

National Roads Act 1953

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An Act to consolidate and amend the law relating to the construction, maintenance, and control of main highways, roads, and streets.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and commencement.

- (1) This Act may be cited as the National Roads Act 1953.
- (2) This Act shall come into force on the first day of April, nineteen hundred and fifty-four.

2 Interpretation.

1922, No. 47, ss. 2, 4; 1936, No. 39, s. 2

- (1) In this Act, unless the context otherwise requires,—

“Board” means the National Roads Board established under this Act:

“Construction” includes reconstruction, and also includes such improvement as, in the opinion of the Board, is not merely maintenance; and “to construct” has a corresponding meaning:

“Local authority” means a County Council, Borough Council, Town Board, or Road Board that is authorized by any Act to construct roads within its district; and in respect of any county where the whole of the Counties Act 1920 is not in force includes the Minister:

“Main highway” includes a State highway, a main highway, and, subject to the provisions of section thirty-nine of this Act, a motorway; and for the purposes of the expenditure of public moneys also includes any proposed main highway to be provided by or with the approval of the Board:

“Maintenance” includes repair:

“Minister” means the Minister of Works:

“National Roads Fund” or “Fund” means the National Roads Fund constituted under this Act:

“Road” includes street.

- (2) If any question arises as to whether any work in relation to a main highway is a work of construction or a work of maintenance it shall be decided by the Board, and the decision of the Board shall be final.
- (3) Every reference herein to a main highway shall, unless the context otherwise requires, include the land on which the highway exists, and shall also include all bridges, culverts, ferries, fords, or other structures forming or intended by the authority controlling the highway to form part of the highway or land.

*The National Roads Board***3 National Roads Board.**

1922, No. 47, s. 5; 1936, No. 39, s. 7

- (1) There is hereby established for the purposes of this Act a Board, to be known as the National Roads Board.
- (2) The Board shall consist of—
 - (a) An officer of the Ministry of Works, who shall be appointed as the Chairman of the Board:
 - (b) An engineer of the Ministry of Works, who shall be appointed as the Deputy Chairman of the Board:
 - (c) An officer of the Ministry of Works who is competent to advise the Board on administration:
 - (d) An officer of the Transport Department, to be nominated by the Minister of Transport:
 - (e) Two members, to be nominated by the New Zealand Counties Association Incorporated:
 - (f) One member, to be nominated by the Municipal Association of New Zealand Incorporated:
 - (g) One member, to represent the interests of persons being owners of commercial motor vehicles:
 - (h) One member, to represent the interests of persons being owners of private motor vehicles.
- (3) The members of the Board shall be appointed by the Governor-General in Council on the recommendation of the Minister.
- (4) No person shall be incapable of being appointed to be or of being a member of the Board under paragraph (g) of subsection one of this section by reason of the fact that he is a contractor with the Crown or the Board or any local authority in respect of any main highway or road.
- (5) The Governor-General may, on the recommendation of the Minister, appoint any person to be the deputy of any member of the Board, to act, pursuant to the terms of his appointment, in the event of the absence from any meeting of the Board of the member whose deputy he is.
- (6) The fact that any person appointed as the deputy of any member of the Board attends and acts at any meeting thereof shall be conclusive evidence of his authority so to do.
- (7) In the absence of the Chairman from any meeting of the Board the Deputy Chairman (if present) shall preside and in the absence of both the Chairman and the Deputy Chairman the members present shall appoint one of their number to be the Chairman of that meeting.

- (8) Five members shall form a quorum at any meeting of the Board.
- (9) The Chairman of any meeting shall have a deliberative vote, and, in case of an equality of votes, shall also have a casting vote.
- (10) The Board shall be deemed to be constituted as soon as any five members have been appointed.
- (11) The powers of the Board shall not be affected by any vacancy in the membership thereof.

4 Term of office of members of Board, and casual vacancies.

- (1) Every member of the Board, not being an officer of a Department of State, shall hold office for a term of three years but may from time to time be reappointed, and may at any time be removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, and may at any time resign his office by writing addressed to the Minister.
- (2) If any member of the Board dies, is removed from office, or resigns, the vacancy so created may be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.
- (3) Unless he sooner vacates his office as provided in subsection two of this section, every appointed member of the Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

5 Functions of Board.

The Board shall have the following functions—

- (a) To administer the National Roads Fund in accordance with the provisions of this Act and of any other Act relating to the receipt and-expenditure of public moneys:
- (b) To provide an advisory service in respect of the whole roading system of counties, boroughs, and town districts throughout New Zealand, and to report to the Government from time to time on the progress being made in providing a roading system adequate for the needs arising from current developments in motor traffic:
- (c) To advise the Government of any changes deemed necessary in the legislation and regulations relating to the usage of roads:
- (d) To act as the final authority in dealing with disputes relating to the class or classes of traffic that may use any road:
- (e) To advise the Government of any changes deemed advisable in the provision of finance necessary for road construction and maintenance, and particularly of any changes considered advisable in the levying and collection of motor taxation, including the granting or withdrawing of exemption or partial exemption from any form of motor taxation:

- (f) To assist and advise local authorities generally on roading matters, and in particular on any special roading problems that may arise from the development of industries or from any other circumstance creating special roading problems in any area:
- (g) To undertake, at intervals of not more than five years nor less than three years, a comprehensive survey of the roading position in New Zealand, including standards of construction and maintenance and the progress achieved in improving those standards, the growth of traffic and developments relating thereto, the adequacy or otherwise of financial provision for roading requirements of New Zealand, and to publish a report of that survey for the information of roading authorities and of the general public:
- (h) To give effect to any special matter of roading policy communicated to it by the Government:
- (i) To initiate and conduct research into roading problems in New Zealand:
- (j) To collect information relative to roading developments in other countries and to make that information available to roading authorities in New Zealand:
- (k) To undertake any other activity deemed necessary for the provision of a roading system adequate both for the needs of an efficient road transport system and for the benefit generally of motor vehicle operators and the safety of the public in relation to motor traffic.

6 Allowances and travelling expenses of members of Board.

1951, No. 79

There shall be paid out of the Fund to the members of the Board remuneration by way of fees, salary, or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly, and the Board shall be a statutory Board for the purposes of that Act.

District Roads Councils

7 District Roads Councils.

1922, No. 47, s. 8; 1925, No. 27, s. 8(2); 1926, No. 43, s. 3

- (1) For the purposes of this Act the Board shall by resolution published in the *Gazette*, constitute such number of Roads Council districts as it thinks fit, and define the boundaries thereof, and the boundaries of any such district may from time to time be in like manner altered.
- (2) In defining the boundaries of any district regard shall be had by the Board to geographical situation and to community of interest, and to such other considerations as the Board deems to be relevant.

- (3) For each district the Board shall appoint a District Roads Council (hereinafter referred to as a District Council) constituted as follows:
- (a) The District Commissioner of Works, who shall be the Chairman of the District Council:
 - (b) One person, to be appointed on the recommendation of each County Council and Road Board whose district is wholly or partly within the Roads Council district:
 - (c) For each two or part of two members under paragraph (b) of this subsection, one person to be appointed on the joint recommendation of all the Borough Councils and Town Boards (not forming part of a county) whose districts are wholly or partly within the Roads Council district:
Provided that, if those Borough Councils and Town Boards are unable to agree upon a recommendation within two months after the Board has invited them to make a recommendation, the Board may appoint some suitable person or persons to represent those Borough Councils and Town Boards on the District Council:
 - (d) One person, to be appointed to represent the interests of persons being owners of commercial motor vehicles operating within the district:
 - (e) One person, to be appointed to represent the interests of persons being owners of private motor vehicles resident within the district:
 - (f) One person, to be appointed on the recommendation of the Commissioner of Transport.
- (4) No person shall be incapable of being appointed to be or of being a member of the Council under paragraph (d) of subsection three of this section by reason that he is a contractor with the Crown or the Board or any local authority in respect of any main highway or road.
- (5) Any person may be so appointed to be a member of more than one District Council.
- (6) The District Council may from time to time appoint not more than three of its members as an executive body, with power to act in all things for the Council.
- (7) The proceedings of a District Council or of its executive shall be in accordance with such rules (if any) as the Board determines from time to time, and in the absence of any such rules or so far as the rules do not extend the Council or executive may determine its own procedure.
- (8) The validity of the constitution of any district shall not be questioned on the ground that the area of all the districts taken together do not represent the whole area of New Zealand.
- (9) The Board may appoint any person to be the deputy of the District Commissioner of Works to act, pursuant to the terms of his appointment, in the absence from any meeting of the Council of the District Commissioner or during any

vacancy in the office of District Commissioner. The deputy of the District Commissioner shall, when so acting, be the Chairman of the Council.

8 Term of office of members of Council, and casual vacancies.

- (1) Every member of a District Council, not being an officer of a Department of State, shall hold office for a term of three years but may from time to time be reappointed, and may at any time be removed from office by the Board for disability, insolvency, neglect of duty, or misconduct, and may at any time resign his office by writing addressed to the Board.
- (2) The provisions of subsections two and three of section four of this Act shall apply with respect to members of the Council as if references in those subsections to the Board were references to the Council.

9 Allowances to members of District Councils.

1922, No. 47, s. 8(6); 1925, No. 27, s. 8(2)

- (1) Members of any District Council, not being officers employed in any Department of State, shall be entitled to receive out of the Fund allowances as follows:
 - (a) In the case of a member of the executive body of any District Council, an allowance at such rate as may be prescribed, and also an allowance equal to the expenses reasonably incurred and actually paid by him in going to or returning from any meeting of the executive body, if that expenditure was incurred solely for the purpose of attending that meeting:
 - (b) In the case of any other member of a District Council (including a member of the executive body who is not entitled under paragraph (a) of this subsection to an allowance in respect of travelling expenses), an allowance equal to half of the expenses reasonably incurred and actually paid by him in going to or returning from any meeting of the District Council or any tour of its district by the District Council that is authorized by the Board.
- (2) A local authority may from time to time out of its general fund pay half of the actual reasonable travelling expenses of its representative incurred in attending meetings of the District Council or any tour of its district by the District Council that is authorized by the Board, not being a representative who is entitled to payment of expenses under paragraph (a) of subsection one of this section.

10 District Councils to submit recommendations and estimates.

1922, No. 47, s. 11; 1925, No. 27, s. 9(3); 1936, No. 39, s. 2(3)

- (1) Every District Council shall from time to time submit to the Board, with respect to its district, recommendations as to—

- (a) The public highways (if any) within the district, not being main highways under this Act, that should be declared to be main highways:
 - (b) The works of construction or maintenance of main highways that should be undertaken.
- (2) With its recommendations as aforesaid the District Council shall submit to the Board—
 - (a) An estimate of the amount required to be expended in respect of the works referred to in the recommendations:
 - (b) The Council's opinion as to the roading needs of the district as a whole, and whether carriageways are being adequately maintained, and, if not, what action by the Board is recommended:
 - (c) Its recommendation as to any other matter of interest or benefit to owners of motor vehicles or the safety of the public in relation to road traffic.

Main Highways

11 Board may declare main highways.

1922, No. 47, s. 3; 1925, No. 27, s. 2(1)

- (1) Subject to the approval in writing of the Minister, the Board may from time to time, by notice published in the *Gazette*, declare any public highway, whether then actually constructed or not and whether vested in the Crown or not, to be a main highway within the meaning and for the purposes of this Act, and shall by the same or a subsequent notice define the lines of that main highway.
- (2) Any declaration of a main highway made under this section may include therein lands that had not theretofore been constituted part of a public highway.
- (3) In so defining the lines of any main highway the Board shall not be constrained to accept the lines of any existing public highway, and may if it thinks fit declare either permanently or temporarily more than one main highway between any two places.
- (4) Every notice under this section may in like manner from time to time be varied or altered, or may be at any time in like manner revoked.
- (5) Every notice under this section declaring any public highway to be a main highway shall come into force on a date to be fixed in that behalf by the Board either in that notice or in a subsequent notice.

12 Designation of State highways, and standards of construction and maintenance of main highways.

1936, No. 39, s. 4

- (1) The Board may from time to time, with the approval of the Minister, by notice in the *Gazette* designate any main highway or portion of a main highway as a State highway.
- (2) The Board may from time to time determine a standard with respect to the construction or maintenance of any main highway or portion of a main highway.
- (3) Any designation or determination made under the foregoing provisions of this section may in like manner from time to time be varied, or may be at any time in like manner revoked.

13 Powers and duties of Board in relation to main highways.

1922, No. 47, s. 9; 1936, No. 39, s. 2

- (1) Subject to the provisions of subsection two of this section, the Board shall have the sole powers of construction, maintenance, and control of all main highways under this Act, and for that purpose the powers, rights, duties, and liabilities vested in or imposed on the Governor-General or the Minister of Works (in the case of Government roads), or vested in or imposed on any local authority (in the case of highways other than Government roads), are hereby, in the case of main highways, transferred to and vested in or imposed on the Board:

Provided that the powers hereby conferred on the Board, or any of those powers, may, with respect to any main highway or portion of a main highway, be delegated by the Board to the local authority in whose district the main highway or portion aforesaid is situated; and on any such delegation the local authority shall in respect of that main highway or portion thereof have the same powers, rights, duties, and liabilities as the Board would have if the delegation had not been made:

Provided also that nothing in this subsection shall be deemed to divest the corporation of any borough of the property in any street that may form part of a main highway.

- (2) Any construction or maintenance work required by the Board that is not delegated by the Board to a local authority shall be carried out by or through the agency of the Commissioner of Works and the cost thereof shall be paid out of the Fund.
- (3) The Board or any local authority may, in the construction and maintenance of any road, include works for the separation, control, and safety of traffic, and the planting of trees.

14 Board may revoke or vary delegation of powers.*1925, No. 27, s. 6*

- (1) Any delegation by the Board of its powers under section thirteen of the Act shall be affected by a resolution of the Board, and may be either absolute or subject to such conditions as the Board may by that resolution determine.
- (2) Any such delegation, and any such delegation made by the Main Highways Board before the commencement of this Act, may be at any time in like manner revoked or varied.
- (3) Where any local authority, has, whether before or after the commencement of this Act, purported to exercise any powers by virtue of a delegation from the Board or from the Main Highways Board, the National Roads Board shall, unless and until the contrary is proved by that Board, be deemed to have effectively delegated those powers to the local authority pursuant to the provisions in that behalf of section thirteen of this Act.
- (4) While the powers of the Board are delegated to a local authority under this Act the local authority shall exercise the delegated powers in its own name and shall be liable accordingly, and neither the Board nor the Crown shall be answerable for any act or default of the local authority.

15 Local authority failing to exercise delegated powers.*1927, No. 51, s. 4*

Where the Board has delegated to a local authority pursuant to section thirteen of this Act any of the powers of the Board in relation to a main highway, or before the commencement of this Act the Main Highways Board has delegated any such powers to a local authority, and the local authority has failed to exercise those powers to the satisfaction of the National Roads Board, that Board may withhold from the local authority payment in whole or in part of any moneys required by this Act to be provided by the Board out of the Fund for the construction or maintenance of that or any other main highway in respect of which the local authority has powers by delegation from the Board or from the Main Highways Board; and may continue to withhold payment of any such moneys until any works in question have been performed to its satisfaction, or if the delegation of authority in respect of the main highway in question has been revoked, the Board may apply those moneys or so much of them as may be necessary to rectify the matters in respect of which the local authority is in default.

16 Delegation to Commissioner of Works and District Commissioner of Works.

The Board may from time to time without written contract delegate to the Commissioner of Works or the District Commissioner of Works for the district in which the work is situated, all or any part or parts of the Board's duties in respect of the design, supervision, construction, or maintenance or the adminis-

tration of any specified main highway or main highways generally or of any contract within the district under his jurisdiction.

17 Works of construction of main highways not to be commenced without precedent consent of Minister.

1936, No. 39, s. 3

- (1) Notwithstanding anything to the contrary in this Act, no work of construction in relation to a main highway shall be commenced, whether by or on behalf of the Board or by or on behalf of any local authority acting pursuant to a delegation from the Board or an agreement with the Board, except with the precedent consent of the Minister.
- (2) The Minister, in his discretion, may refuse his consent under this section to the commencement of any work or works, or may grant his consent either unconditionally or upon or subject to such conditions as he thinks fit to impose. Any consent under this section may relate to any specified work or works or to a general programme of works.

18 Contracts for implementation of Act.

1922, No. 47, s. 6

- (1) The Board on behalf of the Crown may make in its own name such contracts as it thinks fit for the purpose of giving effect to the provisions of this Act.
- (2) Any contract which, if made between private persons must be by deed or be in writing signed by the parties to be charged therewith shall, if made by the Board, be signed by two members of the Board on behalf of and by direction of the Board.
- (3) Any contract which, if made between private persons, may be made orally without writing may be similarly made by or on behalf of the Board by any two members acting by direction of the Board, but no oral contract shall be made for any sum exceeding twenty pounds.

19 Board the agent of the Crown.

1950, No. 54

All claims arising out of matters not delegated by the Board to a local authority, whether arising under any contract or otherwise, shall be made against the Crown under the Crown Proceedings Act 1950, and no member of the Board shall be personally liable in respect of any decision or act or omission of the Board.

20 Board may purchase, sell, or hire road making machinery, etc.

1925, No. 27, s. 10

In the exercise of its functions under this Act the Board may purchase from, sell to, or hire to or from any local authority or person any road making

machinery, plant, equipment, and appliances on such terms as it thinks proper, including terms for payment of the purchase money by instalments extending over not more than four years, with interest at such rates as the Minister of Finance fixes from time to time on the balance of purchase money for the time being unpaid.

21 By-laws.

1924, No. 64, s. 33(5)

Every by-law in force in respect of any public highway, either at the commencement of this Act if it is then a main highway, or immediately prior to its constitution as a main highway under this Act if it is not a main highway at the commencement of this Act, shall continue in force as if made by the Board in respect of that main highway unless and until it is revoked or superseded pursuant to powers conferred by this Act.

Financial Provisions

22 National Roads Fund.

- (1) There shall be an account within the Public Account to be called the National Roads Fund. All moneys in the Fund shall be kept available at all times for immediate expenditure by the Board.
- (2) For the purposes of this Act there shall be credited to the National Roads Fund without further authority than this section all moneys received in respect of every financial year commencing after the thirty-first day of March, nineteen hundred and fifty-four, from the following sources:

1949, No. 7

- (a) All moneys payable into the Fund under subsection one of section thirty-four of the Transport Act 1949 (being fees and charges received on behalf of the Crown in respect of the registration and licensing of motor vehicles):
- (b) All licence fees paid in respect of heavy traffic licences under regulations made pursuant to section fifty-nine of the Transport Act 1949:
- (c) All moneys payable into the Fund under Part IV of the Transport Act 1949 (being moneys received in respect of motor spirits tax and mileage tax):

1934, No. 14

- (d) All moneys received under Tariff item numbered 205(6) appearing in the First Schedule to the Customs Acts Amendment Act 1934 (being Customs duties in respect of pneumatic rubber tires, solid rubber tires, inner tubes, and tiring material):
- (e) All moneys paid to the Board from any source in respect of the construction, maintenance, or control of any main highway:

- (f) All moneys received from transfers, sales, or hire of materials or plant or property of any kind or from the execution of works for other organizations:
- (g) All other moneys lawfully credited to the Fund.
- (3) There shall in each financial year be paid into the Fund out of the Consolidated Fund, without further appropriation than this section, a sum of one million pounds.
- (4) Notwithstanding anything in subsection two of this section, there shall be paid to the credit of the appropriate fund or account out of the revenues received from the sources referred to in that subsection such amount as the Minister of Finance from time to time approves as being the expenses incidental to the collection thereof, and the residue only shall be paid into the Fund.
- (5) Notwithstanding anything in subsection two of this section, the local authority that collects any heavy traffic fees required to be paid into the Fund shall be entitled to deduct such sum as may be fixed by the Minister of Finance, but not exceeding five per cent of the moneys so collected by it, to meet the expenses incidental to the collection thereof (including the cost of all necessary forms and licences), and the residue only shall be payable into the Fund.

23 Subsidies to local authorities.

1916, No. 18, s. 9 1933, No. 30, s. 71

- (1) The Board shall pay out of the Fund in respect of each financial year to each local authority, by instalments as the money is in the opinion of the Board available in the Fund, or in accordance with the relative urgency in each case, a subsidy in accordance with the following provisions of this section, namely:
 - (a) In the case of any borough which on the first day of the financial year in respect of which the subsidy is due had a population estimated by the Government Statistician to be six thousand or more, the subsidy shall be at the rate of twenty-two shillings for each person of the population:
 - (b) In the case of any borough or town district that is not part of a county which on the first day of the financial year in respect of which the subsidy is due had a population estimated by the Government Statistician to be less than six thousand, the subsidy shall be at the rate of fifteen shillings for each person of the population:
 - (c) In the case of any county (including any town district that is part of a county) or any road district, the subsidy shall be at the rate of eight shillings for each pound of general rates and of separate and special rates for roading purposes that was levied by the local authority for the preceding financial year and has been actually collected on or before the thirtieth day of June of the financial year in respect of which the subsidy is due, provided that for the purposes of this section the words “general

rates” shall be deemed not to include any moneys levied for hospital purposes.

- (2) Any portion of a subsidy may in the discretion of the Board be paid to any local authority at any time during the financial year in advance of any return required under this section but subject to adjustment under subsection eight of this section.
- (3) If the total of all sums payable in any financial year under paragraph (a) or paragraph (b) of subsection one of this section would exceed the sum equal to ten per cent of all moneys received in the same financial year by the Fund from the sources described in paragraphs (a) to (d) of subsection two of section twenty-two of this Act, every such subsidy shall be reduced proportionately so that that percentage is not exceeded.
- (4) If the total of all sums payable in any financial year under paragraph (c) of subsection one of this section would exceed the sum equal to twelve per cent of all moneys received in the same financial year by the Fund from the sources described in paragraphs (a) to (d) of subsection two of section twenty-two of this Act, every such subsidy shall be reduced proportionately so that that percentage is not exceeded.

1933, No. 30

- (5) If the sum payable by way of subsidy calculated in accordance with the foregoing provisions of this section would produce for a local authority a subsidy less than the sum which that local authority received in respect of the financial year ending on the thirty-first day of March, nineteen hundred and fifty-four, by way of heavy traffic fees and subsidy under section seventy-one of the Municipal Corporations Act 1933 or section nine of the Appropriation Act 1916, according to which provision applied to the local authority on that date, the Board shall pay the difference to the local authority out of the Fund:

Provided that where the district of the local authority has been reduced by alteration of boundaries the Board shall estimate the extent to which any payment that would otherwise be due to the local authority under this subsection should be varied on that account and shall make or withhold payment accordingly.

- (6) As soon as practicable after the commencement of each financial year the Government Statistician shall supply to the Board a schedule of all local authorities entitled to subsidies under paragraph (a) or paragraph (b) of subsection one of this section, showing opposite the name of each his estimate of the total population of the district of that local authority on the first day of the financial year, and the Board shall calculate the subsidy payable to each local authority in accordance with that schedule.
- (7) As soon as practicable after the thirtieth day of June in each financial year each local authority that is entitled to a subsidy under paragraph (c) of subsection one of this section shall supply to the Board a certificate by the Chairman or

the Treasurer of the local authority showing the general rates and the separate and special rates for roading purposes that have been levied for the preceding financial year and the amount of such rates actually collected by the said thirtieth day of June, and the Board shall calculate the subsidy payable to that local authority on the basis of that certificate.

- (8) Notwithstanding anything to the contrary in this section, whenever any factor upon which any subsidy has been calculated is proved to the satisfaction of the Board to have been incorrect, the Board may if it thinks fit correct the amount of the subsidy and may make such adjustments as it thinks reasonable in that or in any subsequent financial year.
- (9) In addition to the subsidy payable under subsection one of this section, the Board may, so far as the moneys available in the Fund permit, grant and pay to any local authority out of the Fund such additional financial assistance in respect of the roads under the control of the local authority as the Board thinks justified, having regard to—
 - (a) Other commitments of the Fund and of the local authority;
 - (b) The financial position of the local authority;
 - (c) The nature and urgency of the work and of other roading works requiring expenditure by the local authority in that financial year;
 - (d) Any additional cost of construction or maintenance that is caused wholly or in part by traffic related to a particular industry;
 - (e) The length or special costs of any bridge; and
 - (f) Such other considerations as the Board regards as relevant.
- (10) The subsidies granted to local authorities under this section shall be in addition to any sum specifically appropriated by Parliament for any particular work or purpose.

1949, No. 19

- (11) Where in respect of any land of the Crown the local authority receives from the Crown a grant of money in lieu of general rates or of separate or special rates for roading purposes, other than “fifths” and “tenths” paid under section seventeen of the Forests Act 1949, the amount of that grant shall be deemed to be general rates for the purposes of paragraph (c) of subsection one of this section.

24 Special provisions relating to Taranaki, Hawera, and Eltham County Councils and Wellington City Council.

1925, No. 51 1939, No. 18

All sums payable to the Taranaki, Hawera, and Eltham County Councils under paragraph (a) of subsection two of section twenty of the Finance Act 1925 in respect of the abolition of toll gates, and all sums payable to the Wellington City Council under section six of the Hutt Road Act 1939 in respect of the Hutt

Road, shall after the commencement of this Act be paid by the Board from the Fund.

25 Application of subsidies.

- (1) All moneys received by any local authority by way of subsidy under this Act shall be kept in a separate account by the local authority, and shall be expended on the construction and maintenance of roads, and the moneys to become available to any local authority under this Act in any subsequent financial year shall not be available as security for any loan:

Provided that, if the roads in the district of the local authority have in the opinion of the Board been constructed to a satisfactory standard and are in that opinion adequately maintained, the local authority may, with the prior approval of the Board, apply surplus moneys from its subsidy from the Fund for that financial year to any works of benefit or advantage to users of motor vehicles or public safety in relation to motor vehicles.

- (2) If at any time the Board has cause to believe that any road is not in reasonable or satisfactory condition it may inquire into the circumstances, and if, in the opinion of the Board, the local authority in control of the road has not carried out work which the Board considers necessary and justified in the interests of road users having regard to the moneys available to the local authority, the Board may by notice require the local authority to undertake such work as it may specify and within such period as may be stated in the notice.
- (3) In the event of the local authority not undertaking the work as required and within the period specified in the notice, the Board itself may arrange for the work to be carried out and may recover the cost thereof from the local authority, either as a debt due to the Crown or by deducting the amount from payments then due or becoming due to the local authority from the Fund.

26 Payments to local authorities to be conditional on work being done to required standard.

1922, No. 47, s. 20

Notwithstanding anything to the contrary in this Act, no moneys shall be payable to any local authority by the Board or by any other local authority in respect of the construction of any main highway unless the work done or proposed to be done in respect of which the payment is claimed is in conformity with the standard fixed by the Board in respect of that highway, and no moneys shall be payable as aforesaid in respect of the maintenance of any main highway unless the construction of that highway, as well as the work of maintenance, is in conformity with the aforesaid standard.

27 Cost of construction, maintenance, etc., of main highways.*1925, No. 27, s. 2*

- (1) In addition to the moneys payable out of the Fund under section twenty-three of this Act, there shall be payable out of the Fund—
 - (a) All moneys payable by the Crown in respect of the construction, maintenance, and control of any main highway, whether those moneys are payable directly by the Board or by the Minister of Works or as contributions to the cost of construction and maintenance by local authorities pursuant to the provisions of section thirty of this Act or otherwise for the purposes of this Act:
 - (b) All compensation payable by the Crown under the Public Works Act 1928 in respect of the acquisition of land for or in connection with any main highway:
 - (c) All compensation or damages payable by the Crown in respect of accidents or injuries in relation to any work the cost of which is chargeable to the Fund:
 - (d) The cost of the purchase or hire of machinery, plant, equipment, and appliances required for the purposes of main highways:
 - (e) The costs relating to land referred to in subsection two of this section:
 - (f) The costs relating to experimental work specified in section twenty-eight of this Act:
 - (g) Such amounts as the Minister determines from time to time in respect of the administration of this Act by the Ministry of Works:
 - (h) Any costs and expenses arising out of the performance of its functions by the Board.
- (2) All costs and expenses incurred by the Board, or before the commencement of this Act by the Main Highways Board, in respect of the survey of lands with a view to the declaration of a main highway or to its deviation or widening, and all other preliminary expenses incurred by the Board or by the Main Highways Board in relation to any land, whether or not it is finally declared to form part of a main highway, shall be paid out of the Fund. In so far as the lands in respect of which any such expenses have been incurred are subsequently declared to be part of a main highway, the expenses may be apportioned between the Fund and the several local authorities in the manner provided by this Act.

28 Cost of experimental work.

- (1) In addition to the expenditure from the Fund authorized by section twenty-three of this Act, all moneys payable by the Crown in respect of any work of an experimental nature undertaken by the Board in connection either with the

construction or the maintenance of a main highway shall be paid out of the Fund.

- (2) Notwithstanding anything to the contrary in this Act, the whole of the cost of any experimental work undertaken by the Board as aforesaid may be borne by the Board, or the Board may in its discretion provide a greater proportion of that cost than is prescribed by section thirty of this Act.
- (3) If any question arises as to whether any work undertaken by the Board is of an experimental nature within the meaning of this section it shall be determined by the Board, whose decision shall be final.

29 Payments from Fund may be made without appropriation.

All moneys payable out of the Fund under any provision of this Act may be so paid without further appropriation than this section.

30 Apportionment of cost of construction and maintenance of main highways.

1922, No. 47, ss. 18,19; 1936, No. 39, ss. 2(3), 5; 1947, No. 45, s. 3(4)

- (1) In respect of the construction and maintenance of main highways under this Act (whether the work of construction or maintenance is undertaken by the Board or by a local authority) the Board shall, save as may be otherwise determined in accordance with the provisions of this Act, provide out of the Fund not less than three-fourths of the cost of construction and maintenance of the carriageway, and the residue of the total cost of construction and maintenance shall be payable by the several local authorities within whose districts any part of the highway is situated, in such proportions as may be fixed by the Board.
- (2) Where the work of construction or maintenance of a main highway is undertaken by any one or more local authorities,—
 - (a) The proportion of the cost to be provided by the Board shall be paid to the several local authorities concerned in such proportions as the Board determines, after taking into consideration the recommendations (if any) of the District Council:
 - (b) The proportion of the cost to be provided by any local authority, other than the local authority charged with the work of construction or maintenance, shall be payable to the last-mentioned local authority by the first-mentioned local authority out of any moneys available for the purpose, and shall be recoverable as a debt.
- (3) Where the work of construction or maintenance of a main highway is undertaken by the Board, any moneys payable to the Board by any local authority in respect of the cost of that construction or maintenance shall be recoverable as a debt due to the Crown, and may be sued for by the Chairman of the Board in

his official name, or may be deducted from any moneys payable to that local authority out of the Fund or out of the Public Account:

Provided that, where in the opinion of the Board the financial position of the local authority so warrants, the Board may by agreement with the local authority accept payment of the local authority's contributions by such instalments as the Board thinks fit.

31 Board may dispense with or reduce contributions by local authorities.

Notwithstanding anything to the contrary in section thirty of this Act, the Board may undertake all works of construction and maintenance in respect of any main highway without contribution from any local authority, or may in respect of any such highway provide a greater proportion of the cost than is prescribed by that section.

32 Whole cost of construction of State highways to be paid out of Fund.

- (1) Nothing in section thirty of this Act shall apply with respect to the carriageway of any main highway or portion of a main highway that has been designated under this Act as a State highway, and, subject to the provisions of subsections two and three of this section, the whole of the cost of the construction and maintenance of the carriageway of the State highway in accordance with the standard prescribed by the Board shall, as from the date of the designation, be provided by the Board out of the Fund.
- (2) In respect of any State highway the Board may undertake, or may authorize any local authority to undertake, any work of construction or maintenance that is of a higher standard than the standard prescribed by the Board or is in addition to the works required to be undertaken in order to comply with that standard. In any such case the Board may, in its discretion, and subject to such terms and conditions as it thinks fit, provide out of the Fund the whole or such part (if any) as the Board thinks fit of the cost of the work in so far as, in the opinion of the Board, it exceeds or is in addition to the cost that would have been incurred in carrying out works of the standard prescribed by the Board. Except as provided in this subsection, the additional cost, or so much thereof as is not provided by the Board as aforesaid, shall be payable by the local authority concerned.
- (3) Nothing in the foregoing provisions of this section shall be construed to relieve any local authority from any liability or obligation to which it may be subject in respect of any main highway at the time of the designation of the highway as a State highway. In any case where, pursuant to an arrangement made between the Board and a local authority before the designation of a highway as a State highway, the local authority is liable for a contribution towards the cost of the construction or maintenance of the highway, the Board may, if it thinks fit, remit the contribution in whole or in part in so far as it relates to a period after the designation of the highway as a State highway. If any amount so remitted has been paid it shall be refunded out of the Fund.

33 Appeals by local authorities against decisions of Board as to contributions towards cost of main highways, etc.

1936, No. 39, s. 6

- (1) If any local authority is dissatisfied with any final decision of the Board fixing the proportions of the cost of any work to be provided by the several local authorities under section thirty of this Act, or refusing in whole or in part an application for a remission under subsection three of section thirty-two of this Act, or an application for assistance in respect of industrial traffic made under subsection nine of section twenty-three of this Act, it may appeal to the Minister against the decision.
- (2) Every appeal under this section shall be made in writing within one month after the local authority has received notice of the decision of the Board and of the fact that it is final.
- (3) Upon an appeal under this section the Minister may either confirm the decision appealed against or vary it as he thinks fit.
- (4) For the purposes of this section a decision of the Board shall be deemed to be final when the Board expressly states that it is final. It shall be the duty of the Board whenever required so to do by a local authority that is affected by any decision of the Board to state forthwith whether or not the decision is?

34 Works of a higher standard than required by the Board.

1925, No. 27, s. 4

- (1) Where in any case the Board has delegated to a local authority the power to construct or maintain any main highway or portion of a main highway, or where before the commencement of this Act the Main Highways Board has made any such delegation to a local authority, the local authority shall have power to undertake, in relation thereto, works of a higher standard than the standard prescribed by the Board; but in any such case the cost of construction in so far as it exceeds the cost that would have been incurred in carrying out works of the standard prescribed by the Board shall be borne by that local authority without right of contribution from the Fund or without contribution from any other local authority save with the concurrence of that local authority.
- (2) In any case to which this section applies the decision of the Board as to what would have been the cost of any work if it had been constructed in accordance with the Board's standard shall be final.

35 Combined road and rail bridges, and provision of other road facilities.

1928, No. 28, s. 5; 1935, No. 41, s. 3(2); 1936, No. 39, s. 2(3); 1947, No. 45, s. 3(4)

The Board shall have power to provide for payment out of the Fund of such amounts as it from time to time determines towards the cost of construction or maintenance of any combined road and railway bridge used as part of any

main highway, though not actually forming part thereof, and of any facilities of benefit or advantage to users of motor vehicles or for improving public safety in relation to motor vehicles.

36 Application of provisions of Public Works Act 1928 in respect of bridges, etc.

1925, No. 27, s. 7

- (1) The Minister may, on the recommendation of the Board, by notice in the *Gazette*, declare that the provisions of sections one hundred and eighteen, one hundred and nineteen, one hundred and thirty-five, and one hundred and thirty-six of the Public Works Act 1928, or any of them, in so far as they respectively provide for the apportionment of the cost of construction, or maintenance of any road, bridge, ferry, or ford, shall apply with respect to the apportionment of the cost of construction or maintenance of any main highway, or of any bridge, ferry, or ford forming part of a main highway, in so far as that cost is not provided for out of the Fund; and every such notice shall have effect according to its tenor.

Ibid., Vol. III, p. 693

- (2) Any apportionment of that cost made by the Governor-General pursuant to any of the aforesaid sections in respect of a main highway, or of any bridge, ferry, or ford, being part of a main highway, shall be deemed to supersede any apportionment in respect thereof that may have been theretofore made by the Main Highways Board pursuant to the Main Highways Act 1922 or that may hereafter be made by the National Roads Board under this Act.
- (3) If on the declaration of a main highway, whether before or after the commencement of this Act, there is or was in force a warrant under any of the aforesaid sections with respect to that highway, or to any bridge, ferry, or ford comprised therein, that warrant shall continue or be deemed to have continued in force, and shall, unless and until it is revoked by the Governor-General, continue to apply with respect to that main highway, or to any such bridge, ferry, or ford, save so far as the cost is provided for out of the Fund, and while that warrant continues in force it shall be deemed to supersede the provisions of this Act as to the apportionment among local authorities of a proportion of the cost of the construction or maintenance of that main highway or of that bridge, ferry, or ford.
- (4) The Board shall, so far as may be necessary for the purpose of initiating proceedings under the aforesaid sections in their application to main highways, or otherwise for the purpose of giving effect to this section, be deemed to be a local authority within the meaning of the Public Works Act 1928.

37 Borrowing powers of local authorities.

1924, No. 64, s. 33; 1925, No. 27, s. 5; 1928, No. 28, s. 4

- (1) Where in any case the Board has delegated to a local authority the power to construct any main highway or portion of a main highway, or before the commencement of this Act any such delegation has been made by the Main Highways Board, that local authority shall have the same power to borrow money to provide its proportion of the cost of construction as it has to borrow money in respect of the cost of any other public work within the meaning of the Local Bodies' Loans Act 1926 which it is authorized to carry out.
- (2) Any local authority which is required, pursuant to section thirty of this Act, to contribute towards the cost of construction of any main highway may raise a special loan under the Local Bodies' Loans Act 1926 as for a public work within the meaning of that Act, for the purpose of providing the whole or any portion of its contribution towards that cost.
- (3) Any County Council which is required, pursuant to section thirty of this Act, to contribute towards the cost of constructing any main highway may pay that contribution, in whole or in part, out of the general rates for the whole county, or for any riding or ridings thereof, or, in addition to any other rating power, may, by special order, make and levy for the purpose a separate rate on all rateable property within the county or within such portion of the county as may be defined in the special order.

38 Advances to local authorities to provide proportion of cost of construction of main highways.

1926, No. 43, s. 2; 1928, No. 28, s. 3

- (1) There may from time to time be paid out of the Fund, by way of advances to local authorities for the purposes hereinafter specified, such sums as the Board may from time to time determine.
- (2) All amounts advanced to a local authority under this section shall bear interest at such rate as the Minister of Finance fixes, and shall be repaid by instalments extending over such period not exceeding ten years as may be agreed on between the Board and the local authority.
- (3) The Board may accept as security for any moneys advanced under this section any debentures or other securities issued by or belonging to the local authority.
- (4) All moneys advanced to a local authority under this section shall be paid by it into a separate account at the bank where its local fund is kept, and shall be expended by the local authority only for the purpose of paying, in whole or in part, its proportion of the cost of maintenance and construction of a main highway.
- (5) Notwithstanding anything to the contrary in any Act or rule of law—
 - (a) Every local authority shall have power to accept any advance made by the Board under the foregoing provisions of this section and to agree

with the Board for the repayment by instalments of the advance as provided in those provisions. Any moneys advanced by the Board and accepted by a local authority under this section shall, for the purposes of the Local Government Loans Board Act 1926, be deemed to be moneys borrowed by the local authority for the purpose of meeting liabilities imposed on it by this Act:

- (b) Every local authority shall have power to agree with the Board for the payment by instalments of any moneys payable by the local authority to the Board under the provisions of this Act. Any moneys so agreed to be paid by instalments shall, for the purposes of the Local Government Loans Board Act 1926, be deemed to be moneys borrowed by the local authority for the purpose of meeting liabilities imposed on it by this Act.

Motorways

39 Motorways.

- (1) Except as provided in this section motorways shall, for the purposes of the provisions of this Act relating to the cost of constructing and maintaining main highways, be deemed to be State highways, and no local authority shall be required to contribute to the cost of any motorway.

1947, No. 46

- (2) Any local authority that desires to construct a motorway within its district may submit to the Board its proposals as to the general route proposed to be followed and for financing the motorway if authorized, and, if the Board is satisfied that the proposals are reasonable and that the local authority is in a position to carry them into effect, the Board may recommend that the motorway be authorized under section three of the Public Works Amendment Act 1947.

1944, No. 31

- (3) If the motorway is so authorized it shall be deemed to be a work of both national and local importance, and the provisions of section thirty-one of the Finance Act (No. 3) 1944 shall apply thereto, and, before any work relating to the construction of the motorway is commenced, the Board and the local authority or local authorities concerned shall agree upon the apportionment between them of the costs, powers, functions, duties, and liabilities relating to the construction, maintenance, and control of the motorway.
- (4) The provisions of this Act for the apportionment between local authorities of the cost of constructing or maintaining a main highway shall apply to the share of the costs of constructing or maintaining any motorway under this section that is required to be borne by the local authority that originates the proposals.
- (5) Every agreement made under this section shall be subject to the construction of the motorway being deferred or accelerated from time to time by the Board or

the local authority, as the Board or any local authority that is contributing to the cost of it is able to provide moneys to pay for the work:

Provided that if any question arises as to whether any contributory other than the local authority at whose request the motorway was approved is able to find the whole or any part of its contribution in any year the question shall be determined by the Board, whose decision shall be final.

Miscellaneous

40 Classification of main highways and roads.

Whenever any difference of opinion arises as to the class or classes of traffic for which any main highway or road should be available, the question may be submitted by either party to the Board, and the decision of the Board shall be final and binding on all persons interested.

41 Annual report of Board.

1922, No. 47, s. 24

- (1) The Board shall in April of each year after the financial year ending with the thirty-first day of March, nineteen hundred and fifty-five, or as soon thereafter as practicable, prepare and submit to the Minister a report, setting forth with proper particularity its operations under this Act for the year ended on the thirty-first day of March then last past.
- (2) Every such report shall be laid before Parliament within twenty-eight days after its receipt by the Minister if Parliament is then sitting, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.

42 Regulations.

- (1) The Governor-General may from time to time, by Order in Council, make all such regulations as in his opinion may be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.
- (2) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

43 Repeals, savings, and consequential amendments.

- (1) The enactments specified in the First Schedule to this Act are hereby repealed.
- (2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could

have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

- (3) Every reference to the Main Highways Board in any Act, regulation, order, or by-law, or in any agreement, deed, instrument, application, notice, or document whatsoever shall, unless inconsistent with the context, be hereafter read as references to the National Roads Board.
- (4) All obligations, liabilities, contracts, and engagements of the Main Highways Board subsisting at the commencement of this Act shall, as from the commencement of this Act, be obligations, liabilities, contracts, and engagements of the Crown, and shall be enforceable by or against the National Roads Board on behalf of the Crown under the provisions of this Act.
- (5) Every highway district constituted at the commencement of this Act shall be deemed for the purposes of this Act to be a Roads Council district constituted under this Act.
- (6) The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

SCHEDULES

FIRST SCHEDULE Enactments Repealed

Section 43(1)

1916, No. 18—

The Appropriation Act 1916: Section 9 and the Sixth Schedule. (Reprint of Statutes, Vol. V, p. 427.)

1920, No. 85—

The Appropriation Act 1920: Section 41. (Reprint of Statutes, Vol. V, p. 428.)

1922, No. 47—

The Main Highways Act 1922. (Reprint of Statutes, Vol. III, p. 693.)

1924, No. 64—

The Finance Act 1924: Section 33. (Reprint of Statutes, Vol. III, p. 713.)

1925, No. 27—

The Main Highways Amendment Act 1925. (Reprint of Statutes, Vol. III, p. 705.)

1926, No. 43—

The Main Highways Amendment Act 1926. (Reprint of Statutes, Vol. III, p. 708.)

1926, No. 46—

The Finance Act 1926: Section 28. (Reprint of Statutes, Vol. V, p. 428.)

1927, No. 51—

The Main Highways Amendment Act 1927. (Reprint of Statutes, Vol. III, p. 710.)

1928, No. 28—

The Main Highways Amendment Act 1928. (Reprint of Statutes, Vol. III, p. 711.)

1930, No. 6—

The Finance Act 1930: Part IV. (Reprint of Statutes, Vol. III, p. 715.)

1933, No. 30—

The Municipal Corporations Act 1933: Section 71.

1936, No. 39—

The Main Highways Amendment Act 1936.

1947, No. 45—

The Finance Act (No. 2) 1947: Section 3 and the First and Second Schedules.

1948, No. 35—

The Finance Act 1948: Section 7.

1951, No. 79—

The Fees and Travelling Allowances Act 1951: So much of the First Schedule as relates to the Main Highways Board and so much of the Second Schedule as relates to the Main Highways Act 1922.

SECOND SCHEDULE

Enactments Amended

Section 43(6)

Title of Act	Nature of Amendment
1925, No. 51— The Finance Act 1925	By omitting from subsection (2) of section 20 the words “the Revenue Fund of the Main Highways Account”, and substituting the words “the National Roads Fund”.
1939, No. 18— The Hutt Road Act 1939	By omitting from subsection (2) of section 6 (as amended by section 3(4) of the Finance Act (No. 2) 1947) the words “Consolidated Fund”, and substituting the words “National Roads Fund”.
1939, No. 38— The Finance Act (No. 2) 1939	By omitting from subsection (2) of section 36 the words “section nine of the Appropriation Act 1916, or section seventy-one of the Municipal Corporations Act 1933, or any other enactment”, and substituting the words “any enactment other than the National Roads Act 1953”.
1941, No. 12— The Soil Conservation and Rivers Control Act 1941	By omitting from subsection (2) of section 100 the words “section nine of the Appropriation Act 1916, or section seventy-one of the Municipal Corporations Act 1933, or any other enactment”, and substituting the words “any enactment other than the National Roads Act 1953”.
1949, No. 7— The Transport Act 1949	By omitting from subsection (4) of section 57 the words “a highway district established under that Act”, and substituting the words “a Roads Council district established under the National Roads Act 1953”.