would produce a sum equal to that which could, if the said Part were not in operation in the District, be raised by a rate of Four Pence in the Pound. Such special rate shall be in addition to any special rate authorised to be declared and levied by a Council under the Municipal Corporations Act, 1890, or the District Councils Act, 1914, as the case may be, and the amount of such special rate shall not be taken into consideration in determining whether the limit up to which a Council may rate has been reached.

No. 497 of 1890.
No. 1182 of 1914.

(3) Except in so far as inconsistent with this Act, all the provisions of the Municipal Corporations Act, 1890, or of the District Councils Act, 1914, as the case may be, shall apply to and in respect of the declaring, levying, and recovery of the said special rate.

No. 497 of 1890.
No. 1182 of 1914.

30. (1) It shall be the duty of each Council to construct and maintain all main roads within its District in good and trafficable condition.

How moneys to be dealt with by Council.

Cf. M.C. Act, 1890, s. 110.
Cf. D.C. Act, 1914, s. 273.

(2) There shall be carried by each Council to the account of a fund to be called "The Main Roads Fund"—

- (a) all moneys allocated to and received by such Council under this Act for the purpose of the construction, maintenance, and keeping in repair of the main roads within its District;
- (b) all moneys appropriated by the Council out of its revenue for the said purpose; and
- (c) all moneys, at the commencement of this Act, standing to the credit of the Main Roads Fund under any Act hereby repealed.
- (3) Such

(3) Such fund shall be expended by such Council in the construction, maintenance, and keeping in repair of the main roads and the works connected therewith within its District, and shall be applied to no other purpose.

(4) If the Minister is of opinion that any Council has not, during any financial year, expended on the construction, maintenance, and keeping in repair of the main roads within its District the amount determined by the Minister as the amount to be expended by such Council for that purpose, the Minister may—

(a) refrain from allocating to such Council any moneys under this Act ; and

(b) withhold any moneys allocated to such Council under this Act,

until such Council has expended the amount so determined, or has made provision for its expenditure, to the satisfaction in all things of the Minister.

(5) Nothing in this Act or any other Act shall preclude or exempt any Council from expending any of its moneys in addition to the moneys standing to the credit of the Main Roads Fund in performing any duty imposed upon it by this Act or any other Act.

Neglect or default
of Councils.

Cf. Local Govt.
(Main Roads) Bill,
1919 (N.S.W.),
Part xxxii., s. 668.

31. (1) Where the Minister considers that—

(a) any main road, or the maintenance of any works upon a main road, is being neglected by any Council ; or

(b) that any works upon which the Engineer has under this Act directed any sum to be expended are not being carried out,

he may cause notice to be served requiring the Council, within such reasonable time as is specified in the notice, to construct or reconstruct or to repair or maintain such road or works in such manner, and to such extent, as may be specified in the notice.

(2) Where the Minister considers that any work in progress upon a main or other public road for which any grant has been made is not being carried out in the manner directed by the Engineer, or where any such work does not meet with the approval of the Engineer, the Minister may cause notice to be served on the Council requiring it to comply within a reasonable time stated in the notice with the requirements and conditions specified in the notice.

(3) Where the Minister considers that it is necessary that certain work should be carried out upon a main road, he may cause notice to be served requiring the Council to carry out such work within a reasonable time stated in the notice.

(4) It shall be the duty of the Council to comply with any notice served under this section, and on default by the Council in compliance therewith the Minister may authorise the Engineer to carry out the work specified in the notice at the expense of such Council,

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Council. The Engineer may thereupon carry out such work, and half the cost of such work shall be a debt due to the Minister from such Council, and—

- (a) may be recovered by the Minister by action in his corporate name in any Court of competent jurisdiction as a debt due to him by such Council; or
- (b) may be withheld from any moneys voted by Parliament and allocated to such Council by the Minister under this Act.

(5) Section 21 shall apply to and in respect of any work carried out by the Engineer under this section.

32. (1) Where any main or other public road within the District of any Council is subject to more than ordinary traffic by reason of the construction or carrying out of any railway, tramway, drain, reservoir, or other public work, the Council may recover from the Department, company, body, or person constructing or carrying out such railway, tramway, reservoir, drain, or other public work such sum as will suffice to keep such road in reasonable repair during such traffic, and fully to reconstruct such road after the construction of such railway, tramway, reservoir, drain, or other public work is completed.

If construction of public work causes damage to road, expenses may be recovered by Council.

(2) Any dispute with respect to any matter arising under this section shall be settled by reference to the Minister, whose decision shall be final.

(3) Any sum so paid may be added to the cost of the railway, tramway, reservoir, drain, or other public work.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. E. G. A. WEIGALL, Governor.

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THE SCHEDULE.

Short Title and Number of Act.	Extent of Repeal.
The Municipal Corporations Act, 1890 (No. 497 of 1890)	The last sentence contained in section 109, and section 110.
The District Councils Act, 1914 (No. 1182 of 1914)	Subdivision (2) of section 272, and section 273.
The Roads Supervision and Works Act, 1913 (No. 1141 of 1913)	The whole.
The Roads Supervision and Works Act Amendment Act, 1914 (No. 1164 of 1914)	The whole.