

Appendix E

EXTRACTS FROM RELEVANT LEGISLATION IN NEW SOUTH WALES, QUEENSLAND, SOUTH AUSTRALIA, TASMANIA, VICTORIA AND WESTERN AUSTRALIA

EXTRACTS FROM NEW SOUTH WALES LEGISLATION

ELECTRICITY COMMISSION ACT, 1950

ELECTRICITY DEVELOPMENT ACT, 1945

LOCAL GOVERNMENT ACT, 1919

MAIN ROADS ACT, 1924

METROPOLITAN TRAFFIC ACT, 1900

MOTOR TRAFFIC ACT, 1909

MOTOR TRAFFIC REGULATIONS, 1935

*MUNICIPAL COUNCIL OF SYDNEY ELECTRIC
LIGHTING ACT, 1896*

TRAFFIC AUTHORITY ACT, 1976

ELECTRICITY COMMISSION ACT, 1950 (N.S.W.)

3. In this Act unless the context or subject matter otherwise indicates or requires —

(1)

...

"Council" has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts, and includes any county council constituted under that Act, as so amended, and the Sydney County Council.

"Electricity supply authority" means any person engaged in the supply of electricity to the public, or in the generation of electricity for supply, directly or indirectly, to the public whether by virtue of any Act or otherwise and includes the Water Conservation and Irrigation Commission.

...

"Public Authority" includes the Governor, any Minister of the Crown and any statutory body representing the Crown.

...

"Statutory body" or "Statutory body representing the Crown" includes the Metropolitan Water, Sewerage and Drainage Board, the Hunter District Water Board, the Maritime Services Board of New South Wales, the Commissioner for Railways, the Com-

missioner for Main Roads, the Commissioner for Road Transport and Tramways, the Water Conservation and Irrigation Commission and any public body which the Governor may by proclamation published in the Gazette under this Act declare to be a statutory body representing the Crown.

...

"Works" means plant and equipment (fixed or mobile), structures, buildings, lines, cables, meters and conveniences and appurtenances for and in connection with the generation, transmission and supply of electricity.

(2) In Part II and Schedules 6 and 7, a reference to—

- (a) a function includes a reference to a power, authority and duty; and
- (b) the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

5. (1)(a) There shall be constituted an Electricity Commission of New South Wales which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

...

6. (1) The Commission shall be a body corporate, with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

7. In the exercise and discharge of its powers, authorities, duties and functions the Commission shall be subject in all respects to the control and direction of the Minister.

9. (1) The Commission may, subject to this Act—

- (a) maintain and operate and where necessary improve and extend all works for or in relation to the generation and supply of electricity for the time being vested in it, and construct any new, additional or supplementary works or acquire any works or property for or in relation to the generation and supply of electricity;

- (b) supply electricity to any person within or outside the State on such terms as may be agreed upon between the parties;

...

78. Any person who carelessly or accidentally breaks, throws down, or damages any electric line, or any pillar, post, lamp, meter, fittings, insulator, apparatus or works belonging to the Commission shall forfeit and pay such sum of money to the Commission for the damage done not exceeding two hundred dollars as a stipendiary magistrate or two justices in petty sessions shall think reasonable:

Provided that this section shall not affect any other remedy the Commission might otherwise have.

82. (1) All works and every part thereof vested in or held by the Commission subject to the provisions of this Act shall, notwithstanding that they have been constructed in any road or place, remain the property of the Commission.

...

84. Subject to the provisions of this Act the Commission may open and break up the soil and pavement of any road, and open and break up any sewers drains or tunnels within or under such roads, and may construct subways and drains, and may lay down and place under or over any road any electric lines; and from time to time repair, alter or remove the same; and for the purposes aforesaid may remove and use all earth and materials in and under such roads, and may in any such roads erect any posts, pillars, standards, lamps and do all other acts which it may from time to time deem necessary for supplying electricity; and may lay any electric line, branch, or other apparatus from any main or branch electric line, into through or against any place or building for the purpose of lighting the same; and provide and set up any works in its opinion necessary for securing thereto a complete supply of electricity, and for measuring and ascertaining the extent of such supply:

Provided that nothing herein shall authorise or empower the Commission to construct or place any works into, through, against or in any place, building or land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Commission may at any time make entry and construct and place any new works instead of such works as shall have been lawfully constructed or placed and may repair or alter any works so constructed or placed.

85. Subject to the provisions of this Act—

- (a) The Commission may alter the position of any pipes, wires, sewers, drains or tunnels being made under any road or place which may interfere with the exercise of its powers under this Act on previously making or securing such compensation to the owners of such pipes, wires, sewers, drains or tunnels and on complying with such conditions as to the mode of making such alterations, as may before the commencement of such alterations be agreed upon between the Commission and such owners or in the case of difference as may be determined by arbitration.

- (b) Any person or Public Authority lawfully competent to do so, may in like manner alter the position of any works of the Commission being under or over any such road or place as aforesaid which may interfere with the lawful exercise of any powers vested in such person or authority in relation to such road or place, subject to the like provisions, conditions and restrictions as are in paragraph (a) contained.

98. (1) When any dispute arises between the Commission and another Public Authority or a council and subject to any provision of this Act not providing another course of action, either party may refer the dispute to the Minister for settlement by the Governor.

(2) The Minister may appoint any person a commissioner to hold an inquiry and to report to him as to any matter arising in or relating to the dispute.

...

ELECTRICITY DEVELOPMENT ACT, 1945 (N.S.W.)

4. In this Act, unless the context or subject matter otherwise indicates or requires—

“Authority” means the Energy Authority of New South Wales constituted under the Energy Authority Act, 1976.

...

“Council” has the meaning ascribed thereto in the Local Government Act, 1919, and includes a county council constituted and a county council for a county district constituted pursuant to section twelve of this Act, and the Sydney County Council.

“Electricity supply authority” means any person engaged in the supply of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public, whether by virtue of any statute or any franchise agreement under any Act or otherwise and includes the Public Transport Commission of New South Wales and the Water Resources Commission.

...

9. (1) Subject to this Act the Authority shall have power—

- (a) to promote and regulate the co-ordination, development, expansion, extension and improvement of electricity supply throughout the State, and without limiting the generality of the foregoing power, to promote and regulate—
- (i) the interconnection of power stations;
 - (ii) the interchange of electricity between power stations;
 - (iii) the erection, extension or alteration of power stations;
 - (iv) the installation and renewal of generating units and steam raising plant in power stations;

- (v) the erection and extension of transmission lines;
- (iv) the extension and improvement of electricity supply to and within rural districts;
- (vii) the adoption of standards of plant, equipment, frequency and voltage for the generation, transmission, distribution and supply of electricity;
- (a1) to promote and encourage the safety of persons and property in relation to electricity, and without limiting the generality of the foregoing power, to promote and encourage the safety of persons and property in relation to—
 - (i) the installation, maintenance and use of electric lines, works, electrical installations and cathodic protection systems; and
 - (ii) the sale or hire of electrical articles;
- (a2) without limiting the generality of paragraph (a1), to issue or publish public statements or warnings relating to—
 - (i) electrical articles, electrical installations or cathodic protection systems which, in the opinion of the Authority are, or are potentially, unsafe; and
 - (ii) safety in relation to electricity generally;
- (b) to promote and encourage the development and use of the natural resources of the State in connection with the generation of electricity;
- (c) to promote and encourage the use of electricity and especially the use thereof for industrial and manufacturing purposes and for the purpose of primary production;
- (c1) to promote the installation, extension and improvement of the lighting of public roads and without limiting the generality of the foregoing to exercise the powers and authorities conferred by Part IVA on the Authority in relation to the installation, extension and improvement of the lighting of traffic routes;
- (d) to advise any person engaged in the generation, transmission, distribution or supply of electricity upon all matters of and concerning such generation, transmission, distribution and supply;
- (e) to consider the advisability of amending the law relating to the generation, transmission, distribution, supply and use of electricity, and to report thereon to the Minister; and
- (f) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the purposes aforesaid.

(2) Where by any other Act or by any ordinance, regulation or by-law made under any other Act the approval of the Governor is required to be given to any proposal relating to electricity or to the generation, transmission, distribution or supply thereof, such approval shall not be given unless and until the

proposal has been referred to the Authority for consideration and report.

10. (1) The Authority shall, as and when required by the Minister, conduct inquiries or investigations for any purpose of or connected with the carrying out of the provisions of this Act.

(2) The Authority shall furnish the Minister with a report setting out the results of any inquiry or investigation made under this section.

(3) For the purposes of any inquiry or investigation under this section the Authority shall have the powers and immunities of a commissioner, and the chairman and general manager of the Authority shall have the powers of a chairman within the meaning of Division 1 of Part II of the Royal Commissions Acts, 1923, and the provisions of that Act, with the exception of section 13 and of Division 2 of Part II shall, *mutatis mutandis*, apply to any witness or person summoned by or appearing before the Authority.

...

19A. In this Part—

“Council” means a council of an area under the Local Government Act, 1919.

“Traffic route” means a public road within the meaning of the Local Government Act, 1919

- (a) which has been proclaimed or declared as a main or secondary road under the Main Roads Act, 1924; or
- (b) which, if not so proclaimed or declared, the Authority has, by reason of the volume of vehicular or pedestrian traffic carried thereon, determined requires lighting to a standard approved by the Authority.

19B. (1) There shall be constituted an account in the Special Deposits Account in the Treasury to be called the “Traffic Route Lighting Subsidy Account” consisting of such moneys as are required to be paid into that Account by this Part of this Act.

(2) The Traffic Route Lighting Subsidy Account shall be used only for the purposes authorised by this Act and the provisions of sections 16(2) shall apply, *mutatis, mutandis*, to and in respect of that Account.

19C. (1) In the period of 12 months commencing 1st July, 1978, and in each period of 12 months thereafter—

- (a) the Electricity Commission of New South Wales shall pay to the Treasurer for payment into the Traffic Route Lighting Subsidy Account an amount equal to 50 per centum;
- (b) the Commissioner for Main Roads shall pay to the Treasurer for payment into the Traffic Route Lighting Subsidy Account an amount equal to 25 per centum; and
- (c) the Treasurer shall pay into the Traffic Route Lighting Subsidy Account out of money provided by Parliament an amount equal to 25 per centum,

of the amount of subsidies which the Minister with the concurrence of the Treasurer estimates will be granted to councils under sections 19D and 19H in that period of 12 months.

(2) The Minister shall, before the commencement of each period of 12 months referred to in subsection (1), serve a notice on each person or body required to make a payment under that subsection specifying the amount of that payment

(3) An amount payable under subsection (1)(a) or (b) in any period of 12 months shall be paid in such sum or sums, at such time or times during that period and in such manner as the Minister may require in and by the notice referred to in subsection (2).

(4) An amount payable under subsection (1)(c) in any period of 12 months shall be paid in such sum or sums, at such time or times during that period and in such manner as the Treasurer thinks fit.

(5) Within one month after the date of assent to the Electricity Development (Amendment) Act, 1977, or within such further period as the Governor may approve—

- (a) the Electricity Commission of New South Wales shall pay \$850,000 to the Treasurer for payment into the Traffic Route Lighting Subsidy Account;
- (b) the Commissioner for Main Roads shall pay \$425,000 to the Treasurer for payment into the Traffic Route Lighting Subsidy Account; and
- (c) the Treasurer shall pay, out of money provided by Parliament, \$425,000 into the Traffic Route Lighting Subsidy Account.

(6) The Commissioner for Main Roads may make a payment required by subsection (1) or (5), or any part thereof, out of the County of Cumberland Main Roads Fund established under section 10 of the Main Roads Act, 1924, the Country Main Roads Fund established under section 20 of that Act or any other fund which may be utilised for the improvement or maintained of traffic routes under that Act.

19D. (1) The Authority may with the approval of the Minister out of the Traffic Route Lighting Subsidy Account grant annual subsidies to councils for the lighting, to a standard approved by the Authority, of traffic routes.

(2) Before granting any subsidy as aforesaid the Authority may require a council to enter into an agreement with the Authority to secure the carrying out of the purposes for which, and the terms and conditions upon and subject to which, such subsidy is granted.

19E. (1) Where a subsidy is granted to a council under this Part of this Act for the lighting of traffic routes within its area the electricity supply authority (including an electricity supply authority being a council) for that area shall contribute annually towards the annual charges for such lighting an amount equal to the amount of the subsidy payable annually to the council by the Authority under section 19D of this Act.

(2) A council may, notwithstanding the provisions of the Local Government Act, 1919, charge the contribution payable by it under subsection one of this section against the Electricity Works Trading Fund established by the council under that Act.

(3) Where the electricity supply authority is a person with whom a council has made an agreement to supply electric current to the public as provided in section four hundred and twenty of the Local Government Act 1919, the electricity supply authority may, notwithstanding the terms of such agreement, increase charges to consumers for the supply of electricity so that the amount by which such charges are increased shall be sufficient to reimburse the electricity supply authority the contribution it is required to make annually under subsection one of this section towards the annual charges for lighting traffic routes.

LOCAL GOVERNMENT ACT, 1919 (N.S.W.)

220. Subject to the provisions of this Act—

- (a) this Part shall apply to municipalities and shires; and
- (b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

221. Unless otherwise expressly provided, this Part shall not apply to a national work nor to any public road which is by law vested in any public body other than the council.

222. This Act shall apply to a public road notwithstanding that it may not at the commencement of this Act have been approved, accepted, and taken over by or been placed or taken under the care, control, and management of a council under the Local Government Act, 1906, or any Act repealed by that Act.

223. Subject to the provisions of this Act, this Part shall apply to every present or future public road, but shall not apply to lands defined, reserved or left before or after the passing of this Act in any subdivision of Crown lands, or on the measurement or granting of Crown lands as indicated upon the official plans of the same, and not being notified, proclaimed or dedicated before or after the passing of this Act as a public thoroughfare or way.

224. (1) Any road left in subdivision of Crown lands or in use over Crown lands shall be and become a public road under the control of and vested in the council on publication of a notification to that effect in the Gazette.

. . .

(4) This section shall be in aid of and not in derogation from any other provision of either common or statute law relating to the dedication of roads.

226. (1) Public roads may be classified in relation to the use which they are intended or calculated to serve.

(2) The classification shall be as follows, that is to say—

- (a) main roads, being roads proclaimed as main roads;
- (b) secondary roads, being roads for general local traffic;
- (c) residential roads, being roads primarily for access to residences;

(d) pathways, being roads exclusively for foot-passengers and such classes of vehicles as may be prescribed;

(e) lanes, being roads primarily for access to the back of premises.

(3) The classification shall be made by the council except in respect of main roads.

(4) The classification shall be fixed and take effect upon notification in the Gazette. It shall also be notified in a newspaper.

(5) Subject to the provisions of this Act and until roads are classified hereunder—

(a) all public roads which are 20 metres wide or over (other than main roads) shall be deemed to be secondary roads;

(b) all public roads which are more than 6 metres and less than 20 metres wide (other than main roads) shall be deemed to be residential roads;

(c) all public roads which are more than 3 metres and not more than 6 metres wide shall be deemed to be lanes;

(d) all public roads which are not more than 3 metres wide shall be deemed to be pathways.

(6) The provisions of this Act with respect to classification of roads shall, unless inconsistent with the context, be deemed to include alteration of classification and re-classification.

227. (1) There shall be a standard width for each class of public roads, that is to say—

(a) for a main road not less than 25 metres;

(b) for a secondary road—20 metres;

(c) for a residential road—20 metres;

(d) for a pathway—3 metres;

(e) for a lane—6 metres.

(2) In the case of a public road in existence at the commencement of this Act the fact that the road is less than the standard width for a particular class shall not preclude it from being assigned to that class.

(3) The Width of Streets and Lanes Act, 1902, shall not apply to a municipality or shire.

232. (1) Except where otherwise expressly provided, every public road, and the soil thereof, and all materials of which the road is composed, shall by virtue of this Act vest in fee-simple in the council, and the council, if it so desire, shall by virtue of this Act be entitled to be registered as the proprietor of the road under the provisions of the Real Property Act, 1900.

(2) The vesting in fee-simple under this section shall be deemed to be not merely as regards so much of the soil below and of the air above as may be necessary for the ordinary use of the road as a road, but so as to confer on the council subject to the provisions of this Act the same estate and rights in and with respect to the site of the road as a private person would have if he were entitled to the site as private land held in fee-simple with full rights both as to the soil below and to the air above.

(3) Unless otherwise expressly provided nothing in this section shall be deemed—

(a) to affect any express or implied dedication to the public;

(b) to affect any existing right of the Crown or of any person in respect of any easement or under the provisions of any Act, except in so far as the council is authorised by or under this Act to control and regulate the digging up of public roads;

(c) to affect any right of the Crown or of any person in respect of any minerals below the surface of any road;

(d) to authorise the council to grant, demise, dispose of, or alienate the road or the soil or materials thereof;

. . .

(4) This section shall bind the Crown.

233. (1) Without affecting the generality of any other provision of this Act, the provisions of this section shall subject to this Act apply to every public road.

(2) All materials placed or laid on the road in order to be used for the purposes thereof, including paving, guttering, kerbing, gutter-bridges, tree-guards, handrails, and the like, placed or laid by any person before or after the commencement of this Act, shall be the property of the council, and may at any time be removed by the council.

(3) All trees, shrubs, plants, and the like, grown or growing in the road (other than a road within the boundaries of a State forest), including trees, shrubs, plants, and the like, planted by any person before or after the commencement of this Act, shall be the property of the council, and may, subject to any ordinance, at any time be removed by the council.

(4) The council shall, in respect of any land alleged to be or to form part of a public road, have the right to lodge a caveat against the bringing of the land or any part thereof under the provisions of the Real Property Act, 1900.

(5) Where any public road is resumed by the Crown the council shall be entitled to claim compensation therefor. Such compensation shall be limited to the capital sum expended by the council upon the construction of the road together with the sum, if any, paid by the council for the purchase or resumption of the land therefor, together with the capital sum expended by the council in providing and constructing, laying, suspending, or otherwise placing upon, under or over the road, for or in connection with any water, sewerage or drainage works, or any trading undertaking, of the council, any pipes, tunnels, poles, wires, cables or structures which, at the time of the resumption by the Crown, were owned and used by the council for or in connection with any such works or trading undertakings:

Provided that where any such pipes, tunnels, poles, wires, cables or other structures can reasonably continue to be used by the council for or in connection with any such works or trading undertakings, no compensation

shall be payable in respect of such pipes, tunnels, poles, wires, cables or other structures.

Where the council finds it necessary to purchase or resume other land for, and to construct, a new road to replace that resumed by the Crown the council may in lieu of compensation as aforesaid claim as compensation the cost of the purchase or resumption and of the construction of such new road, together with the cost of providing upon, under or over such road all such necessary pipes, tunnels, poles, wires, cables or structures required to provide services similar to those owned and used by the council in the road resumed by the Crown; and in such case the compensation when paid shall be placed in the trust fund until it is expended on such new road and services.

(6) . . .

(7) A person shall not use any public road, or the soil thereof, or permit the same to be used in derogation of or so as to affect the exercise of the rights or powers of the council.

235. (1) The council may provide any public road, and in particular and without limitation of this or any other power conferred by this Act the council may—

- (a) make surveys for the laying out of a new public road;
- (b) lay out, construct, and open a new public road;
- (c) extend and widen a public road;
- (d) divert or alter the course of a public road;
- (e) determine what proportion of the width of a public road shall be devoted to carriage-way, bicycle-way, footway, tree-planting, gardens, grass-plots, island refuges, public conveniences, street lamps, fountains, monuments, statues, and the like;
- (f) widen a public road to or beyond the standard width or where the Minister so approves to a width less than the standard width.

(2) Any land required for the purposes of this section may be acquired in any mode authorised by this Act.

240. (1) The council may construct improve maintain protect repair drain and cleanse any public road, and in particular and without limitation of any other power conferred by this Act the council may in respect of any public road—

- (a) construct improve maintain repair and cleanse the road with such materials and in such manner as the council thinks fit;

. . .

- (e) light the road;

. . .

- (g) erect island-refuges, public conveniences, street lamps, fountains, monuments, statues and the like in the road in such manner as in the opinion of the council will not unduly interfere with public convenience or with access to private premises;

- (h) authorise on such conditions as the council deems proper any person to plant trees in the

road, to make therein gardens and grass-plots, to erect therein tree-guards and fences for the protection of trees gardens and grass-plots, to erect therein street lamps fountains monuments and statues, and otherwise to embellish the road in such manner as in the opinion of the council will not unduly interfere with public convenience or with the access to private premises;

. . .

245. (1) Where any damage or injury, not being damage or injury caused by ordinary wear and tear and reasonable use, is caused to—

- (a) any public road; or
- (b) any safety fence, barrier, handrail, pipe, traffic sign, tree-guard, seat or other thing or device which has been placed in, upon, under or over a public road for or in connection with the regulation or facilitation of pedestrian or vehicular traffic on such road and which is the property of the council,

there shall be paid to the council the cost incurred by it in making good such damage or injury.

(2) Such cost shall be paid to the council—

- (a) in a case where the damage or injury was caused by the use of a vehicle or vessel, by the owner of the vehicle or vessel at the time of the damage or injury, unless at that time the vehicle or vessel was a stolen vehicle or vessel or was a vehicle or vessel illegally taken or used; or
- (b) in a case where the damage or injury was caused by the use of a vehicle or vessel and the owner of the vehicle or vessel is not liable to pay such cost under paragraph (a), by the driver of such vehicle or the person in charge of such vessel, as the case may be; or
- (c) in any other case, by the person by whom the damage or injury was caused.

(3) If within fourteen days after service of a notice stating—

- (a) the amount of the cost incurred by the council in making good any such damage or injury; and

- (b) particulars of such amount and cost,

upon the person liable under subsection (2) to pay such cost such amount is not paid to the council, the council may recover, in any court of competent jurisdiction, such amount as a debt from the person so liable.

. . .

249. The council shall have the care control and management of every public road, and in particular and without limitation of this or any other power conferred by this Act the council may in respect of any public road—

. . .

[do certain acts not here relevant].

267. (1) The council may order that any obstruction or encroachment upon a public road be removed therefrom.

(9) Where, by virtue of any statute, any obstruction or encroachment (and particularly any obstruction or encroachment such as an embankment, railway or tramway rails, sewer manhole covers, and the like) has been placed upon any public road by any statutory body or by any person, the body or person having the charge, use, or enjoyment of the object which is or causes the obstruction or encroachment shall maintain it in good order and repair in such state as to permit and promote the free use and passage of the public upon the public road; and shall construct and maintain the road surface within and for a reasonable distance in all directions (beyond the obstruction or encroachment) at the same height as the obstruction or encroachment (and thence a reasonable slope not steeper than one in fifteen to the level of the road) for the purpose of providing for the smooth passage of wheeled vehicles.

270. (1) The provisions of the Metropolitan Traffic Act, 1900, relating to roads shall, where that Act is in operation, apply to pathways as defined by this Act.

(2) The Metropolitan Traffic Act 1900, shall not, except as hereinafter provided, apply to a shire.

(3) Where, at the commencement of this Act, the aforesaid Act applies to a shire or part thereof, it shall be deemed to have been so applied under this Act.

(4) At the request of the council of a shire, the whole or part of which is within the county of Cumberland, the Governor may, by proclamation, apply that Act to the shire or to part thereof.

277. (1) Ordinances may be made for carrying this Part into effect, and in particular for and with respect to—

(e) the control and regulation of the position of gas and water pipes, sewers, drains, electric wires, and cables, and the like laid in public roads by statutory bodies; and by any person whether under the authority of any enactment or not;

(i) preventing danger to the public in a public road by reason of the want of repair or the absence of lighting protection or enclosure or by reason of any other condition of any building, excavation, or place on any land in the vicinity of any public road, and requiring owners or occupiers of such land to provide protection to the public;

(cc) prescribing standards for the lighting of public roads or any class of public roads, and the compliance by the council with the requirements of the ordinance prescribing such standards;

(2) Without limiting the generality of paragraph (cc) of subsection (1) any such ordinance may for the purposes of such paragraph—

- (b) prescribe different standards for the lighting of different classes of public roads;
- (c) make different provisions with respect to the lighting of different parts of any public road or with respect to the lighting of public roads or of any class of public roads in different areas;
- (d) make provision for enabling the Minister or such person as may be prescribed to require the lighting by a council of a public road or any class of public roads in accordance with the prescribed standards and to exercise such powers as may be necessary to give effect to such ordinance;
- (e) adopt wholly or partially or by reference any of the standard rules recommended or adopted by the Standards Association of Australia relating to the matter with which the ordinance deals.

418. (1) The following shall be trading undertakings within the meaning of this Part, that is to say—

- (a) the supply of electricity and the supply and installing of electrical fittings and appliances;

(2) The power to trade in any article or commodity (including the supply of power) shall include the power to purchase, generate, manufacture, or obtain the article or commodity for the purpose of sale or hire.

506. (1) Where a council has works for the supply of water, gas, or electricity, or sewerage works, or telephone lines, or any works, services, or undertakings which it is authorised under this or any other Act to carry on or perform, such council may, notwithstanding the provisions of this or any other Act to the contrary, supply water, gas, or electricity, or connect its sewers, or extend its telephone lines, or extend its works, services, or undertakings, to any place situated outside its area.

(2) Where such place is within another area the consent of the council of that area, subject to such conditions as may be agreed upon, shall be obtained before this section shall be acted upon.

In the case of a supply of gas or electricity this section shall not be acted upon unless with the approval of the Governor as provided in subsection (4) of section 418, where such approval is necessary under that subsection.

512. (1) Where there are any works vested in any person and placed on, under, or over any public road, the council may by notice in writing require such person to alter such works in such manner as the council may in the public interest direct.

(2) This section shall apply to any such works whether placed under the authority of any statute or

by any statutory body or with or without the permission of the council, and whether so placed before or after the commencement of this Act.

(3) If the alteration be not made with all reasonable speed the council may make the same as it thinks fit.

(4) Where the council alters any main works under this section it shall forthwith make the necessary alterations of all branch works connected therewith.

(5) An alteration shall not be made in such manner as to injure permanently any such works or prejudicially affect their use.

(6) Except where otherwise agreed or otherwise provided by statute, the cost of the alteration shall be borne by the council.

(7) The expression "works" in this section includes any water-pipe, gas-pipe, sewer, drain, tunnel, wire, cable, rail, or structure.

(8) Where the Minister for Public Works is carrying out any work under the provisions of Part XIV the provisions of this section shall apply *mutatis mutandis* to the said Minister as though the said Minister were the council.

512D. Any person who carelessly or accidentally breaks, throws down, or damages any electric line, or any pillar, post, lamp, meter, fittings, insulator, apparatus or works belonging to the council, or any person supplying electricity shall forfeit and pay such sum of money to the council or such person for the damage done not exceeding two hundred dollars as a stipendiary or police magistrate shall think reasonable:

Provided that this section shall not affect any remedy the council or such person supplying electricity might otherwise have.

MAIN ROADS ACT, 1924 (N.S.W.)

3. (1) In this Act, unless inconsistent with the context or subject-matter,—

"Area" means city municipality or shire, and any irrigation area within which or with regard to which this Act applies.

"Board" means the Main Roads Board of New South Wales established under this Act.

"Commissioner" means the Commissioner for Main Roads appointed under the Transport (Division of Functions) Act, 1932.

"Council" means the council of any city municipality or shire; and in relation to any irrigation area or part thereof which is not a municipality or shire includes the Water Conservation and Irrigation Commission.

"Country main road" means a main road outside the county of Cumberland.

"Country State highway" means a State highway outside the county of Cumberland.

"Developmental road" means any road, route, or means of access declared to be a developmental

road under this Act or any part of such developmental road.

"Main road" includes a proposed main road or proposed deviation thereof.

"Metropolitan main road" means a main road in the county of Cumberland.

"Metropolitan State highway" means a State highway in the county of Cumberland.

"Minister" means the Minister of the Crown for the time being administering this Act.

"Ordinary main road" means a main road not proclaimed a State highway or a trunk road.

"Permanent improvement" includes a new main, developmental, or tourist road, or toll work, a deviation or a widening of an existing main, developmental, or tourist road, or toll work, a work for the drainage of a main, developmental, or tourist road, or toll work, and all works of every description (exclusive of maintenance) which are in the opinion of the board calculated to increase the usefulness of a main, developmental, or tourist road, or toll work, and also includes tree planting.

"Public road" includes proposed public road or a proposed deviation.

"State highway" means any main road being a principal avenue of road communication between the coast and the interior or throughout the State and connecting with such avenues in other States, and proclaimed a State highway under this Act or any part of such State highway.

"Tourist road" means road proclaimed as a tourist road under section 31A of this Act, and any part of any such road.

"Trunk road" means any main road being a secondary avenue of road communication forming with the State highways and other trunk roads a framework of a general system of intercommunication throughout the State and proclaimed a trunk road under this Act or any part of such trunk road.

(1) This Act shall be read with the Local Government Act, 1919, and the words used in this Act which are defined in that Act shall, unless inconsistent with the context or subject-matter of this Act, have the meanings by that Act ascribed to them.

(2) In so far as this Act confers powers or imposes duties upon councils, such powers and duties shall apply in respect of each area to the council thereof.

(3) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

4A. (1) The Commissioner for Main Roads appointed under the Transport (Division of Functions) Act, 1932, is a corporation sole with the corporate name "The Commissioner for Main Roads" and is, notwithstanding the repeal of subsection (1) of section 6 of that Act, a continuation of, and the same legal entity as, the corporation constituted by that subsection immediately before its repeal.

(2) The corporation continued by subsection (1)—

...
(c) may take proceedings and be proceeded against in its corporate name;

...
(e) may do and suffer all other things that corporations generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted; and

(f) is, for the purpose of any Act, a statutory body representing the Crown.

(3) In the exercise or performance of any power, authority, duty or function conferred or imposed on him by or under this or any other Act, the Commissioner is subject to the direction and control of the Minister.

5. (1) There shall be a Main Roads Board, which shall consist of a president and two other members appointed from time to time by the Governor, and the provisions of the Public Service Act, 1902, shall not apply to their appointment. . . .

6. (1) The board shall be a body corporate, with perpetual succession and a common seal, and may sue and be sued in its corporate name; and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of, or otherwise dealing with real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer. The corporate name of the board shall be "The Main Roads Board of New South Wales."

...
8. (1) Subject to the provisions of this Act the Governor may, on the recommendation of the board, proclaim any public road or any road, although the same is not a public road, which passes through a public reserve and connects with a main road to be a main road, and by the same or a subsequent proclamation give and notify numbers and names to each main road.

(2) Any proclamation of any road as a main road under the Local Government Act, 1919, before the passage of this Act (such proclamation not having been repealed) shall continue in force for the purposes of and subject to the provisions of this Act.

...
18B. (1) The Governor may, on the recommendation of the Board, proclaim any metropolitan main road to be a metropolitan State highway.

(2) The Governor may on the recommendation of the Board, by proclamation amend or rescind any such proclamation.

21A. (1) The Governor may, on the recommendation of the Board, proclaim any country main road to be a country State highway or a trunk road.

...
27B. In this Part, unless inconsistent with the context or subject matter—

"Local access road" means any road designed to provide access to, or over, or under a motorway.

"Motorway" means any main road which is proclaimed a motorway under this Part or any part of such motorway.

27C. (1) The Governor may, on the recommendation of the Commissioner, proclaim any main road specially designed to facilitate the movement of motor traffic to be a motorway.

...
28. (1) The Governor may, on the recommendation of the board, proclaim as a developmental road or as a developmental work (as the case may be) any road or work which in the opinion of the board—

(a) will serve to develop or further develop any district or part of a district; or

(b) will serve to develop any area of Crown or private land by providing access to a railway station or a shipping wharf or to a road leading to a railway station or a shipping wharf.

...
31A. (1) The Governor may, on the recommendation of the Commissioner, proclaim as a tourist road any public road, or any road that is not, or any proposed road that will not be, a public road but is or will be within a public reserve, if, in the opinion of the Commissioner, such public road, road or proposed road will assist in making accessible areas or districts used or likely to be used by tourists.

...
34. (1) The board may cause standard plans and specifications to be prepared for main, developmental, or tourist road, or toll work construction and maintenance, and may require that works under this Act, be designed and executed in accordance therewith, or in accordance with special plans and specifications prepared for a particular work.

(2) The board may adopt, or amend and adopt, any plans, sections, and specifications submitted by a council or prepared under the board's directions in respect of any proposed works.

36. (1) Subject to this Act the board may, in respect of a main, developmental, or tourist road or a toll work or a developmental work, or land to be resumed therefor, exercise the powers given by any Act to a council in respect of public roads, and without limiting the generality of the foregoing powers in particular may exercise in respect of any main road, developmental, or tourist road, or toll work the powers of a council to require by-passes for motor vehicles to be erected.

(2) The granting of the powers conferred upon the board by this Act in respect of any public road shall not, except in so far as may be necessary for and during the exercise of those powers, limit or affect the powers of the council in respect of the road.

...

39. (1) This section shall not apply to any area or part of any area unless and until it is proclaimed by the Governor so to apply.

(2) The council (and the Botany Road Trust) shall not, except in accordance with a particular or general approval of the board, and with the conditions which the board may attach to such approval, grant to any person permission to place, construct, excavate, lay, or erect any room, cellar, light-well, passage, tunnel, pipe, wire, rails, kerbing, guttering, footway paving, or other thing whatsoever in any main road, or anything whatsoever to connect buildings on opposite sides of the road.

(3) Where any person desires to connect premises with water, sewerage, electricity, or any works the board may refuse approval to make such connection across or in a main road if it be reasonably practicable to secure a serviceable connection otherwise.

(4) Any council (including the Botany Road Trust) and any statutory body and any person whether or not acting under the authority of any statute and any department of the Government shall not construct, excavate, lay or erect any room, cellar, lightwell, passage, tunnel, pipe, wire, rails, bridge, culvert, petrol pump, stall, structure, gutter crossing, kerbing, guttering, footway paving, or other thing whatsoever in, upon, under, or over any main road without first obtaining the consent of the board. Any such consent may be conditional upon the observance of such directions and stipulations as may be specified in the consent. The board may, if circumstances render it necessary, withhold such consent for such period as the board may see fit.

(5) Without the approval of the board the council shall not grant to any person permission or authorise any of its servants to remove or interfere with any tree, or to remove or interfere with any works or structures existing on main roads, nor shall any person remove or cause damage or injury to any such tree, work, or structure.

(6)(a) Where any sign or hoarding has been erected within or adjacent to any main road whether with the permission of the council or not, the Commissioner may, in any case where in his opinion the sign or hoarding is prejudicial to the safety of the travelling public, direct the person responsible for its erection to remove it forthwith or within such period as the Commissioner may fix.

...

40. (1) Any person who causes damage or injury to—

...

(b) any safety fence, barrier, treeguard, handrail, or the like the property of the Commissioner or a council in any such road,

shall, except where such damage or injury is caused by ordinary wear and tear due to ordinary and reasonable use of the road, pay the cost incurred by the Commissioner or by the council, as the case may be, in making good such damage or injury.

...

(2A) Any person who causes damage or injury to any traffic control facility (within the meaning of section 48c) shall, except where the damage or injury is caused by ordinary wear and tear, pay the cost incurred by the Commissioner in making good the damage or injury.

(3) Where such damage or injury is caused by the use of a vehicle the driver thereof, or in the case of a bridge by the use of a vessel the owner thereof, shall pay such cost.

48c. (1) In this section—

“public street” means any street, road, lane, thoroughfare, footpath or place open to or used by the public, and includes any place open to or used by the public on the payment of money or otherwise.

“traffic control facility” means—

- (a) traffic control lights on public streets, and equipment used in connection with traffic control lights;
- (b) any sign, marking, structure or device containing or relating to a requirement, contravention of which is an offence arising under the Motor Traffic Act, 1909, the Metropolitan Traffic Act, Act, 1900, or any regulation under either of those Acts;
- (c) any sign, device or line referred to in section 270N(1)(c) of the Local Government Act, 1919;
- (d) any other sign, marking, structure or device that is intended to promote safe or orderly traffic movement on public streets or to warn, advise or inform the drivers of vehicles, or pedestrians, of any matter or thing in relation to vehicular or pedestrian traffic or road conditions or hazards; and
- (e) any bridge or subway or other facility for use by pedestrians over, across, under or alongside a public street.

(2) The Commissioner may—

- (a) construct, erect, affix or mark traffic control facilities;
- (b) maintain, repair, alter, operate or remove traffic control facilities constructed, erected, affixed or marked by the Commissioner or the Commissioner for Motor Transport;
- (c) subject to paragraph (d), maintain, repair, alter, operate or remove any other traffic control facilities, with the concurrence of the person or body responsible for those facilities; and
- (d) alter or remove lines marked on public streets by a council for the purposes of or for pur-

poses connected with vehicular or pedestrian traffic.

(5) This section is in addition to, and not in derogation of, any provision of this Act, or any other Act or law, conferring or imposing powers, authorities, duties or functions on the Commissioner, or any other person or body, in relation to traffic control facilities, but has effect subject to the Traffic Authority Act, 1976.

(6) This section extends to the whole of the Western Division of the State.

METROPOLITAN TRAFFIC ACT, 1900 (N.S.W.)

13b. (1) In this section "traffic control sign" means a standard, sign, notice or device in or similar to a form, or generally answering a description, prescribed for the purposes of this section.

(2) The Traffic Authority may give such a direction for the control of vehicles or horses upon a public street as, in its opinion, may be necessary or desirable and any such direction—

- (a) may be limited as to time, place or subject-matter; and
- (b) may be varied or revoked by the Traffic Authority.

(3) A direction given pursuant to subsection two of this section shall have effect only while there is erected or displayed upon or near, or marked upon, the public street to which the direction relates a traffic control sign that is notice of the direction.

(4) The direction appearing upon, or prescribed as given by, a traffic control sign that is erected or displayed upon or near, or marked upon, a public street with the authority of the Traffic Authority shall, whether the traffic control sign was so erected, displayed or marked before or after the commencement of section four of the Motor Traffic, Metropolitan Traffic and Transport (Amendment) Act, 1968, be deemed to be a direction, for the time being in force, given pursuant to subsection two of this section in relation to that public street and the traffic control sign shall, for the purposes of subsection three of this section, be deemed to be notice of that direction.

(5) Regulations may be made for and with respect to—

- (a) the control of vehicles or horses upon a public street by means of traffic control signs;
- (b) prescribing the form or description of traffic control signs;
- (c) the interpretation of words, figures, symbols or abbreviations appearing on a traffic control sign;
- (d) the direction represented by a sign or device comprising, or partly comprising, a traffic control sign;
- (e) the observance of a direction appearing on, or prescribed as being represented by, a traffic control sign.

(6) Any person who—

- (a) without the authority of the Traffic Authority—
 - (i) erects or displays upon or near, or marks upon, a public street any traffic control sign; or
 - (ii) interferes with, alters or removes any traffic control sign erected or displayed upon or near, or marked upon, a public street; or
- (b) erects or displays upon or near, or marks upon, a public street any standard, sign, notice or device that might reasonably be mistaken to be a traffic control sign,

shall be guilty of an offence against this Act.

(7) The Commissioner of Police or any member of the police force authorised by him in that behalf may direct any person who contravenes subsection six of this section to remove, within a time specified by him when giving the direction, the standard, sign, notice or device in respect of which the contravention took place and any such person who fails to comply with such a direction within the time so specified shall be guilty of an offence against this Act.

(8) Without affecting any liability of any person under subsection six or seven of this section, the Commissioner of Police may remove, or cause to be removed, a standard, sign, notice or device erected, displayed or marked in contravention of subsection six of this section.

(9) The allegation, in an information in respect of an offence under this Act or a breach of a regulation, that a standard, sign, notice or device was erected, displayed or marked with the authority of the Traffic Authority, or that a standard, sign, notice or device was erected, displayed, marked, interfered with, altered or removed without the authority of the Traffic Authority, shall be accepted by the court as evidence of the truth of the allegation, unless the contrary is proved.

(10) The provisions of this section shall be supplemental to, and not in derogation from, any other provision of this Act.

MOTOR TRAFFIC ACT, 1909 (N.S.W.)

3. (1) The Governor may make regulations, and may thereby—

- (p) provide for the erection of uniform signs and notices for the guidance of motor drivers or otherwise for the purposes of this Act or the regulations;

4b. (1) In this section "traffic control sign" means a standard, sign, notice, or device in or similar to a form, or generally answering a description prescribed for the purposes of this section.

(2) The Traffic Authority may give such a direction for the control of motor vehicles upon a public street as, in its opinion, may be necessary or desirable and any such direction—

- (a) may be limited as to time, place or subject-matter; and
- (b) may be varied or revoked by the Traffic Authority.

...

(5) Regulations may be made for and with respect to—

- (a) the control of motor vehicles upon public streets by means of traffic control signs;
- (b) prescribing the form or description of traffic control signs;
- (c) the interpretation of words, figures, symbols or abbreviations appearing on a traffic control sign;
- (d) the direction represented by a sign or device comprising, or partly comprising, a traffic control sign;
- (e) the observance of a direction appearing on, or prescribed as being represented by, a traffic control sign.

(6) Any person who—

- (a) without the authority of the Traffic Authority—
 - (i) erects or displays upon or near, or marks upon, a public street any traffic control sign; or
 - (ii) interferes with, alters or removes any traffic control sign erected or displayed upon or near, or marked upon, a public street; or
- (b) erects or displays upon or near, or marks upon, a public street any standard, sign, notice or device that might reasonably be mistaken to be a traffic control sign,

shall be guilty of an offence under this Act.

(7) The Commissioner of Police or any member of the police force authorised by him in that behalf may direct any person who contravenes subsection six of this section to remove, within a time specified by him when giving the direction, the standard, sign, notice or device in respect of which the contravention took place and any such person who fails to comply with such a direction within the time so specified shall be guilty of an offence under this Act.

(8) Without affecting any liability of any person under subsection six or seven of this section, the Commissioner of Police may remove, or cause to be removed, a standard, sign, notice or device erected, displayed or marked in contravention of subsection six of this section.

(9) The allegation, in an information in respect of an offence under this Act or a breach of a regulation, that a standard, sign, notice or device was erected, displayed or marked with the authority of the Traffic Authority, or that a standard, sign, notice or device was erected, displayed, marked, interfered with, altered or removed without the authority of the Commissioner of Police, shall be accepted by the court as evidence of the truth of the allegation, unless the contrary is proved.

(10) The provisions of this section shall be supplemented to, and not in derogation from, any other provision of this Act.

MOTOR TRAFFIC REGULATIONS, 1935 (N.S.W.)

55. (1) The Traffic Authority may authorise the erection of signs in the form of traffic control light signals for the guidance of the drivers of motor vehicles.

...

56. (1) No person shall, except with the approval of the Traffic Authority—

- (a) mark or cause to be marked on a public street any line or marking resembling or apparently intended to resemble a marked footcrossing, stop line, marked centre line, lane line or separation lines marked as prescribed;

- (a1) deface, obliterate or interfere with any marked footcrossing, stop line, marked centre line, lane line or separation lines marked as prescribed;

- (b) erect or display or cause to be erected or displayed in any public street or in a position where it is visible from any public street any matter or thing resembling or apparently intended to resemble, any standard, sign, device, notice or traffic control light signal erected or displayed as prescribed;

- (c) deface, obliterate or in any wise damage any standard, sign, device, notice or traffic control light signal erected or displayed as prescribed;

- (d) display or cause to be displayed any red, green or amber light in such a manner as to interfere with any direction of a traffic control light signal erected in accordance with Regulation 55 or prevent or be likely to prevent any such direction from being clearly understood by the driver of any motor vehicle approaching the signal along a portion of a public street in respect of which such direction is displayed;

- (e) place or cause to be placed any matter or thing in such a position as to prevent or be likely to prevent any prescribed standard, sign, device or notice or the directions of any prescribed traffic control light signal from being clearly observed by the driver of any motor vehicle approaching such standard, sign, device, notice or signal along a portion of a public street in respect of which such standard, sign, device, notice or directions are erected or displayed.

(2) Where any person in contravention of any provision of clause (1) of this Regulation, erects, displays, marks or places or causes to be erected, displayed, marked or placed any matter or thing, the Traffic Authority or any member of the Police Force may direct such person to remove such matter or thing forthwith.

*MUNICIPAL COUNCIL OF SYDNEY ELECTRIC
LIGHTING ACT, 1896 (N.S.W.)*

14. The Council may open and break up the soil and pavement of any street, and open and break up any sewers, drains, or tunnels within or under such streets; and may construct subways and drains; and may lay down and place under or over any street any electric lines; and from time to time repair, alter, or remove the same; and for the purposes aforesaid may remove and use all earth and materials in and under such streets; and may in any such street erect any posts, pillars, standards, lamps, and other works, and do all other acts which they may from time to time reasonably deem necessary for supplying electricity; and may lay any electric line, branch, or other apparatus from any main or branch electric line into, through, or against any place or building for the purpose of lighting the same; and provide and set up any works in their opinion necessary for securing thereto a complete supply of electricity; and for measuring and ascertaining the extent of such supply: Provided that nothing herein shall authorise or empower the Council to construct or place any works into, through, against, or in any place, building, or land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Council may at any time make entry, and construct and place any new works instead of such works as shall have been lawfully constructed or placed, and may repair or alter any works so constructed or placed.

18. One month at least before commencing the execution of any works which involve the placing of works in, under, along, or across any street, highway, or public bridge, on which any telegraph, telephone, or railway line may be (not being repairs to or renewals of then existing works of which the character and positions are not altered), the Council or its agents shall serve upon the Secretary for Public Works and Postmaster-General, the Metropolitan Water, Sewerage and Drainage Board, the Municipal Council of Sydney or the council of the area in which the work is to be executed, the Australian Gas Light Company, and such other person or corporation as the Secretary for Public Works may by writing under his hand addressed to the Council require to be notified, or leave at their respective offices addressed to them, notices describing the proposed works, and the gauge of any electric line and the current and potential to be carried, together with a plan of the proposed works showing the position of the said works and the mode in which the works are intended to be executed and the manner in which it is intended that the street, highway, or bridge shall be interfered with, and shall at the request of the Secretary for Public Works or Postmaster-General, made at any time, give them such further information with reference to the works as they may desire. If any works are commenced before the requirements of this section have been complied with, the Secretary for Public Works or Postmaster-General may cause the said works to be removed, and the Council shall be liable to a penalty not exceeding one hundred dollars, which may be recovered before any stipendiary magistrate in a summary way.

19. In the exercise of its powers under this Act the Council shall cause as little detriment and inconvenience, and do as little damage as possible, and shall make full compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount of such compensation in case of difference to be determined by arbitration or action at law at the election of the party aggrieved: Provided that the Council may in all cases be at liberty to set up by way of defence or in mitigation of damages, as the case may be, that the person claiming compensation has by his own act, neglect, or default caused or contributed to the damages in respect of which he claims to be compensated.

TRAFFIC AUTHORITY ACT, 1976 (N.S.W.)

4. (1) In this Act, except in so far as the context or subject-matter indicates or requires—

...

"Authority" means the Traffic Authority of New South Wales constituted under this Act.

...

"Public authority" means a public or local authority constituted by or under an Act other than this Act, and includes—

- (a) the Police Force, the Department of Motor Transport, the Department of Mains Roads and any other Government Department;
- (b) a statutory body representing the Crown on whom any functions are conferred or imposed by or under any Act other than this Act; and
- (c) a person or body prescribed for the purposes of this paragraph;

"Public street" means any street, road, lane, thoroughfare, footpath or place open to or used by the public, and includes any place open to or used by the public on the payment of money or otherwise;

...

"Traffic control facility" means—

- (a) traffic control lights on public streets, and equipment used in connection with traffic control lights;
- (b) any sign, marking, structure or device containing or relating to a requirement or direction, contravention of which is an offence arising under—
 - (i) the Motor Traffic Act, 1909, the Metropolitan Traffic Act, 1900, or any regulation under either of those Acts; or
 - (ii) any other Act, regulation or by-law prescribed for the purposes of this subparagraph (other than the Local Government Act, 1919, or any ordinance thereunder);
- (c) any sign, device or line referred to in section 270N(1)(c) of the Local Government Act, 1919;

- (d) any other sign, marking, structure or device that is intended to promote safe or orderly traffic movement on public streets or to warn, advise or inform the drivers of vehicles, or pedestrians, of any matter or thing in relation to vehicular or pedestrian traffic or road conditions or hazards; and
- (e) any bridge or subway or other facility for use by pedestrians over, across, under or alongside a public street,

but does not include any sign, marking, structure, device or other thing in so far as it contains information as to the route or distance to any place.

...

5. (1) Subject to subsection (2) and except as expressly provided by this Act, nothing in this Act affects any of the provisions of any other Act, or any regulations, ordinances or by-laws thereunder, or takes away any powers vested in any person or body by any other Act, or any regulations, ordinances or by-laws made under any other Act.

(2) Where the provisions of this Act are inconsistent with any of the provisions of any other Act or any regulation, ordinance or by-law made under any other Act, the provisions of this Act shall prevail.

6. (1) There is hereby constituted a corporation under the corporate name of the "Traffic Authority of New South Wales".

(2) The Authority shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

16. (1) The Authority shall have and may exercise and perform the functions conferred or imposed on it by or under—

- (a) this Act ;
- (b) the Metropolitan Traffic Act, 1900;
- (c) the Motor Traffic Act, 1909;
- (d) the Local Government Act, 1919; or
- (e) the Traffic Safety (Lights and Hoardings) Act, 1951,

or any other Act.

(2) The Authority shall, in the exercise and performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

Functions of the Authority

17. (1) The Authority is charged with the responsibility of—

- (a) reviewing the traffic arrangements in the State, including arrangements in connection with the movement, regulation and control of traffic and the parking of vehicles;
- (b) formulating or adopting plans and proposals for the improvement of those arrangements;
- (c) establishing general standards and general principles in connection with—
 - (i) the design, construction, erection, affixing, marking, maintenance, repair, alteration,

operation or removal of traffic control facilities; and

- (ii) the design of intersections and the approaches thereto or the approaches to railway level crossings,

for purposes connected with traffic safety and the movement, regulation and control of traffic;

- (d) establishing priorities in connection with the carrying out of activities, works or services, that are items of expenditure approved under section 24;

- (e) promoting traffic safety; and

- (f) co-ordinating the activities of public authorities so far as those activities relate to—

- (i) the carrying out of plans and proposals formulated or adopted by the Authority for the improvement of traffic arrangements;

- (ii) the construction, erection, affixing, marking, maintenance, repair, alteration, operation or removal of traffic control facilities;

- (iii) traffic safety; or

- (iv) any other matter connected with the Authority's functions.

(2) The Authority may—

- (a) promote traffic safety measures or activities, including measures or activities for—

- (i) the safety and protection of the public, including pedestrians, on public streets;

- (ii) the prevention of accidents on public streets;

- (iii) the minimising of the effect of accidents occurring on public streets; and

- (iv) the protection of property from damage from accidents occurring on public streets;

- (b) promote or engage in the dissemination and publication by suitable media of advice and information resulting from research or otherwise for the education and guidance of, and observance by, drivers of or persons travelling in vehicles, or persons on public streets, or manufacturers of, repairers of, or dealers in, vehicles or vehicle parts;

- (c) make reports or recommendations to the Minister, or any other person or body, in relation to—

- (i) traffic arrangements, and the movement, regulation and control of traffic, on public streets;

- (ii) traffic planning;

- (iii) traffic safety;

- (iv) the parking of vehicles;

- (v) the operation, maintenance or alteration of traffic control facilities; or

- (vi) any other matter connected with the Authority's functions;

- (d) make reports or recommendations to the Minister for amending the law, or making provision therein, in relation to matters connected with the Authority's functions;
- (e) carry out or promote research or investigations into matters connected with any of the Authority's functions, including research or investigations into—
 - (i) traffic control facilities; and
 - (ii) the cause of accidents, their incidence and the ways and means that may be adopted for their prevention or for controlling or mitigating their effects; and
- (f) co-operate with, or do or perform any act or thing in conjunction with, any person or body in connection with the Authority's functions.

18. (1) The Authority may, from time to time direct public authorities to implement plans or proposals formulated or adopted, general standards or general principles established, or other decisions made, by the Authority in the exercise or performance of the Authority's functions.

(2) The Authority may communicate directions under this section to such public authorities, and in such manner, as it thinks fit.

(3) While a direction communicated to a public authority under this section and applicable to its functions is in force, it is the duty of the public authority, by the exercise or performance of its functions in accordance with law, to comply with the direction, except where to do so—

- (a) would be impracticable by reason of emergency, accident or other special circumstances; or
- (b) would affect the functions of any person or body with respect to the laying or making of any information or complaint, the continuance or discontinuance of any proceedings for an alleged offence, or any other manner of dealing with an alleged offence.

(4) The failure of a public authority to comply with a direction of the Authority under this section does not invalidate any act, matter or thing to which the direction relates, and in particular does not invalidate the construction, erection, affixing or marking of any traffic control facility or any direction that is contained in or relates to the facility.

(5) A direction may be given under this section so as to apply generally or in any particular case or class of cases.

(6) The power to give a direction includes the power to amend or revoke a direction.

19. (1) The Authority may, for the purpose of promoting traffic safety, make recommendations to a public authority in relation to the public authority's functions in connection with the lighting of public streets, including recommendations in relation to—

- (a) general principles relating to the provision of lighting on public streets;
- (b) the need for lighting on any particular public street or part thereof; and

- (c) the need for the improvement of lighting on any particular public street or part thereof.

(2) It is the duty of a public authority to which recommendations are made under this section to give proper consideration to the recommendations and, as far as may be reasonably practicable, to carry the recommendations into effect.

20. (1) The Authority may, by instrument in writing under seal, delegate to—

- (a) a member or a committee;
- (b) a public authority;
- (c) an officer of a Government Department; or
- (d) an officer, servant or employee referred to in section 15,

the exercise or performance of such of the functions (other than this power of delegation) conferred or imposed on the Authority by or under this or any other Act as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

(2) A function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such limitations as to the exercise or performance of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation under this section, the Authority may continue to exercise or perform any or all of the delegated functions.

(5) Except in so far as the instrument of delegation otherwise provides, a function delegated under this section to—

- (a) the Commissioner for Motor Transport—may be exercised or performed by an officer or employee of the Department of Motor Transport;
- (b) the Commissioner for Main Roads—may be exercised or performed by an officer or employee of the Department of Main Roads;
- (c) the Commissioner of Police—may be exercised or performed by a member of the Police Force;
- (d) a public authority—may be exercised or performed by an officer, servant or employee of the public authority; or
- (e) an officer of a Government Department—may be exercised or performed by an officer or employee of the Department,

for the time being authorised by the delegate in that behalf.

(6) Notwithstanding any authorisation under subsection (5), a delegate under this section may continue to exercise or perform the delegated function.

(7) Any act or thing done or suffered by a delegate (or a person authorised by the delegate under sub-

section (5)) while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Authority and shall be deemed to have been done or suffered by the Authority.

(8) The Authority may, from time to time, determine principles in accordance with which a delegate under this section (or a person authorised by the delegate under subsection (5)) is to exercise or perform the functions delegated, but a failure to observe the principles does not invalidate the exercise or performance of any of the functions.

21. (1) Nothing in this Part applies to or in respect of any sign, mark, structure or device containing or relating to a requirement or direction, contravention of which gives rise to an offence under the Local Government Act, 1919, or any ordinance thereunder, but not under any other Act or any regulation thereunder.

(2) Nothing in this Part affects—

(a) the operation of any provisions of any Act or statutory instrument in so far as those provisions prescribe standards or principles in connection with—

(i) the design, construction, erection, affixing, marking, maintenance, repair, alteration, operation or removal of traffic control facilities; or

(ii) the design of intersections and the approaches thereto or the approaches to railway level crossings; or

(b) the power to make or execute a statutory instrument under any other Act in relation to any such standards or principles.

(3) Any person who or body which would not, but for this subsection, have the power to co-operate with, or do or perform any act or thing in conjunction with, the Authority is hereby authorised so to co-operate or do or perform the act or thing.

EXTRACTS FROM QUEENSLAND LEGISLATION

ELECTRICITY ACT 1976-1980

LOCAL GOVERNMENT ACT 1936-1982

MAIN ROADS ACT 1920-1979

TRAFFIC ACT 1949-1982

TRAFFIC REGULATIONS 1962

ELECTRICITY ACT 1976-1980 (Qld)

6. **Interpretation.** In this Act, unless the contrary intention appears—

“Area” means a part of the State constituted under this Act as an Area of electricity supply;

“construct” includes erect, lay down and place;

“electric line” means any wire or wires, conductor or other means used for the purpose of conveying, transmitting, transforming or distributing elec-

tricity, together with any casing, coating, covering, tube, pipe, pillar, pole or tower, post, frame, bracket or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting, transforming or distributing electricity;

“electrical installation” means any electric line or electrical article placed in, on or over any premises and used or intended to be used for or for purposes incidental to the conveyance, control or use of electricity supplied or intended to be supplied by an Electricity Authority or the holder of a licence under this Act to supply electricity or an owner or occupier of a private plant, and whether or not supplied by the person contracting or undertaking to install the same. The term includes additions and alterations to an electrical installation, but does not include—

(a) an electric line of any Electricity Authority or the holder of a licence under this Act to supply electricity;

(b) works of any Electricity Authority or the holder of a licence under this Act to supply electricity that are used for the generation, transmission and distribution of electricity;

“Electricity Authority” means The Queensland Electricity Generating Board, any Electricity Board, and any other authority, person or body determined by this Act to be an Electricity Authority;

“Electricity Board” means an Electricity Board constituted under this Act in respect of an Area;

“public body” means the Crown, the Governor in Council, a Minister of the Crown, a Local Authority and any board, body, authority or corporation constituted or incorporated by or under any statute and authorized by statute to carry on a public undertaking;

“road” means any road, street, square, court, alley, highway, thoroughfare, lane, footpath, public passage or place that the public are entitled to use, and any wharf, jetty, bridge, park or reserve that is under the control of a public body;

“works” means electric lines and any buildings, machinery, engines, meters, lamps, transformers, fittings, apparatus, control cables and any matters or things of whatever description required to generate, transmit or distribute electricity or to carry into effect the objects of any Electricity Authority pursuant to this Act.

...

101. **Constitution of Electricity Boards and Areas.**

(1) Different parts of the State shall be constituted as Areas of electricity supply.

(2) There shall be constituted an Electricity Board for each Area.

(3) Areas and Electricity Boards may be constituted at any time after the passing of this Act.

(4) Subject to this Act, an Electricity Board constituted as aforesaid shall on and from the day of its being constituted until the day of commencement of

this Act be limited in its powers and functions to the matters and things specified in that respect in the Second Schedule.

(5) Nothing contained in subsection (4) limits the exercise and performance by an Electricity Board of its powers, functions and duties in respect of any matter or thing so specified on and after the day of commencement of this Act.

102. Electricity Board to be a body corporate.

(1) Each Electricity Board shall—

- (a) be a body corporate under the name "The (name of Area) Electricity Board" with perpetual succession and an official seal;
- (b) be capable in law of—
 - (i) suing and being sued;
 - (ii) compounding or proving in any court of competent jurisdiction all debts or sums of money due to it;
 - (iii) taking, acquiring, holding, dealing with and disposing of real and personal property (whether situated in Queensland or elsewhere); and
 - (iv) doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(2) An Electricity Board does not represent the Crown.

(3) A member or employee of an Electricity Board is not and shall not be taken to be, as such member or employee, a member of the Public Service of Queensland or an employee of the Crown.

103. First Electricity Boards. (1) The Electricity Boards first constituted within the State shall be The Far North Queensland Electricity Board, The North Queensland Electricity Board, The Mackay Electricity Board, The Capricornia Electricity Board, The Wide Bay-Burnett Electricity Board, The South East Queensland Electricity Board and The South West Queensland Electricity Board.

(2) The Areas for which the respective Electricity Boards referred to in subsection (1) are constituted are set out in the Sixth Schedule.

129. Powers, functions and duties of an Electricity Board. Subject to this Act and without derogating from any other provision of this Act with respect to any power, function or duty of an Electricity Board, each Electricity Board—

- (a) shall supply electricity to consumers within its Area, other than consumers required to be supplied by the holder of a licence issued by the Minister under this Act, and to such other consumers as it may be required to supply pursuant to the terms of a licence issued to it by the Minister under this Act;

...

174. Lighting on a road. (1) An Electricity Authority may construct, maintain and control works on any road for the purpose of lighting.

(2) Such lighting may be provided by the Electricity Authority for the purpose of lighting any of its works or on the requisition of the Commissioner of Main

Roads, a Local Authority, or any other statutory body having control or management of a road.

(3) Nothing in this section shall be construed so as to prohibit the Commissioner of Main Roads, a Local Authority, or any other statutory body having control or management of a road from constructing and maintaining lighting as part of the works comprising such road on any road or part of a road on which the Electricity Authority has not constructed works for the purpose of lighting.

(4) Nothing contained in subsection (3) shall be construed as limiting the powers of the Governor in Council under section 293 with respect to such lighting.

216. Placing, altering or removing electric lines on roads. (1) Subject to the provisions of this Act and subject to obtaining the agreement in writing of the Commissioner of Main Roads in the case of a declared road within the meaning of the *Main Roads Act* 1920-1975, the Local Authority in question in the case of any other road or, as the case may be, other statutory body having the control or management of a road, an Electricity Authority may—

- (a) lay down and place on, under or over any road any electric lines or other works;
- (b) alter (other than for purposes of repair or maintenance) or remove any electric lines or other works.

...

(6) If an Electricity Authority considers that in the case of a failure by it to obtain agreement with the Commissioner of Main Roads or a Local Authority or other statutory body under subsection (1) or subsection (5) the failure is due to unreasonableness on the part of the Commissioner or Local Authority or other statutory body, it may refer the matter in question to the Minister for the purpose of determination by the Governor in Council (and it may be determined by the Governor in Council) under and in accordance with the provisions of section 225.

(7) If an Electricity Authority constructs an electric line or other works otherwise than pursuant to and in accordance with an agreement in writing with the Commissioner of Main Roads or a Local Authority or other statutory body as aforesaid or otherwise than in accordance with a determination of the Governor in Council under section 225, it shall, at its cost, remove, re-locate or otherwise alter the line or other works in the manner required by such Commissioner, Local Authority or other statutory body.

...

220. Alteration of position of electric lines and works constructed on road. (1) A public body may require an Electricity Authority to alter the position of any of the electric lines or other works of the Electricity Authority constructed on, under or over a road and that may interfere with the lawful exercise of any powers vested in the public body in relation to such road.

(2) The cost of such alteration, but not that of any work done concurrently with such alteration, which work so done concurrently is for the purpose of the enhancement of the value of such electric lines or other

works, shall be paid to the Electricity Authority by the public body.

(3) If a public body, including one having control or management of a road on, under or over which an electric line or other works of an Electricity Authority is or are constructed, proposes to carry out works in the vicinity of such electric line or other works in circumstances whereby—

- (a) plant which, if not properly controlled, is likely to come into contact with an overhead electric line is to be used;
- (b) soil or other material supporting or covering part of an electric line or other works of the Electricity Authority will be disturbed,

the public body shall, except in cases of emergency, give 14 days' notice of such work to the Electricity Authority and, if as a result of such work the Electricity Authority is required to adopt measures to protect or reinstate its works, the cost of such measures shall be borne by the public body.

(4) When the work is carried out in circumstances of emergency, the public body shall give notice as soon as practicable.

225. Disputes with other Authorities. (1) Where the performance of any functions, the exercise of any rights, powers or authorities or the discharge of any duties by an Electricity Authority may affect the performance of any functions, the exercise of any rights, powers or authorities or the discharge of any duties by any board, body, authority (including a Local Authority) or corporation constituted or incorporated by or under any statute and authorised by statute to perform public functions or carry on a public undertaking (hereafter in this section referred to as "the other Authority"), the Electricity Authority shall, so far as is practicable, confer and agree with the other Authority.

(2) Any question, difference or dispute arising or about to arise between the Electricity Authority and the other Authority with respect to the performance of any functions, the exercise of any rights, powers or authorities or the discharge of any duties by either or both of them may be referred by either party to the Minister for determination by the Governor in Council.

(3) Where a matter is referred to the Minister pursuant to subsection (2) and the other Authority is constituted by an Act that is administered by another Minister, the Minister shall forthwith advise the other Minister that the matter has been so referred to him and as soon as practicable thereafter shall advise the other Minister of the further action he proposes to take pursuant to this section.

(4) The Minister may cause to be made such investigations as he deems necessary or may direct the Commission to make such investigations as he deems necessary.

(5) In lieu of proceeding in accordance with subsection (4), the Minister may recommend to the Governor in Council that the Commissioner or any other person be appointed to hold an inquiry and to report to the Minister upon any matter arising in or relating to a question, difference or dispute, and the Governor in Council may make such appointment.

(6) The Governor in Council may by Order in Council declare that *The Commissions of Inquiry Act, 1950 to 1954* or the provisions of those Acts specified in the Order in Council shall be applicable for the purposes of such an inquiry and thereupon those Acts or, according as declared by the Governor in Council, the provisions thereof so specified shall apply to and with respect to the inquiry, save that the provisions of such Acts that are thereby limited in their application to a Judge of the Supreme Court shall not so apply to a person who is not a Judge of the Supreme Court.

(7) The Governor in Council shall consider the result of any investigations made pursuant to subsection (4) or the report made to the Minister pursuant to subsection (5), as the case may be, and may make such Orders in Council in the public interest as in the circumstances may seem just and equitable. Any such Order in Council shall be final and conclusive and shall be given effect to by the Electricity Authority and by the other Authority.

(8) Nothing in this section confers on the Electricity Authority any right against the Crown beyond any rights specifically conferred on the Electricity Authority by this Act.

226. Works to remain property of Electricity Authority. (1) All works and every part thereof vested in or held by an Electricity Authority subject to the provisions of this Act shall, notwithstanding that they have been constructed in or under any road or are placed in or upon any place or building, remain the property of the Electricity Authority.

(2) Where any electric lines or other works or any meters, fittings, apparatus, buildings or materials whatsoever belonging to the Electricity Authority are placed in or upon any land, place or building for or in connexion with the supply of electricity in pursuance of this Act, the same shall not pass to any purchaser on any sale or transfer of such land, place or building and shall not, save in a proceeding at the suit of the Electricity Authority, be taken in execution under the process of any court.

425. Satisfaction for damage carelessly or accidentally caused. An Electricity Authority may, without prejudice to any other action or remedy available to it, recover in a summary way under the *Justices Act 1886-1975* such sum of money by way of satisfaction for damage done as the court thinks fit, but not exceeding \$2,500 or such greater amount as from time to time is the limit of jurisdiction of a Magistrate's Court in a personal action, from any person who carelessly or accidentally breaks, throws down or damages any electric line or other works belonging to the Electricity Authority or under its control.

LOCAL GOVERNMENT ACT 1936-1982 (Qld)

3. (1) Interpretation and definitions. In this Act, unless the context otherwise indicates or requires, the following terms have the meanings set against them respectively, that is to say—

"Local Authority"—A Local Authority constituted under this Act: the term in relation to any

functions of local government under this Act, or any of the powers and duties conferred upon Local Authorities under any other Act, also includes a Joint Local Authority constituted under this Act in respect thereto;

"Official traffic sign"—Any official traffic sign under and within the meaning of "The Traffic Acts, 1949 to 1965";

"Regulations"—Regulations made under the authority of this Act;

"Road"—A street, road, or highway dedicated to the public, including a bridge or ferry and the approaches thereto: the term includes any road within the meaning of "The Diseases in Stock Acts, 1915 to 1935" (or any Act amending or in substitution for those Acts);

. . .

30. Local Authority charged with exercise and performance of functions of local government. The Local Authority shall have delegated to it the functions of local government.

The Local Authority shall be charged with the good rule and government of the whole or any part of the Area and shall have the control of the working and business of such good rule and government.

The Local Authority shall have full power to make by-laws for promoting and maintaining the peace, comfort, culture, education, health, morals, welfare, safety, convenience, food supply, housing, trade, commerce, and manufactures of the Area and its inhabitants, and for the planning, development, and embellishment of the Area, and for the general good rule and government of the Area and its inhabitants, and for the direction, administration, and control of the working and business of the government of the Area, and shall cause all such by-laws to be duly carried into effect.

And generally all such by-laws may be made and carried into effect by the Local Authority as may be determined by it to be necessary for the proper exercise and performance of the functions of local government and the powers and duties of the Local Authority, whether the subject-matter be within the express powers conferred by this Act upon the Local Authority or not.

And without limiting the generality of its powers and authorities the Local Authority shall have and possess and may exercise and perform express powers and authorities (including the power to make by-laws) in relation to the following matters: The undertaking, provision, construction, maintenance, management, execution, control, regulation, and/or regulation of the use of—

Roads, bridges, tunnels, ferries, subways, viaducts, culverts, and other means of public communication; land (other than roads) vested in or under the control of the Local Authority; public parks, gardens, playing grounds, recreation grounds, scenic resorts and other public places; aviation grounds and aerodromes; reserves and lands vested in it or placed under its control either permanently or temporarily; markets; baths and bathing places; tramways, motor omnibuses, omnibuses and other

means of public transportation; traffic, health, sanitation, cleansing and scavenging, prevention and suppression of infectious and other diseases, sewerage, stormwater drainage, removal, suppression and abatement of nuisances, noxious and offensive trades, public conveniences; abattoirs; milk supply, supply of water, light and power; water conservation, flood gates and flood prevention; disposal of the dead; town planning; subdivision of land and use and occupation of land; buildings and use and occupation of buildings; protection from fire; boundaries and fences; opening, closing, aligning, widening, altering, and grading of roads; eradication and destruction of noxious weeds and pests; pounds and impounding; agricultural drainage, reclamation of land; wharves, quays, jetties, landing places;

. . .

and generally all works, matters and things in its opinion necessary or conducive to the good rule and government of the Area and the wellbeing of its inhabitants.

Generally the power and authority conferred upon the Local Authority by this Act to make by-laws for or in respect of any function of local government shall include and be deemed to include all such by-laws as the Local Authority shall deem necessary or expedient to enable it to exercise and perform with respect to any such function its duty of good rule and government of the whole or any part of the Area and its control of the working and business of such good rule and government:

Provided that in the making of by-laws for or in respect of any function in relation to which specific powers and duties of the Local Authority are provided in this Act, all such by-laws may be made as the Local Authority shall deem necessary or expedient to give effect to such specific provision; but no such by-law shall contravene any prohibition or limitation imposed upon the Local Authority by any such specific provision.

The Local Authority may take any land and provide, acquire, construct, maintain, manage, control, and carry on any work, service, or undertaking with all associated or ancillary works or services.

Where an undertaking or work includes the doing and executing by the Local Authority of any act, matter, or thing on any land or premises, the Local Authority shall have full power and authority to do and execute such act, matter or thing on such land or premises as part of such undertaking or work, and to the intent that the cost of doing and executing such act, matter, or thing shall be part of and included in the cost of such undertaking or work.

The Local Authority may do any acts not otherwise unlawful which may be necessary to the proper exercise and performance of its powers and duties under this Act or any other Act conferring powers or imposing duties on the Local Authority.

. . .

32. (4) Street Lighting. The Local Authority may contribute towards the capital cost of street lighting and its installation within the Area of the Local Authority in accordance with an agreement entered into between

the Local Authority and any person, body or authority undertaking the supply of electricity within such Area.

...

(12) Materials of roads, etc., belong to Local Authority. The materials of all roads, bridges, ferries, wharves and jetties, and other public works under the control of the Local Authority, and all things appurtenant thereto, shall belong to the Local Authority.

...

35. Classification of roads. (1) Roads shall be classified by the Local Authority in relation to the use which they are required to serve.

(2) The classification of roads shall be as follows—

- (a) Principal roads;
- (b) Secondary roads;
- (c) Residential roads, being roads primarily for access to residences;
- (d) Lanes, being roads primarily for access to the back of premises;
- (e) Pathways, being roads exclusively for foot-passengers and such classes of vehicles drawn or propelled by foot passengers as may be prescribed.

(3) The provisions of this Act with respect to the classification of roads shall, unless inconsistent with the context, be deemed to include alteration of classification and reclassification.

...

49E. Official traffic signs and regulated parking. (1) The Local Authority may, subject to "The Traffic Acts, 1949 to 1965," install and remove official traffic signs and prohibit, regulate and control parking on any road in the Area.

(2) The Local Authority shall, subject to this Act, take all action necessary to give effect to the provisions of "The Traffic Acts, 1949 to 1965."

...

52. (10) Action for negligence. (i) No person shall be entitled to recover against a Local Authority any damages in respect of any injury to the person or to property alleged to have been sustained by himself or any other person by reason of the negligence of the Local Authority, unless the following conditions are complied with by him or on his behalf, namely—

- (b) In the case of injury to the person, the medical officer of the Local Authority (which officer it is empowered to appoint at such remuneration as it thinks fit), shall on the demand of the Local Authority be permitted to examine the person injured, and all facilities and information shall be given to him necessary to enable him to fully ascertain the nature and extent of the injury;
- (c) In the case of injury to property, an officer of the Local Authority shall on demand of the Local Authority, be permitted to inspect the property injured, and all facilities and information shall be given to him necessary to enable him to fully ascertain the value of

the property injured, the nature and extent of the injury, and the amount of money, if any, expended in repairing the same.

Non-compliance with all or any of the conditions herein imposed shall be no bar to the maintenance of an action if the justice who tries the action is of opinion that there was reasonable excuse for such non-compliance.

...

(11) Limit of liability of Local Authority. (i) Every claim against a Local Authority for damages in respect of personal injury, fatal or non-fatal, incurred on or after the date of the enactment of this paragraph which is brought in the Supreme Court of Queensland shall be heard and determined by a Judge without a jury.

(iii) Without derogating from the provisions of subsection six of section thirty-six of "The City of Brisbane Acts, 1924 to 1953," every reference in subsection ten of this section and in this subsection to the recovery of damages, as specified or referred to by the reference, against a Local Authority shall include a reference to the recovery of those damages against Brisbane City Council (whether such damages are in respect of the exercise or performance or alleged exercise or performance by Brisbane City Council of any power, function, authority, or duty conferred or imposed upon it by "The City of Brisbane Acts, 1924 to 1953", or by any other Act, or arise otherwise).

MAIN ROADS ACT 1920-1979 (Qld)

2. Interpretation. In this Act, unless the context otherwise indicates, the following terms have the meanings respectively assigned to them, that is to say—

"Area"—The Area of a Local Authority;

"Declared road"—Any road declared to be—

- (a) a State highway;
- (b) a main road;
- (c) a developmental road;
- (d) a secondary road;
- (e) an urban arterial road; or
- (f) an urban sub-arterial road,

under this Act and includes any part of any such road;

"Local Authority"—A Local Authority constituted under the Local Authorities Acts; the term includes the City of Brisbane constituted under "The City of Brisbane Acts, 1924 to 1933" (or any Act amending the same);

"Main road"—Any road declared to be a main road under this Act, or any part of such road;

"Manual of Uniform Traffic Control Devices"—The Manual of Uniform Traffic Control Devices under and within the meaning of "The Traffic Acts, 1949 to 1965";

"Motorway"—Any declared road designated a motorway under this Act, or any part of such road;

"Road"—Any road, whether surveyed or unsurveyed, dedicated to public use as a road and any track

used by the public as a road through any vacant Crown land, any pastoral holding, or any reserve, the boundaries of such track not being defined by survey and the area occupied by such track not being especially dedicated for public use as a road: the term also includes bridge, culvert, ferry, and ford;

"State highway"—Any road declared to be a State highway under this Act, or any part of such road;

"Traffic device"—Any post, fence, raised paving, roundabout, safety zone, traffic island, median, place of refuge or other work or structure erected, placed or marked on or upon any road by the Commissioner under this Act;

...

9b. Regulation of traffic. Subject to this Act and "The Traffic Acts, 1949 to 1965," the Commissioner may from time to time—

(a) compile, maintain and amend the Manual of Uniform Traffic Control Devices;

...

(d) install or arrange for the installation of official traffic signs on any road;

...

(f) make recommendations for the making, altering, or repealing of regulations under "The Traffic Acts, 1949 to 1965", for and with respect to the matters specified in clauses two, eight, 8A, nine, ten, eleven, 11A, twelve, thirteen, fourteen, sixteen, twenty, twenty-one, twenty-five, twenty-eight, thirty, thirty-five and thirty-six of the Schedule to those Acts;

...

11. (1) Commissioner to recommend what roads shall be declared. The Commissioner may recommend to the Governor in Council that—

(a) Any road which, in the opinion of the Commissioner, is a principal avenue of communication by road, be declared a State highway;

(b) Any road which, in the opinion of the Commissioner, is of sufficient importance, be declared a main road;

(c) Any road, route or means of access which, in the opinion of the Commissioner, will develop any area of land opened or proposed to be opened for settlement, be declared a developmental road;

(d) Any road which acts as a feeder to a declared road, or is a means of access to a mining area, national park, scenic reserve, seaside resort or natural beauty spot, or is likely to be used generally for the conveyance of primary products from the place of production to rail or market, be declared a secondary road;

(e) Any road be declared an urban arterial road or urban subarterial road; or

(f) Any State highway, main road, developmental road, secondary road, urban arterial road or urban sub-arterial road be declared to be no

longer a State highway, main road, developmental road, secondary road, urban arterial road or as the case may be, urban sub-arterial road.

The Commissioner may at the time of making any recommendation under subparagraph (f) of the first paragraph of this subsection in respect of any declared road, or at any later time, make in respect of the same any other recommendation authorised by this subsection to be made by him.

Any recommendation made by the Commissioner under this subsection shall specify the points of commencement and termination of the road, route or means of access whereto the recommendation relates.

(3) Governor in Council may confirm recommendation. The Governor in Council may by Proclamation confirm any recommendation of the Commissioner under subsection (1) of this section and thereupon the road, route or means of access the subject of the recommendation shall, according to the tenor of the recommendation—

(a) be a State highway, main road, developmental road, secondary road, urban arterial road or, as the case may be, an urban sub-arterial road;

(b) cease to be a State highway, main road, developmental road, secondary road, urban arterial road or, as the case may be, an urban sub-arterial road; or

(c) (in the case of a recommendation under subparagraph (f) of the first paragraph of subsection 1) of this section which includes any other recommendation under that subsection) cease to be a State highway, main road, developmental road, secondary road, urban arterial road or an urban sub-arterial road and be according to the other recommendation so included a State highway, main road, developmental road, secondary road, urban arterial road or an urban sub-arterial road.

Upon confirmation of a recommendation under subparagraph (f) of the first paragraph of subsection one of this section which does not include any other recommendation under that subsection one, so much of the road the subject of that recommendation as is within the Area of any Local Authority shall come and, subject to any future recommendation under subsection one of this section, shall thereafter remain under the control and jurisdiction of that Local Authority.

11B. (1) Motorways. Creation of Motorway. (a)(i) The Commissioner may recommend to the Governor in Council that any State highway, main road, urban arterial road or urban sub-arterial road or any specific part of the width thereof be a Motorway.

(ii) The Governor in Council may by Proclamation confirm any recommendation under subparagraph (i) of this paragraph and thereupon the State highway, main road, urban arterial or urban sub-arterial road or specified part the subject of the recommendation shall be a Motorway.

Such a recommendation shall describe and specify the course and points of commencement and termination of the Motorway.

The course and points of commencement and termination of, and the width of, the Motorway shall be delineated on a plan or map kept in the office of the Commissioner.

A copy of such plan or map shall be kept in the District Office of the Commissioner which is related to the District wherein the Motorway concerned extends or if it extends into two or more such Districts then in the District Office to which each such District is related.

Such plan or map and every copy thereof shall be open to public inspection at all times during which the office of the Commissioner and of the District Office or Offices is or are open for the transaction of public business.

In this paragraph "District" means a District established by the Commissioner for the efficient and orderly despatch of his business.

(b)(i) In respect of any road, part of a road or land the subject of a recommendation in accordance with subsection (1) of section 11A of this Act the Commissioner may further recommend to the Governor in Council that such road, part of a road or, as the case may be, land be designated a Motorway.

Such further recommendation (in this section referred to as the "further recommendation") may be made by the Commissioner at the time he makes the recommendation under subsection (1) of section 11A of this Act or thereafter.

(ii) Subject to publishing and confirming the recommendation made under subsection (1) of section 11A of this Act by Proclamation as prescribed by subsection (3) of that section and upon being satisfied that the road, part of a road or, as the case may be, land should be a Motorway, the Governor in Council may by Proclamation (in this section called the "original Proclamation") publish and confirm the further recommendation.

The Governor in Council shall by the original Proclamation or by a later Proclamation fix a date on and from which the further recommendation shall take effect, but such date shall not be earlier than the date on which the recommendation made under subsection (1) of section 11A of this Act takes effect.

Nothing in this paragraph (b) shall prevent the Governor in Council from publishing and confirming the further recommendation in the Proclamation made pursuant to subsection (3) of section 11A of this Act.

(iii) The Governor in Council may in the original Proclamation or in a later Proclamation direct that the road, part of a road or, as the case may be, land shall be a proposed Motorway, which direction shall cease to have effect upon the road, part of a road or, as the case may be, land, becoming a Motorway.

(iv) On and from the date so fixed in respect of a further recommendation, the road, part of a road, or road or part of a road comprised in the land concerned shall be a Motorway.

(v) Where a road which is described on a plan or map pursuant to subsection (2) of section 11A of this

Act is the subject of a further recommendation, the Commissioner shall suitably redesignate such road on such plan or map and every copy thereof as a Motorway or, as the case may be, a proposed Motorway.

. . .

(6) **Regulation of public utilities.** Notwithstanding anything contained in this Act or any other Act a person shall not install any tower, pole, wire, pipe, structure or thing in, on, over, or under any Motorway unless the Commissioner has given his prior consent in writing to such installation.

In this subsection and in subsection (8) of this section "Install" means construct, make, mark, place or erect, or affix to any structure, repair, maintain, manage and control and "installation" has a cognate meaning.

17. Property in declared roads and the materials thereof. (1) The absolute property in the land over which any and every declared road is proclaimed shall be vested in the Crown.

(2) The property in—

(a) The materials of any and every declared road and all live and dead timber and vegetation thereon, and all matters and things appurtenant thereto; and

(b) All buildings, fences, gates, posts, boards, stones, and erections placed upon any and every declared road; and

(c) The scrapings of any and every declared road and all gravel, sand, and other material on any and every declared road,

shall belong to the Commissioner.

(3) The Commissioner is hereby empowered to sell and dispose of such timber, gravel, sand, and other material on any and every declared road as in the opinion of the Commissioner is not likely to be required by the Commissioner for the purposes of this Act, or as in his opinion should be removed; and the Commissioner may grant permits for the removal of the same.

. . .

35. Saving powers of Local Authority. Save in so far as is inconsistent with this Act, every Local Authority shall have the same powers over the declared roads within its Area as it has over other roads within its Area.

A Local Authority shall not carry out any permanent works on any declared road or any works which are likely to affect the drainage, alignment or pavement of any declared road, unless it shall have obtained the prior approval of the Commissioner to the execution of such works.

Before fixing any building level, or altering any building level fixed in respect of a declared road the Local Authority shall consult the Commissioner and shall secure his agreement to the level as proposed to be fixed or altered.

TRAFFIC ACT 1949-1982 (Qld)

12A Definitions. In this Part IIA and in Part VIA of this Act, unless the context otherwise indicates or requires—

- (a) "Install"—means construct, make, mark, place or erect, or affix to or paint on any structure, and repair, maintain, manage and control;
- (b) "On"—means on, in, into, over or near;
- (c) "Remove"—means remove, alter, discontinue, cancel, demolish or erase;
- (d) "Structure"—includes any building, wall, fence, pillar, post or other structure, erection or device wheresoever situated and by whomsoever owned.

12B. (1) Commissioner of Main Roads may install official traffic signs. The Commissioner of Main Roads may install on a road any official traffic sign and may remove from a road any official traffic sign.

(2) Local Authority may install official traffic signs. A Local Authority may install on a road in its Area which is not a declared road or on an off-street regulated parking area in its Area any official traffic sign and may remove from a road in its Area which is not a declared road or from an off-street regulated parking area in its Area any official traffic sign.

12c. Notice to install or remove an official sign.

(a) If, in the opinion of the Commissioner of Main Roads, an official traffic sign should be installed on, or removed from, any road in an Area which is not a declared road, he may serve notice on the Local Authority for such Area specifying the nature of the official traffic sign required to be installed or removed and the location at or from which such official traffic sign shall be installed or removed. The notice shall specify a date not less than fourteen days from the date of service of the notice on or before which the installation or removal of the official traffic sign specified shall be completed.

(b) If the Local Authority does not comply with the terms of the notice within the time specified, the Commissioner of Main Roads may install or remove the official traffic sign specified in the notice and recover any cost and expense incurred by him in so doing from the Local Authority.

12b. Installation of official traffic signs in case of danger. Where the Commissioner of Main Roads, a Superintendent, a holder of a prescribed office under the Crown, a Town Clerk, or a person authorised in that behalf by the Commissioner of Main Roads, a Superintendent, a holder of a prescribed office under the Crown, a Local Authority or a Town Clerk, as the case may be, is satisfied in the circumstances of the case that a danger, hindrance or obstruction to traffic or other emergency exists or is likely to exist, or the use of a road or any part thereof or an off-street regulated parking area or any part thereof is prevented, hindered or obstructed, or likely to be prevented, hindered or obstructed, such person may install any official sign which, in his opinion, may be necessary, required or desirable for the purpose of regulating, guiding or warning traffic.

Any official traffic sign so installed may, unless otherwise directed by the Commissioner of Main Roads pursuant to section 12c of this Act be maintained and continued for so long as the said Commissioner, Superintendent, holder of a prescribed office under the

Crown, Town Clerk, or person authorised as prescribed by this section is satisfied that the danger, hindrance or obstruction to traffic or other emergency exists or is likely to exist or the use of the road or the part thereof or the off-street regulated parking area or the part thereof is prevented, hindered or obstructed or likely to be prevented, hindered or obstructed.

12G. Unlawful installation of official traffic signs.

Any person who without lawful authority installs on a road or an off-street regulated parking area an official traffic sign or other thing in the nature of or similar to or which is likely to be mistaken for an official traffic sign shall be guilty of an offence, and any such sign or other thing may be removed by the Commissioner of Main Roads or the Local Authority (whether or not any proceeding is taken for an offence with respect thereto).

Upon convicting a person for an offence against any of the provisions of this section the Court, in addition to any penalty which it may impose, may (whether an application or complaint is made in respect thereof or not) order him to pay the costs of the removal of the official traffic sign or other thing in question to the Commissioner of Main Roads or the Local Authority, as the case may be.

Without prejudice to subsection (3) of section forty-five of this Act any offence against section 12F of this Act or this section may—

- (a) if committed in relation to a declared road, be prosecuted on the complaint of a person thereunto authorised by the Commissioner of Main Roads; or
- (b) if committed in relation to a road in any Area which is not a declared road or an off-street regulated parking area in any Area, be prosecuted on the complaint of a person thereunto authorised by the Local Authority for such Area or by the Town Clerk of such Local Authority.

12H. Injury to official traffic signs. (a) Where any injury is done to an official traffic sign the following persons, namely—

- (i) any person who negligently or wilfully causes such injury; and
- (ii) if that person is an agent or employee, the principal or employer of that person,

shall each be answerable in damages to the Commissioner of Main Roads or the Local Authority (according to which of them installed such sign) for the whole injury, and such damages may be—

- (iii) sued for by; or
- (iv) recovered in a summary way under The Justices Acts 1886 to 1964, on complaint of,

the Commissioner of Main Roads or the Local Authority or any person authorised by the Commissioner of Main Roads or the Local Authority in that behalf, either generally or in the particular case, but the Commissioner of Main Roads or the Local Authority shall not be entitled by virtue of the provisions of this section to recover twice for the same cause of action.

(b) Where the owner of any vehicle pays any money in respect of any injury caused through the wilful act or negligence of the driver of that vehicle to any official traffic sign, he shall be entitled to recover the money so paid, with costs, from that driver.

...
70. Regulations (1) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be necessary or convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

(2) **Schedule.** Without limiting the generality of the provisions of subsection one of this section regulations may be made for or in respect of all or any of the purposes, matters, and things specified in the Schedule to this Act.

THE SCHEDULE

SUBJECT MATTERS FOR REGULATIONS

28. Official traffic signs, signs, signals, and directions. Providing for, prescribing, regulating, and controlling official traffic signs, and signs, signals, indications, and directions for the control or regulation of traffic; defining official traffic signs and other signs, signals, indications, and directions as aforesaid, by diagrams, illustrations, or otherwise; prescribing directions and indications for official traffic signs.

TRAFFIC REGULATIONS 1962 (Qld)

4. (1) In the construction of these Regulations, unless the context otherwise indicates or requires—

“Sign”—Includes any poster, placard, notice, sign board, or sign of any kind whatsoever, and which is or is not illuminated or has affixed thereto any material designed to reflect light:

The term also includes any device, design, structure or erection in the nature of an advertisement or advertising device, and any framework, board, or other structure whatsoever which is used or intended to be used, or is adapted to be used, for the purpose of affixing thereto or supporting any device, design, poster, placard, notice, sign board, or other sign which is a “sign” within the meaning of this definition;

...
16. (1) Any official traffic sign constructed, made, marked, placed, erected, fixed or painted in, into, or on or near a road for the purpose of guidance or direction or regulation of traffic shall be in accordance with the methods, standards and procedures prescribed in relation to such signs in the Manual of Uniform Traffic Devices or in so far as not so prescribed, as approved by the Commissioner of Main Roads.

(2) A document purporting to be a Manual of Uniform Traffic Control Devices and to have been issued by the said Commissioner shall upon its production be *prima facie* evidence of the matters contained

therein and of such document having been compiled and maintained by The Traffic Commission under the Act.

(3) A document (including a Manual of Uniform Traffic Control Devices) which on its face indicates that The Commissioner of Main Roads has approved of the design, methods, standards and procedures in relation to any sign, signal, marking, light or device for the purpose of regulating, warning or guiding traffic shall upon its production be *prima facie* evidence of the matters contained therein and of such approval.

18. If any light or any sign is in, on, or near any road or is affixed to any building upon any place and the District Superintendent or the Commissioner of Main Roads, as the case may be, is satisfied that danger to traffic may result from such light or sign, the District Superintendent or the Commissioner of Main Roads, as the case may be, may give notice in writing to the owner of such light or sign or to the owner of the premises or place to which such light or sign is affixed requiring him to either remove the light or sign or modify it to the satisfaction of the District Superintendent or the Commissioner of Main Roads, as the case may be, within a time specified in such notice.

If within the time specified in such notice such owner does not either—

(a) Remove such light or sign; or

(b) Modify such light or sign, so that, in the opinion of the District Superintendent or the Commissioner of Main Roads, as the case may be, danger to traffic will not result therefrom,

he shall be guilty of an offence, and whether such owner is or is not convicted of an offence against this Regulation, the District Superintendent or the Commissioner of Main Roads, as the case may be, may remove such light or sign or cause such light or sign to be removed and recover the costs of so doing from such owner as for a debt in any Court of competent jurisdiction.

EXTRACTS FROM SOUTH AUSTRALIAN LEGISLATION

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT, 1946-1980

HIGHWAYS ACT, 1926-1982

LOCAL GOVERNMENT ACT, 1934-1982

ROAD TRAFFIC ACT, 1961-1982

THE SOUTH AUSTRALIAN ELECTRIC LIGHT AND MOTIVE POWER COMPANY'S ACT, 1897

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT, 1946-1980 (S.A.)

THE ELECTRICITY TRUST OF SOUTH AUSTRALIA

5. (1) There shall be established a body to be known as “The Electricity Trust of South Australia”.

(2) The trust shall be a body corporate with perpetual succession and a common seal and, subject to

this Act, shall have power in its corporate name, to take, hold, and dispose of property of every kind and be a party to any legal proceedings.

(3) Every court and every person acting judicially shall take judicial notice of the seal of the trust and when the seal appears on any document shall presume that it was properly affixed thereto.

26a. The Governor may be notice in the *Gazette*—

(a) declare any part of the State to constitute an Electricity District;

(b) alter any Electricity District;

(c) assign a name to any Electricity District.

26b. (1) The Governor may appoint a committee for any Electricity District.

(2) The name of each committee shall be The Electricity Advisory Committee, the blank space being filled by the name of the district for which the committee is appointed.

...
26c. (1) It shall be the duty of a committee to investigate and report to the trust on any matter which relates to the supply of electricity within the district of the committee and is referred to the committee by the trust.

(2) A committee may of its own motion make reports and recommendations to the trust on any matter relating to the supply of electricity within the committee's district.

26d. ...

(2) A decision of a committee shall be valid if concurred in by a majority of the members of the committee.

36. The trust shall until Parliament otherwise provides continue to manage, maintain and operate the undertaking of The Adelaide Electric Supply Company Limited subject to and in accordance with the provisions of The Adelaide Electric Supply Company's Acts, 1897 to 1931:

Provided that sections 32, 33 and 38 of The South Australian Electric Light and Motive Power Company's Act, 1897, shall not apply to the trust.

37. So far as is necessary to give effect to section 36 of this Act, The Adelaide Electric Supply Company's Acts, 1897 to 1931, shall as from the appointed day be construed as if every reference therein to the company were reference to the trust.

40. (1) In addition to the powers specified in The Adelaide Electric Supply Company's Acts, 1897 to 1931, the trust shall have the following powers, namely—

...
(b) By agreement with any other person who supplies or generates electricity, to interconnect the mains of the trust with those of such other person and interchange electricity or give or receive supplies of electricity in bulk;

(c) With the approval of the council of any municipality or district council district, to supply electricity direct to consumers within that municipality or district;

(d) To supply electricity direct to consumers not within a municipality or district council district;

(e) To do any act or thing and enter into and carry out any transaction which it is necessary or convenient to do, enter into or carry out for the purpose of generating, transmitting and supplying electricity.

(2) The trust may acquire land, or any interest in, over or affecting land, in accordance with the provisions of the Land Acquisition Act, 1969-1972.

HIGHWAYS ACT, 1926-1982 (S.A.)

2. This Act shall not apply to the City of Adelaide: Provided that the council of the said city shall, when so required by notice in writing from the Commissioner, construct or reconstruct any portion of a main road within the said city to conform with the construction or reconstruction of that portion of such main road immediately adjoining the city.

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

"Commissioner" means the Commissioner of Highways appointed by or pursuant to this Act;

"Controlled-access road" means any road or part of any road or any land acquired by the Commissioner which is declared under this Act to be a controlled-access road;

"Council" means a municipal or district council;

"District" means a district council district or a municipality;

"Local-access road" in relation to a controlled-access road means—

(a) any road that provides access to land which abuts or is adjacent to that controlled-access road; or

(b) any road that provides access to or egress from the means of passage over or the means of passage under the controlled-access road;

"Main road" means any road which is declared under this Act to be a main road;

"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, roadferry, culvert, drain, embankment, fence, and any work connected with any road.

...
8. (1) There shall be a Commissioner of Highways who shall, subject to the Minister, be charged with the duty of carrying this Act into effect.

(2) The Commissioner shall be a body corporate by the name of the "Commissioner of Highways", and by that name shall have perpetual succession and a common seal.

...
17. It shall be the duty of every officer who is so directed by the Commissioner—

- (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.

Powers, duties, and functions of the Commissioner

18. (1) All property, both real and personal, belonging to or vested in the Minister for Local Government at the time of the passing of this Act for the purposes of the Roads Improvement Act, 1921, is hereby transferred to and vested in the Commissioner.

(2) All the rights, interests, titles, privileges, obligations, and liabilities of the Minister of Local Government subsisting at the commencement of this Act, or thereafter accruing, in connection with any act, matter, or thing done by the said Minister under the Roads Improvement Act, 1921, are hereby transferred to the Commissioner.

20. (1) Subject to the provisions of this Act, the Commissioner in his corporate name may—

- (a) subject to the approval of the Minister, purchase, take, receive, accept, hold, acquire by agreement or otherwise, 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, subject to the approval of the Minister, contract for the right to remove materials from any lands, tenements, and hereditaments for the purposes of this Act; and, subject to the approval of the Minister 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) subject to the approval of the Minister, acquire by purchase or hire or otherwise, goods and chattels, including stock, machinery, and road-making plant and materials of all kinds;
- (c) subject to the approval of the Minister, enter into such contracts as he thinks proper for the supply of materials or the execution of any works required to be supplied or executed for the purpose of this Act;
- (d) 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

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

...

23. (1) The Commissioner may, subject to the approval of the Minister, engage in, or cause to be undertaken, research in relation to—

- (a) the suitability of materials for road construction and maintenance;
- (b) the extent of the resources of the State in such materials and the utilization of those resources; and
- (c) methods of road construction and maintenance suitable for the State or any part of the State.

(2) The Commissioner may, subject to the approval of the Minister, engage in, or cause to be undertaken, road planning and research including but without limiting the generality of the expression—

- (a) the investigation of transport by road in relation to other means of transport; and
- (b) research into road safety, the design of vehicles and the behaviour of road users.

(3) The Commissioner shall make available for general information the results of research and experiments undertaken and made pursuant to this section in such manner and to such extent as the Minister directs.

...

26. (1) Subject to the approval of the Minister, the Commissioner may—

- (a) construct, reconstruct, or repair any road or any work connected with any road;
- (b) undertake for such term as he thinks fit the maintenance and repair of any road or any work connected with a road;

Provided that—

.....

- (ii) before exercising any of his powers under this subsection as to a road or work which is within a district the Commissioner shall give notice in writing to the council of that district of his intention, and of the date when he proposes to commence any operations or take over the maintenance and keeping in repair of any road or work.

(2) Upon the giving of a notice under subsection (1) of this section the Commissioner shall have and may exercise all the powers for the purpose of the construction, reconstruction, repair, or maintenance of the road or work which the council in whose district the road or work is situated has or may exercise with respect to that road or work under any Act; and while operations are being carried on by the Commissioner pursuant to the notice, or during the term specified therein, the exercise by the said council of the said powers shall be suspended, except so far (if at all) as directed by the Commissioner.

(3) Upon the completion of the work mentioned in the notice, the date of which shall be notified in writing by the Commissioner to the council, or upon the expiration of the term mentioned in the notice (as the case may be) the suspension of the powers of the council shall cease.

(3a) When the Commissioner in constructing, reconstructing, or repairing any public road or work under this section he may at the expense of the council in whose district the road or work is situated carry out such works on or connected with the road or work so being constructed, reconstructed or repaired as that council may in writing request.

(3b) For the purpose of constructing, reconstructing, repairing, or maintaining any road or work outside a district the Commissioner may exercise any of the powers incidental thereto which a council could exercise if the road were within its district.

(3c) When the Commissioner is of opinion that a road or work is unsafe to pedestrians or vehicles or that road or work is likely to be damaged if used by vehicles or vehicles of a class of vehicles, the Commissioner may—

- (a) close the road or work to pedestrians or vehicles; and
- (b) for that purpose erect fences or barriers.

(3d) Where the Commissioner closes or proposes to close under subsection (3c) a road or work that is within a district, the Commissioner shall as soon as practicable give notice thereof in writing to the council of that district.

(3e) The Commissioner shall display such notices and make such provision for lights or other warning devices as is necessary in the interests of public safety.

(3f) A notice under subsection (3e) may state—

- (a) that the road or work is closed to all pedestrians or all vehicles or both of them; or
- (b) that the road or work is closed to vehicles exceeding a specified weight or vehicles of a specified class,

and the notice shall, subject to subsection (3g), have effect according to its tenor.

(3g) A person shall not, except with the permission of the Commissioner—

- (a) drive, ride or propel a vehicle on or over a road or work in contravention of a notice under subsection (3f);
- (b) drive, ride or lead any horse or cattle on a road or work that is closed to all vehicles under this section; or
- (c) remove or damage any fence barrier notice light or other warning device erected displayed or provided under this section.

Penalty for contravention of this subsection: One hundred dollars.

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

26a. (1) Subject to the approval of the Minister, the Commissioner may construct, erect, and maintain

on any public road, or on the boundary of any such road, or (with the consent of the owner) on any land adjoining such a road, all or any of the following things, namely—

- (a) kerbing;
- (b) guard fences;
- (c) posts and rails.

(2) Nothing in this section shall be held to abridge any other power of the Commissioner under this Act.

(3) Any kerbing, guard fences, posts or rails constructed, erected, or maintained before the commencement of this Act on any public road, or boundary thereof, or on any land adjoining such a road, with the consent of the owner of such land, shall be deemed to have been lawfully erected, constructed, and maintained.

26b. (1) Subject to the consent of the Minister, the Commissioner may, from time to time, plant trees in any road and may erect tree-guards, stakes, and other supports thereof.

(2) The Commissioner shall not be liable for any damage to any property which results from the planting of any tree in any road.

26c. (1) The Commissioner may with the approval of the Minister, cause any road or part of a road to be lighted as the Commissioner deems requisite. For that purpose the Commissioner shall have and may exercise all the powers of a council conferred by sections 483 and 484 of the Local Government Act, 1934-1941, and may enter into any contract with any person for the supply of electricity or other illuminant and for any requisite apparatus. Any person with whom the Commissioner contracts for lighting any such road or any part thereof shall, in respect of that road or part, have and may exercise the powers conferred by section 483 of the Local Government Act, 1934-1941.

(2) The Commissioner may require any council within whose district is situated any road or part of a road which is lighted as aforesaid to pay to him one half of the cost of lighting so much of the road as lies within the district.

(3) Any payments so required by the Commissioner shall be made at such times as are from time to time determined by the Commissioner.

.....

26ca. If he considers it necessary for the safety, guidance or direction of road or river traffic so to do, the Commissioner may, with the approval of the Minister, cause any traffic island, roundabout or dividing strip on any road which is outside a municipality or township within the meaning of the Local Government Act, 1934-1961, or any structure for the maintenance of which the Commissioner is responsible and which is outside a municipality or township within the meaning of the said Act, or any ferry or ferry approach to be illuminated as the Commissioner deems requisite. For the purposes of this section the Commissioner may enter into any contract with any person for the supply of electricity or other illuminant and for any requisite apparatus and machinery and shall have and may exercise all the powers of a council conferred by

sections 483 and 484 of the Local Government Act, 1934-1961.

...

27ca. (1) All public roads (whether main roads or not) which are outside a district, together with the timber growing thereon, and the bridges thereof, and all public works connected therewith, and all lamps, direction boards, mile stones, mile posts, posts, rails, walls, chains, fences, and other things erected thereon or affixed thereto shall be vested in the Minister of Local Government and be under the care, control, and management of the Commissioner. If any moneys are appropriated or allotted for expenditure by the Engineer-in-Chief upon the construction or repair of any such public road or any works incidental thereto, the Engineer-in-Chief shall for the purpose of such expenditure be deemed to have and may exercise any of the powers under this Act which the Commissioner may exercise in that behalf.

(2) For the purposes of this section—

“Public road” means—

- I. all streets and roads delineated and shown on the public maps or plans of the State as laid out for public purposes by the Crown;
- II. all streets and roads opened under any Act relating to the opening of new streets and roads;
- III. all streets and roads conveyed or transferred to the Minister of Local Government by the owners thereof in fee simple and accepted by the said Minister as public streets or roads;
- IV. all streets and roads which have been dedicated to the public.

(3) Nothing in this section shall be deemed to affect any power of the Minister of Lands under section 9 of the Crown Lands Act, 1929.

...

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

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

30. (1) The Governor may, on the recommendation of the Commissioner, 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 or make any alteration in any proclamation for the time being in force under this section: Provided that if it is intended to make any such proclamation (not being a proclamation which re-enacts any other proclamation made under this section without making any alteration of the provisions thereof) 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.

(2) In considering whether to make any such recommendation, the Commissioner 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 the road is or will be the main trunk route of intercommunication 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 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.

(2a) The Governor, on the recommendation of the Commissioner, may by proclamation give a distinctive name to any main road or any part thereof, and may, on the said recommendation, by proclamation revoke or vary any such proclamation.

(3) All lines of road, together with all public works connected therewith, declared by any proclamation in force at the commencement of this Act to be main roads, shall be deemed to be roads declared under this Act to be main roads.

30a. (1) The Governor may, on the recommendation of the Commissioner, by proclamation—

- (a) declare any road or part of any road or any land acquired by the Commissioner to be a controlled-access road;
- (b) declare that any controlled-access road shall cease to be a controlled-access road; or
- (c) make any alteration in any proclamation for the time being in force under this Part.

(1a) Every proclamation under paragraph (a) of subsection (1) of this section shall specify the routes and means of access by which persons and vehicles may enter or leave the controlled-access road.

(2) Forthwith after the making of any proclamation under paragraph (a) of subsection (1) of this section the Commissioner shall forward by post to the council of the district in which the controlled-access road is situated a copy of the proclamation and thereupon the Commissioner shall have and may exercise in respect of such controlled-access road all the powers for the purpose of construction, reconstruction, repair and maintenance which the said council has or may exercise with respect to such road under any Act and

the exercise by the said council of any of the said powers shall be suspended except so far as the Commissioner may direct.

(3) Upon the making of any proclamation under paragraph (b) of subsection (1) of this section the powers of the Commissioner under subsection (2) of this section shall cease and revert to the council of the district concerned.

(4) Notwithstanding the provisions of the Local Government Act, 1934-1959, or of any other Act, it shall not be lawful without the consent in writing of the Commissioner to construct form or pave any means of access to a controlled-access road: Provided that the Commissioner shall not, except on payment of compensation as hereinafter provided, withhold such consent in any case where such construction, formation or paving has been commenced before the making of the proclamation in respect of such controlled-access road.

30c. In addition to the powers conferred by this Act and by section 22 of the Road Traffic Act, 1961, the Commissioner may erect notices of any kind and mark lines, words or signs on any part of any road for the purpose of indicating the division of the paved portion of that road into traffic lanes and for the direction and guidance of traffic.

30d. (1) In addition to the powers conferred by section 26a of this Act and notwithstanding the provisions of the Local Government Act, 1934-1959, the Commissioner may erect and maintain fences, walls, posts or barriers across any road for the purpose of preventing access to or egress from any controlled-access road.

(1a) In addition to the powers conferred by section 26a of this Act and notwithstanding the provisions of the Local Government Act, 1934-1971, the Commissioner may construct, erect and maintain kerbs, fences, walls, posts or barriers on a controlled-access road, on the boundary of any such road including a distance of up to thirty metres along any road abutting or adjacent to any controlled-access road, between the carriageway of a controlled-access road and the carriageways of adjacent local access roads, or (with the consent of the owner) on any land adjoining such a controlled-access road, for the purposes of separating the movement of traffic on the carriageways of the controlled-access road from the movement of traffic entering or leaving land abutting, or adjacent to, the controlled-access road whether such movement takes place on a local access road or otherwise.

(2) Where in relation to a controlled-access road, a means of access to any land abutting that road has been closed off by an owner of the land, neither that owner nor any subsequent owner of that land nor any person claiming through or under that owner or subsequent owner has a right to re-open that means of access.

36e. Where under any provision of this Act, it is provided that the approval or consent of the Minister is required to the doing of any act by the Commissioner, the Minister may, if he thinks fit, from time to time give a standing approval or consent, subject to any conditions which he imposes, to the doing of such act and any act done by the Commissioner pursuant to any

such standing approval or consent shall not require any further approval or consent of the Minister.

. . .

40. (1) The Minister may grant to any person desirous of constructing a telegraph or telephone line or 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 telegraph or telephone line, 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.

(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 telegraph or telephone line, 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 telegraph or telephone line, tramway, aerial tramway, steel track, or other work:

(4) For the purposes of this section "road" shall include land used as a travelling stock road or reserve.

(5) The Minister may, in any authority or permit given pursuant to this section, authorize the enclosing with a fence of any portion of any land used as a travelling stock road or reserve for the purpose of the maintaining and working of any such tramway, aerial tramway, steel track, or other work as is referred to in this section, but so as not to obstruct the reasonable use of the said land.

41. (1) Subject to the provisions of the Control of Advertisements Act, 1916, and any regulations made thereunder, the Commissioner may upon such terms and conditions as he thinks fit license any person to erect on any main road, highway lighthouses, traffic beacons, traffic signs or direction signs which may be used for advertising purposes.

(2) After the commencement of this Act no council shall license any person to erect any highway lighthouse, traffic beacon, traffic sign, or direction sign on any main road without first obtaining the consent of the Commissioner thereto.

(3) If any highway lighthouse, traffic beacon, traffic sign, or direction sign erected, whether before or after the passing of the Highways Act, 1930, on any main road otherwise than pursuant to a licence granted by the Commissioner under subsection (1) hereof or, with the consent of the Commissioner, by the council of the district within which the highway lighthouse, traffic beacon, traffic sign, or direction sign is erected under

subsection (2) hereof, is used for any advertising purpose, the Commissioner or the council may remove the same or cause the same to be removed and may, either summarily or by action in any court of competent jurisdiction, recover the cost of so doing from the person who erected the highway lighthouse, traffic beacon, traffic sign, or direction sign, or from the person causing the same to be erected. The liability imposed upon such persons shall be joint and several.

(4) In any proceedings pursuant to subsection (3) hereof, proof that a person is either—

- (a) the person who, or whose business, is referred to in any advertisement upon the highway lighthouse, traffic beacon, traffic sign, or direction sign the subject matter of the proceedings; or
- (b) the person who is registered under any Act of the Parliament of the Commonwealth as the proprietor of any trade mark used or referred to in any such advertisement,

shall be *prima facie* evidence that that person is the person who caused the highway lighthouse, traffic beacon, traffic sign, or direction sign to be erected.

LOCAL GOVERNMENT ACT, 1934-1982 (S.A.)

301. (1) All streets and roads and land used as streets or roads in the area which come under or are included in any of the following definitions or descriptions shall be public streets or roads—

- I. All streets and roads delineated and shown, whether before or after the commencement of this Act, on the public maps or plans of the State as laid out for public purposes by the Crown;
- II. All streets and roads opened, whether before or after the commencement of this Act, by the council under this Act or any other Act relating to the opening of streets or roads;
- III. All streets and roads or land conveyed or transferred to the council by the owners of the fee-simple thereof, and accepted as public streets or roads by resolution of the council;
- IV. All streets and roads vested in the council, whether before or after the commencement of this Act, pursuant to section 223nn of the Real Property Act, 1886-1967, or section 48 of the Planning and Development Act, 1966-1967, or any corresponding previous enactment;
- V. Any land shown as a street or road on any plan of subdivision deposited in the Lands Titles Registration Office or the General Registry Office which by resolution of the council is declared to be a public street or road;
- VI. All streets and roads and land declared by the council or a Court under section 303 or section 304 to be public streets or roads;
- VII. All streets and roads declared by any other Act to be public streets or roads;

VIII. All streets and roads which at the commencement of this Act were public streets or roads within the meaning of any repealed Act.

(2) All other streets and roads shall, for the purpose of this Act, be private streets and roads.

(3) Notice of every resolution passed pursuant to paragraph III or paragraph V of subsection (1) shall be published in the *Gazette*, and until such publication the street or road or land shall, notwithstanding the provisions of the said paragraphs, not be deemed to be a public street or road. Nothing in this subsection shall apply to any proceedings under section 303 or 304 and any street or road or land may in any such proceedings be declared a public street or road notwithstanding the provisions of this subsection.

302. No street or road which is less than 12.2 metres in width shall, after the commencement of this Act, be declared to be a public street or road unless the council by resolution accepts the same or declares it to be a public street or road.

303. (1) The council may, whether an application to the council is made pursuant to subsection (2) or not, subject to sections 304 and 305, by resolution declare any land in the area which comes under or is included in any of the following definitions or descriptions to be a public street or road—

- I. Any street or road of which there has been uninterrupted user (whether before or after the commencement of this Act) by the public for at least ten years;
- II. Any land used as a street or road which (whether before or after the commencement of this Act) has been wholly or partly formed, levelled, paved, or drained as a street or road by the council at the cost of the council or at the cost of the owners of ratable property abutting upon the land, or partly at the cost of the council or the said owners, and of which there has been uninterrupted user (whether before or after the commencement of this Act) by the public as a street or road for five years consecutively either before or after the said land was formed, levelled, paved, or drained as aforesaid;
- III. Any land used as a street or road, of which the owner in fee simple is unknown to the council and in respect of which all the owners of ratable property abutting upon the said land join in a request in writing to the council that the said land be declared a public street or road.

(2) Any owner of any freehold interest in any such street or road or land as is described in paragraph I or paragraph II of subsection (1), or the owner of any ratable property abutting on any such street or road or land may, by writing, request the council to declare the street or road or land to be a public street or road and the council shall consider the request.

(3) If any request is made to the council pursuant to subsection (2) and after the expiration of six weeks after the receipt of the request the council has not passed a resolution declaring the street or road or land

to be a public street or road the person making the request as aforesaid may, within fourteen days after the expiration of the said period of six weeks, appeal to the Land and Valuation Court in manner hereinafter provided.

There shall be no right of appeal pursuant to this subsection if the street or road or land requested to be declared a public street or road is less than 12.2 metres in width.

(4) Before passing any resolution pursuant to this section the council shall, if the owner of any freehold interest in the street or road or land is known, give notice in writing to every such owner so known to the council at least fourteen days before the passing of the resolution.

Any such owner may make any representations in writing to the council which shall be considered by the council.

(5) After the passing of any resolution pursuant to this section the council shall, if the owner of any freehold interest in the street or road or land is known, give to every such owner notice in writing of the passing of the resolution.

Any such owner may within fourteen days after the giving of notice as aforesaid appeal to the Land and Valuation Court from the resolution of the council in manner hereinafter provided.

(7) Any such compensation shall be assessed in accordance with the appropriate provisions of the Land Acquisition Act, 1969.

306. (1) The fee simple of every public street and road within any area shall be vested in the council, and the timber growing thereon, and the bridges thereof, and all public works connected therewith, and all lamps, direction-boards, mile-stones, mile-posts, posts, rails, walls, chains, fences, and other things erected thereon, or affixed thereto (not being the property of any other person), shall be vested in and shall be under the care, control and management of the council of such area: Provided that nothing in this section shall be deemed to affect the powers and duties conferred and imposed on the South-Eastern Drainage Board by the South-Eastern Drainage Act, 1931, with respect to any drainage works within the meaning of the said Act, or on the Commissioner of Highways by the Highways Act, 1926, with respect to main roads within the meaning of the said Act, and anything erected on or affixed to any street or road pursuant to either of the said Acts.

(2) Notwithstanding any law to the contrary, possession by any person of any public street or road (whether before or after the passing of the Local Government Act Amendment Act, 1938) shall not give any rights of ownership to that person.

355. The council may construct, erect, or maintain on any public street or road or (with the consent of the owner thereof) on any land adjoining any such street or road all or any of the following things, namely—

- (a) guard fences;
- (b) walls, posts, rails;
- (c) direction signs;

- (d) traffic signs;
- (e) notice boards of any kind;
- (f) bicycle racks.

363a. (1) Notwithstanding any other provisions of this or any other Act The Electricity Trust of South Australia shall, upon being requested so to do by a council, remove any pole or post supporting any cable or wire or any cable or wire supported by any pole or post the property of the said Trust in upon or over any street or road within the area of the council (other than a street or road for the maintenance of which the Commissioner of Highways is responsible) and may after submitting plans to and consulting with the council erect the same or any other pole post cable or wire in upon or over the same or any other street or road in place of or in consequence of such removal; provided that the Trust shall be under no obligation to effect any such removal in any case unless the Commissioner of Highways certifies that in his opinion a sufficient reason exists for the removal of any such pole post cable or wire.

(2) Notwithstanding the provisions of subsection (1) of this section or the provisions of section 871g a council and the said Trust may enter into any agreement, relating to the removal and erection of any pole post cable or wire of the Trust, containing such terms and conditions as are agreed upon.

364. (1) The council may, with the consent of the Minister, construct, maintain, manage or operate any building, structure or works upon, across, under or over any public street or road within the area.

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

(3) A council shall not be liable in any action or proceedings (whether for nuisance or otherwise) by reason only of anything done by a council in pursuance of this section.

365. (1) A council may, with the consent of the Minister, grant to any person a permit to construct, maintain, manage or operate any building, structure or works upon, across, under or over any public street or road within its area.

(2) Any such permit shall not be granted for any period exceeding forty-two years; but, with the consent of the Minister, may be renewed from time to time for any further period not exceeding forty-two years from the time of renewal.

(2a) Any such permit may provide for the payment by the holder of the permit of an annual fee, and where a permit contains such a provision, and the fee is not paid as required by the permit, the council may cancel the permit.

(3) If a council, for six months after any application for any such permit as mentioned in subsection (1) or any renewal thereof is made to it, refuses or neglects to grant the permit or renewal, the applicant for the permit or renewal may appeal to the Minister by memorial setting out the facts, and the grounds of the appeal.

(4) The Minister shall hear and determine any such appeal in such manner as he thinks just, and may for

that purpose appoint any officer to hold an inquiry into the matter and make a report to him, and may act on any such report. The council shall be entitled to be heard on the appeal.

(5) If the Minister allows the appeal, he shall give such directions as he thinks fit for carrying his decision into effect, and the said directions shall be complied with by the council and all parties concerned.

(6) Any permit granted under subsection (1) shall be granted subject to such conditions, reservations, and stipulations as the council, with the approval of the Minister, thinks proper.

(7) A person shall not be liable in any action or proceedings (whether for nuisance or otherwise) by reason only of anything done without negligence in pursuance of a permit under this section.

...

482. The council may—

- (a) cause the streets, roads, and public places within the area, or such of them as the council thinks fit, to be lighted as the council deems requisite;
- (b) for that purpose manufacture or contract for the manufacture of gas, electricity, or other illuminants, and provide or contract for any requisite apparatus and machinery;
- (c) appropriate, purchase, or lease any land necessary for the establishment of such manufacture.

483. (1) For the purposes of section 482, the council may, or any person with whom the council contracts for lighting any streets, roads, and public places may, under the control and direction of the council and its officers—

- (a) break up within the area the soil or pavement of any street, road, or public place;
- (b) fix and lay therein any lamp-posts, pipes, cables, wires, or lighting appliances or material, and cause the same to be fixed upon or against the exterior of any buildings or fences.

(2) No pipe, wire, or other materials or works, shall be laid or carried through any private property, except with the consent of the owner, or subject to the provisions of the Land Acquisition Act, 1969.

484. Subject to any contracts made by the council, the council may cause any lamp-posts or lamps to be taken down or removed to any other place within the area, or to be altered as to the mode of lighting and the material used therefor, or to be increased or diminished in number, as the council thinks fit.

(b) *Provisions Applicable to Municipalities only*

485. (1) If the majority of the persons who are ratepayers of, or electors resident in property abutting upon any street or road or of any portion of the municipality or any ward, desire that the same be lighted, the council may cause the same to be so lighted.

(2) The council may pay one moiety of the expense so incurred, and the other moiety shall be paid by the ratepayers of the street, or road, or ward so lighted,

ratably, either according to their assessments or according to the lineal frontage of the premises lighted, and either from year to year or for such number of years, and upon such terms and conditions, as the council determines.

(3) The last-mentioned moiety may be collected, and shall be recoverable by the council ratably, from the respective ratepayers of the said street, portion of the municipality, or ward, and until fully paid or recovered shall be a charge upon the land in respect of which it is payable.

486. (1) The council may, as the council deems proper, cause any private street or road, court, alley, lane, or thoroughfare within the municipality to be lighted in manner provided in this Division and may recover all the costs of so doing (including the costs of installation and maintenance) from the owners of ratable property abutting upon the private street, or court, alley, lane, or thoroughfare, so that every owner shall pay such part of the said costs as, in the opinion of the council, bears a fair and reasonable proportion to the extent to which his property abuts on the private street or road, court, alley, or right-of-way.

(2) The respective proportions of the costs aforesaid shall be paid to the council by the owners aforesaid, and until fully paid or recovered shall be a charge upon the land in respect of which it is payable.

(c) *Provisions Applicable to Districts only*

487. (1) If the majority of the persons who are ratepayers of, or electors resident in any township or any portion thereof within a district desires that the streets and roads of that township or portion thereof shall be lighted, the council may light the same accordingly.

(2) The council may pay one moiety of the expenses, and the other moiety of the expense of lighting the said streets and roads shall be paid by the ratepayers of the said township or said portion thereof in proportion to their assessments.

(3) The said last-mentioned moiety may be recovered from the ratepayers of the said township by the council, and until fully paid or recovered shall be a charge upon the land in respect of which it is payable.

(4) The council may light the streets and roads of any such township without obtaining the consent of the ratepayers of the township, but in any such case the whole of the expense of lighting the streets shall be wholly defrayed by the council.

488. In lieu of exercising the powers conferred by subsections (2) and (3) of section 487, any council may declare a lighting rate in respect of the district, or part of the district, or any ward, or part of a ward, not exceeding—

- (a) with regard to any district or part of a district in which Division III of Part X is not in operation, two cents in the dollar;
- (b) with regard to any district or part of a district in which Division III of Part X is in operation, one quarter of a cent in the dollar,

on the assessed value of ratable property within the district, part of the district, ward, or part of a ward, as the case may be.

. . .

495. (1) The council may from time to time purchase, construct, and maintain electric works and apparatus, and do all other acts and things necessary for generating, accumulating, distributing, and supplying electricity for lighting purposes, motive power, and any other purpose within the area, any portion thereof, and within such portion of the State outside the area as is hereinafter mentioned.

(2) The Governor may, by proclamation, authorize the council to supply electricity within any portion of the State outside the area. If any such portion is within another area, the proclamation shall not be made except at the request of the council of that area under its common seal.

The Governor may, by proclamation, vary or revoke any such proclamation.

496. The council within the area and within any other portion of the State in which it is authorized to supply gas or electricity may, subject to the provisions of this Act—

- (a) open and break up the soil and pavement on any streets, roads, or public places;
- (b) open and break up any sewers, mains, or tunnels within or under any such streets, roads, or public places;
- (c) lay down under any such streets, roads, and public places pipes, mains, cables, service lines, wire conduits, and other works;
- (d) place along, over, or across any such streets, roads, and public places pipes, mains, cables, service lines, wire conduits, and other works;
- (e) from time to time renew, repair, alter or remove any of the said works;
- (f) make and repair any sewers that may be necessary for carrying off the wastage or waste liquids that may arise in the making of gas;
- (g) over or along any such streets, roads, and public places stretch and maintain any cable, wire, or cord, and erect any masts and posts supporting such wire or cord;
- (h) lay any pipes, mains, cables, or service lines into, through, or against any building for the purpose of lighting the same or any other building;
- (i) provide and set up against or attach to any building any apparatus necessary for securing to any building a supply of gas or electricity, or for measuring and ascertaining the extent of the supply.

(2) Nothing in this section shall authorize the council to lay down or place any pipe, main, cable, or service line through, under or against any building or any land without the consent of the owners and occupiers thereof, but the council may at any time enter upon any land and lay or place any new pipe, main, or service line in the place of any existing pipe, main,

cable, or service line which has been lawfully laid down or placed or may repair or alter any pipe, main, cable, or service line so laid down or placed.

. . .

517. (1) The Governor may make regulations—

- (a) prescribing the limits within which, and the conditions under which, a supply of gas or electricity by a council is to be compulsory or permissive;
 - (b) for securing a regular and efficient supply of gas or electricity;
 - (c) for securing the safety of the public from personal injury, or from fire, or otherwise;
 - (d) prescribing the limitation of the prices to be charged in respect of the supply of gas or electricity;
 - (e) authorizing inspection and inquiry from time to time by the Minister and any council which shall be concerned other than the council supplying the gas or electricity;
 - (f) for the enforcement of the due performance of the duties of the council in relation to the supply of gas or electricity, by the imposition of penalties or otherwise;
 - (g) fixing the minimum quality of gas to be supplied by any council;
 - (h) for preventing damage to any property by reason of the carrying out by any council of any undertaking for the supply of gas or electricity;
 - (ha) regulating the positioning of electrical conductors and apparatus, and requiring the removal and re-positioning of electrical conductors and apparatus that are not situated in accordance with the regulations;
 - (i) generally with regard to any other matters in connection with the supply of gas or electricity.
- (2) Any such regulations may be either general or restricted to some particular area or areas.
- (3) The Governor may, by any such regulation, impose penalties, not exceeding two hundred dollars, for the breach of any such regulation.

ROAD TRAFFIC ACT, 1961-1982 (S.A.)

5. In this Act unless the context otherwise requires or some other meaning is clearly indicated—

. . .

“Area” means a municipality or district council district and includes the suburbs as defined in the Garden Suburb Act, 1919, as amended;

. . .

“Council” means a municipal or district council and includes the Garden Suburb Commissioner appointed under the Garden Suburb Act, 1919, as amended;

. . .

"Installation" in relation to a traffic control device includes the painting or formation of any marks or structure that constitute or form part of the traffic control device;

...

"Road" means—

- (a) a road, street, or thoroughfare including every carriageway, footpath, dividing strip and traffic island therein; and
- (b) any other place commonly used by the public or to which the public are permitted to have access;

...

"The Board" means the Road Traffic Board of South Australia;

...

"Traffic control device" means—

- (a) any traffic lights, signal, stop sign, give way sign indicating a speed limit, stop line, give way line, barrier line, line or mark to regulate or guide traffic, pedestrian crossing, safety bar, safety zone, traffic island, roundabout or dividing strip;
- (b) any other sign, signal, device, mark or structure the purpose of which is to regulate or guide the movement of traffic or the standing of vehicles; and
- (c) any other sign, signal, device, mark or structure declared by proclamation to be a traffic control device,

but does not include a device by which visible or audible warning is given of the approach of rolling-stock to a level crossing;

"Traffic lights" means signals for controlling traffic by means of illuminated circles or arrows or combinations thereof shown in succession.

...

9. The Governor may by proclamation—

- (a) declare that any signs, signals, devices, marks or structures described or indicated in the proclamation shall be a class of traffic control devices within the meaning of this Act;
- (b) revoke or vary any proclamation for the time being in force under this section.

PART II

ADMINISTRATIVE PROVISIONS

...

The Road Traffic Board of South Australia

11. (1) There shall be a board to be called the "Road Traffic Board of South Australia".

(2) The members of the Board shall be appointed by the Governor and shall be—

- (a) the Commissioner of Highways or a person nominated by the Commissioner, having in

the opinion of the Commissioner, appropriate qualifications in engineering;

- (b) the Commissioner of Police or a member of the police force holding a rank not lower than that of inspector and nominated by the Commissioner of Police;
- (c) a person representative of local government interests nominated by the Minister;
- (d) a person who has, in the opinion of the Minister, extensive knowledge and experience in the field of road safety, nominated by the Minister; and
- (e) a person who has, in the opinion of the Minister, extensive knowledge and experience in the field of motor vehicle safety, nominated by the Minister.

(3) The Governor shall appoint one of the members to be the chairman of the Board.

(4) A member of the police force appointed to the Board shall remain a member of that force and shall be released from police duties so far as necessary to enable him to carry out his duties as a member of the Board.

(5) Subject to this Act, the terms and conditions on which members of the Board are appointed shall be fixed by the Governor.

...

15. The functions of the Board (in addition to those conferred on it by the other provisions of this Act and the Local Government Act, 1934-1959 and the amendments thereof) shall be —

- (a) to make recommendations to the Minister and other authorities concerned with road construction or road traffic, on the use of traffic control devices and other measures to be taken to prevent road accidents, to improve the flow of traffic, and to eliminate causes of danger and traffic congestion on roads;
- (b) to promote uniformity in the design, specifications, locations and proper use of traffic control devices;
- (c) to conduct research and collect statistics relating to road accidents and other road traffic problems;
- (d) to publish information for the instruction of road users on road safety and traffic laws and regulations;
- (e) to supply technical information and advice regarding road traffic problems to authorities concerned with road traffic;
- (f) to investigate and report on proposals for alterations of and additions to traffic laws and regulations;
- (g) to investigate and report on any other matter relating to roads or traffic referred to it by the Minister.

Traffic Control Devices

16. (1) In this Part—

"Authority" means—

- (a) the Commissioner of Highways;
- (b) any council;
- (c) the State Transport Authority; or
- (d) any other authority, body or person in whom the care, control or management of a road is vested.

(2) For the purposes of this Part, a road is under the care, control and management of the Commissioner of Highways if he has, pursuant to the Highways Act, taken over the maintenance and repair of that road.

17. (1) An Authority may, with the approval of the Board, install, maintain, alter or operate, or cause to be installed, maintained, altered or operated a traffic control device on or near a road in accordance with this Part.

(2) An Authority may, with the approval of the Board, remove a traffic control device, or cause a traffic control device to be removed.

(3) An applicant for the approval of the proposed installation, maintenance, alteration, operation or removal of a traffic control device must supply the Board with such information relevant to the proposal as the Board may reasonably require.

(4) The Board shall consider every application for its approval under this section and the information submitted by the applicant, and may approve the proposal unconditionally, approve the proposal upon conditions or with modifications, or refuse to approve the proposal.

(5) The Board may delegate (or revoke a delegation of) its powers of approval under this section, but any such delegation shall not derogate from the power of the Board to act under this section itself.

(6) If the Board—

- (a) refuses its approval for the installation, maintenance, alteration, operation or removal of any traffic control device; or
- (b) gives its approval upon conditions or with modifications,

the Board shall, if requested by the applicant, state the reasons for its decision.

(7) The applicant may, within twenty-eight days after receipt of the Board's reasons, apply to the Board for a review of its decision.

(8) Upon a review of the decision, the Board—

- (a) shall give the applicant an opportunity of submitting information and arguments and may further inform itself in such manner as it thinks fit of any matters relevant to the proposal subject to the appeal; and
- (b) shall report to the Minister.

(9) The Minister may, after consideration of the report of the Board, and after affording the applicant and the Board an opportunity of making further representations to him, affirm, vary or quash the decision of the Board, and may approve an alternative proposal submitted by the applicant.

18. (1) The Board may, if it thinks fit, direct an Authority to install, maintain, alter, operate or remove a traffic control device on or near a road under the care, control or management of that Authority in accordance with the direction of the Board.

(2) An Authority to which any such direction has been given may, within one month after the date of the direction, appeal to the Minister against the direction, on the ground of financial hardship.

(3) The appellant must supply the Minister with such information relevant to the appeal as the Minister may require.

(4) The Minister shall consider the appeal and may uphold the appeal and quash the direction, vary the direction in such manner as he thinks fit, or dismiss the appeal.

(5) The Authority to which a direction is given under this section is, subject to this section, obliged to comply with the direction.

(6) Where an Authority fails to comply with a direction under this section, the Board may direct—

- (a) the Commissioner of Highways; or
- (b) the council for the area in which the work is to be carried out,

to carry out the direction with which the Authority has failed to comply.

(7) Subject to subsection (8) of this section, the Commissioner of Highways or a council may recover, as a debt due from the defaulting Authority, any expenses incurred in carrying out a direction under subsection (6) of this section.

(8) The Commissioner or the Council shall not be entitled to recover under subsection (7) of this section any amount that is to be borne by the Commissioner or the Council, as the case may be, in accordance with this Part.

19. (1) The cost of installing, maintaining, altering, operating, or removing any traffic control device shall be borne by the authority in which the care, control or management of the road to which the device relates, is vested.

(5) The cost of installing, maintaining, altering, operating or removing a traffic control device—

- (a) the purpose of which is to regulate, restrict or prohibit the parking of vehicles; and
- (b) which has been, or is to be, installed by a council or other authority in pursuance of powers conferred by statute,

shall (except where the traffic control device is a device of a class declared by regulation to be a class of traffic control device to which the provisions of subsection (1) of this section apply notwithstanding this subsection) be borne by that council or other authority.

...

25. (1) Every traffic control device—

- (a) must comply with any regulations applicable to it;
- (b) subject to the regulations, must be of such design as is fixed or approved by the Board; and

- (c) must be erected or placed or marked so as to be clearly visible to drivers travelling towards the face of the device.

(2) Every traffic control device existing at any time on or near a road shall be deemed to have been placed or marked on or near the road by an authority empowered by law so to place or mark it, and with the approval required by this Act.

(3) Any lights, signal, sign, line, device, marks, island, zone, or dividing strip substantially conforming to the requirements of this Act and the regulations applicable to any kind of traffic control device shall be deemed to be a traffic control device of that kind.

(4) Subject to subsection (5) of this section, an Authority in which the care, control or management of a road is vested, shall maintain all traffic control devices installed on or near the road in good order.

(5) Subsection (4) of this section does not apply to a traffic control device where the Authority in which the care, control or management of the road is vested is not liable for any portion of the expense of installing, maintaining, altering, removing or operating that traffic control device.

...

31. (1) In this section—

"False traffic sign" means a sign or device which is a colourable imitation of any traffic control device or purports to be a traffic control device and is erected or marked on a road or elsewhere, otherwise than in accordance with this Act;

"Light" means a lamp, sign, advertisement or device of any kind from which light is projected.

(2) Notwithstanding the provisions of this Act, or any other Act or law, where the Board is satisfied that any light, device, false traffic sign or advertisement, or any other sign, erected or placed on or near a road—

- (a) is likely to increase the risk of accident on any road;
- (b) detracts, or is likely to detract, from the visibility of a traffic control device to drivers or pedestrians on the road; or
- (c) is likely to be confused with a traffic control device,

the Board may, by notice in writing, require the owner of the light, device, sign or advertisement, or any person in control of it, to take such action whether by way of removing, modifying, screening or otherwise dealing with the light, device, sign or advertisement, as is specified in the notice, and within a time so specified.

(3) A notice under this section may be served either by post, by means of a letter addressed to the usual place of residence or business of the person to be served, or by delivering it to him personally.

(4) A person to whom a notice under this section is duly given shall comply with it.

(5) If within the time specified in a notice duly given under this section the person required to comply with the notice does not comply with it, the Board may take the action specified in the notice and recover the cost of doing so from the said person as a debt, by action in a local court.

*THE SOUTH AUSTRALIAN ELECTRIC LIGHT
AND MOTIVE POWER COMPANY'S ACT, 1897
(S.A.)*

4. Subject to the provisions of this Act, and to any regulations for the control of electric light and power supply and the erection of electric light, power, and traction wires, approved by the Governor in Council, it shall be lawful for the Company from time to time to construct and maintain such electric works and apparatus, and such buildings, with approaches thereto upon the lands belonging to the Company, and to do all and such other acts and things as they shall think necessary for generating, accumulating, distributing, and supplying electricity for lighting purposes and motive power, and for supplying with electricity Government and local authorities, and the owners or occupiers of any building and all public or corporate bodies and companies, merchants, traders, and persons, the Municipal Council of the City of Adelaide, and all other municipal corporations within the said province, and to supply such electricity upon such terms as shall be agreed upon between the Company and the authorities or corporate towns, bodies, or companies, or persons supplied therewith.

5. The Company, under such superintendence as hereinafter specified and subject to the provisions hereinafter contained, may open and break up the soil and pavement of any streets within the limits of this Act, and lay down thereunder pipes, mains, service lines, wire conduits, and other works, and may also place along or across such streets wire conduits, service lines, pipes, and other works, and from time to time renew, repair, alter, or remove the above works; and, for the purposes aforesaid, may remove and use all earth and materials in and under streets; and they may, over, along, or across any such streets, stretch and maintain any wire or cord, and erect any masts or posts for supporting any such cord or wire, or erect any pillars, lamps, and other works, and do all other acts which the Company shall from time to time deem necessary for supplying electricity to the inhabitants within the limits of this Act; and it shall also be lawful for the Company to lay any main or branch wire into or against any building for the purpose of lighting the same or any other building, and to provide and set up against any building any apparatus necessary for securing to any other building a proper and complete supply of electricity, and for measuring and ascertaining the extent of such supply. Nothing herein shall authorise the Company to lay down or place any electric line or any works into, through, or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof; except that the Company may at any time enter upon any land for the purpose of laying or placing, and may lay or place, any new electric line in the place of an existing electric line in any land wherein any electric line shall have been lawfully laid down or placed, and may repair or alter any electric line so laid down or placed.

6. Except where otherwise approved by the Minister controlling the Telegraph Department, every aerial conductor shall be placed at least twenty feet from the

ground, or thirty feet where it crosses a street, and not less than six feet from any building or erection other than a support for the conductor, except where brought into a building for the purpose of supply, and shall not hinder or obstruct the free use and enjoyment of any street over, along, across, or underneath which any such aerial conductor may pass, further than is absolutely necessary for the proper construction and repair of any such line of communication, and every aerial conductor affixed by the said Company above the surface of any street shall be fixed, guarded, protected, enclosed, cased, or insulated in such manner as the Minister for the time being controlling the Electric Telegraph Department of the said province may, by any regulation to be made by him, direct and prescribe.

7. Nothing herein contained shall authorise the Company, without the consent of the Commissioner of Sewers and Waterworks, to break open any sewer or underground drain, or break open, remove, or displace any water main; or remove or displace any gas main or gas pipe, being the property of the local authority or any gas company, without the consent of such local authority or gas company; or to erect any masts or posts, or stretch any wire or cord from any mast or post, without having previously obtained permission so to do from the Minister and from the local authority: And the Company shall, whenever requested so to do by an order in writing under the hand of the Minister, or any local authority, take down and remove any masts, posts, wire, or cord which they may have erected.

15. The Company may from time to time enter into any contract with any local authority, person, or other company for lighting or supplying with electricity any public or private building, or for providing wires, burners, meters, or lamps, and other electric fittings and things, and for the repairs thereof, and may also from time to time enter into any contract with any local authority within the limits of this Act, for lighting the streets of any city or corporate town or any district or locality with electricity, and for providing any such local authority, person, or other company with lamps, lamp-posts, burners, and wires, and other electric fittings and things for such purpose, and for the repairs thereof, and also for the supply to any such local authority, person, or other company of electricity for motive power, in such manner and upon such terms as shall be agreed upon between the Company and the said local authority, person, or other company: Provided that the Company, in making any agreement for a supply of electricity, shall not show any undue preference to any local authority, person, or other company.

EXTRACTS FROM TASMANIAN LEGISLATION

HYDRO-ELECTRIC COMMISSION ACT, 1944

HOBART CORPORATION ACT, 1963

LAUNCESTON CORPORATION ACT, 1963

LOCAL GOVERNMENT ACT, 1962

ROADS AND JETTIES ACT, 1935

TRAFFIC ACT, 1925

HYDRO-ELECTRIC COMMISSION ACT, 1944 (Tas.)

1. (1) This Act may be cited as the *Hydro-Electric Commission Act 1944*.

(2) The Acts specified in the first schedule are repealed.

(3) The repeal of the Acts so specified shall not affect the constitution of the Commission or any of the rights, obligations, or liabilities of the Commission.

2. In this Act, unless the contrary intention appears—

...

"Electric line" includes all means used for the purpose of conveying, transmitting, transforming, or distributing electricity, and any casing, coating, covering tube, tunnel, pipe, standard, frame, bracket, or insulator enclosing, surrounding, or supporting the same or any part thereof, or any apparatus connected therewith;

"Electrical energy" means electricity however produced;

"Electrical work" includes all operations in, or in connection with, the installation or the repairing, alteration, or removal of any electric line, electrical machinery, or apparatus or appliance used for, or in connection with, any supply of electricity;

"Public authority" means—

(a) a commission, board, authority, or other body that is constituted or established for any public purpose; or

(b) a local authority;

"Public purposes" includes the purposes of a public authority as well as the purposes of the Government of the State;

"Road or street" means any tramway, public and common highway, road, bridge, culvert, footway, square, court, alley, lane, thoroughfare, or public way or passage;

"Standard" means any pole, pillar, tower, erection, or other contrivance above the ground constructed for the purpose of carrying, supporting, or suspending any cable, wire, or conductor, used for or in connection with the transmitting, distributing, or supplying of electrical energy;

"The Commissioner" means the Commissioner of the Hydro-Electric Commission, and "Commissioner", when not immediately preceded by the definite article, includes the Commissioner and an Associate Commissioner;

...

"Wayleave easement" means any easement for or in connection with—

(a) the erection upon any land of any standard or line of standards for the suspension thereon; or

(b) the laying on or below the surface of any land,

of any cable, wire, conductor, or apparatus for the transmission or distribution of electrical energy, or

for telephonic communication, and includes any easement in connection with the cutting, constructing, or laying through or upon any land of any canal, race, aqueduct, fluming, line of pipes, or other works for the passage of water, or the entry upon any land for the construction, operation, and maintenance thereof.

3. (1) For the purposes of this Act there shall be a Commission, called the Hydro-Electric Commission, which shall consist of four persons appointed by the Governor, of whom one shall be appointed and be known as the Commissioner of the Hydro-Electric Commission, and three shall be appointed and be known as the Associate Commissioners of the Hydro-Electric Commission.

4. (1) The Commission shall be a body corporate having perpetual succession and a common seal and shall be capable of suing and being sued by its corporate name, and of purchasing, taking, holding, selling, leasing, exchanging, and disposing of real and personal property for the purposes of and subject to this Act.

11. All courts and all persons acting judicially shall take judicial notice of the common seal of the Commission, and of the signatures of the Commissioner, the Associate Commissioners, and the Acting-Commissioner, and of the fact of their respective appointments.

12. No Commissioner shall incur any personal liability for or by reason of any act legally performed by him as a Commissioner.

15. (1) Subject to this Act, the Commission has and shall perform the functions and duties imposed, and has and may exercise the powers conferred, on it by this Act, including the management and control of the hydro-electric works.

(2) The Commission may, for and on behalf of the State—

(a) construct any works, and may operate, manage, control, and generally carry on and conduct any business whatsoever, relating to or connected with the generation, reception, transmission, distribution, supply and sale of electrical energy, and carry out any purpose in relation thereto which the Commission may deem desirable in the interests of the State;

...

(c) provide, sell, let for hire, fix, repair, maintain, and remove electric lines, fittings, apparatus, or appliances for lighting, heating, and motive-power, and for all other purposes for which electrical energy can or may be used, upon such terms and conditions in all respects as the Commission shall think fit;

(d) generally, in so far as is not elsewhere in this Act sufficiently provided for, do anything that the owner of similar works might lawfully do in respect thereof, or that is authorized by by-laws under this Act;

...

(f) with the approval of the Governor, in relation to any particular matter, or class of matters, by writing under its common seal,

delegate all or any of the powers of the Commission under this Act (excepting the power of delegation) to a Commissioner so that the delegated powers may be exercised by him with respect to the matters, or class of matters, specified in the instrument of delegation.

(3) Any delegation by the Commission under paragraph (f) of subsection (2) shall be revocable at will either by the Governor or the Commission, and shall not affect the exercise of any power by the Commission.

15A. The Minister may from time to time, by instrument in writing, notify the Commission of the policy objectives of the Government of this State with respect to any matter relating to the generation, reception, transmission, distribution, supply, sale, use, or conservation of electrical energy within, or for the purposes of, this State.

15B. (1) Subject to subsection (2), the Minister may, after consultation with the Commission, give to the Commission in writing any direction that he considers to be in the public interest with respect to the performance or exercise by the Commission of its functions, duties, or powers under this or any other Act.

(2) The power conferred on the Minister by subsection (1)—

(a) shall not be exercised so as—

(i) to require the Commission to do anything that it is not empowered to do by this or any other Act;

(ii) to prevent the Commission from performing any duty that it is expressly required by this or any other Act to perform, either conditionally or unconditionally;

(iii) to require the Commission to include in any report that the Commission is required or empowered to make under this or any other Act any recommendation, finding, or comment with which it does not agree or to exclude from any such report any recommendation, finding, or comment which it wishes to make; or

(iv) to interfere with the formation by the Commission of any opinion or belief in relation to any matter that has to be determined as a prerequisite to the performance or exercise by the Commission of any of its functions, duties, or powers; and

(b) does not extend to any matter concerning—

(i) a loan negotiated by or on behalf of the Commission; or

(ii) a contract or agreement to which the Commission is a party and which is in force at the commencement of the *Hydro-Electric Commission Amendment Act 1979*.

(3) Where the Commission receives a direction given under subsection (1), it may, if it is of the

opinion that compliance with the direction would have a detrimental or prejudicial effect on the proper performance or exercise by the Commission of any of its functions, duties, or powers under this or any other Act, lodge with the Minister, within 14 days after receipt of the direction, a statement in writing setting out its objections to the direction, including—

- (a) the reasons for those objections; and
- (b) any modifications to the direction that it wishes to propose with a view to obviating or minimising that effect.

(4) Where a statement of objections to a direction given under subsection (1) is lodged with the Minister in accordance with subsection (3) and the Minister does not agree to withdraw the direction or to modify it in a manner and form acceptable to the Commission, the Minister shall thereupon submit to the Governor a copy of the direction, together with a copy of the statement of the Commission's objections.

(5) Where a submission is made to the Governor in accordance with subsection (4), the following provisions apply—

- (a) if the Governor agrees with the Commission's objections, he may require the Minister to withdraw the direction or to modify the direction in a manner and form which will be acceptable to the Commission;
- (b) if the Governor does not agree with the Commission's objections, he shall require the Minister to notify the Commission forthwith that he does not agree with those objections and shall also require the Minister to lay a copy of the direction, together with a copy of those objections, before each House of Parliament within the first 10 sitting days of the House after the requirement is notified to the Minister.

(6) On being notified of a requirement of the Governor made under subsection (5)(a) or (b), it is the duty of the Minister to comply with the requirement.

(7) Where a direction has been given under subsection (1), it is the duty of the Commission—

- (a) in a case where no statement of objections to the directions is lodged with the Minister in accordance with subsection (3) or where any such statement is so lodged but the Commission is notified in accordance with subsection (5)(b) that the Governor does not agree with the Commission's objections—to comply with the direction; or
- (b) in a case where objections to the direction are lodged with the Minister in accordance with subsection (3) and the Minister agrees to modify the direction, or the Governor in accordance with subsection (5)(a) requires the Minister to modify the direction, in a manner and form acceptable to the Commission—to comply with the direction as so modified.

(8) The Minister may, at any time, by notice in writing given to the Commission, revoke a direction given under this section.

(9) The fact that the Minister has power to give a direction under this section or gives such a direction does not have the effect of—

- (a) making the Commission the servant or agent of the Crown for the purposes of this or any other Act; or
- (b) conferring on the Commission any status, privilege, or immunity of the Crown.

...

17. The Commission, with the approval of the Minister, may make rules, not inconsistent with this Act or by-laws made thereunder, for regulating the good government of the business and affairs of the Commission.

18. The Commission, with the consent in writing of the Minister, by instrument under its common seal, may appoint any person to act as its attorney outside the State, for the purpose of doing anything which the Commission might itself lawfully do, and any person so appointed may do any act, or execute any power or function, which he is authorised by such instrument to do or execute.

...

44. The Commission may construct, maintain, repair, enlarge, and use any works for the purpose of generating, transmitting, or distributing electrical energy, upon or in respect of any land vested in the Commission, or over which it has acquired any right or authority for that purpose.

45. (1) The Commission may—

- (a) for the purpose of transmitting electrical energy from any part of the State to any other part, construct, maintain, and use any lines of standards which may be necessary for the purpose of suspending cables, or any other apparatus, and may suspend thereon, or attach thereto, any such cables or apparatus upon, across, or along—
 - (i) any Crown land or any railways;
 - (ii) any other land; or
 - (iii) any road or street.
- (b) for the purpose of distributing electrical energy, place, maintain, and use electric lines, leads, wires, cables, and conductors necessary for conveying electrical energy to be supplied by the Commission under, over, across, or along any railway, road or street, or other land, and, where necessary, may place and maintain standards in or upon any such railway, road or street, or other land;
- (c) for any of the purposes mentioned in paragraphs (a) and (b) break up, excavate, and open up the surface of—
 - (i) any part of a railway not actually occupied by rails or sleepers or railway buildings; or
 - (ii) the soil and pavement of any road or street or other land; and

- (d) for the purposes of paragraph (b) break up, excavate, and open up any sewers, drains, or tunnels within and under any railway, road or street, and may in, upon, or under any such railway, road or street construct, lay down, and, where necessary, maintain, repair, alter, and discontinue all such machinery, lamps, standards, wires, conductors, communicators, distributors, electric lines, apparatus, and works as may be necessary or convenient for any of those purposes.

...
47. (1) For the purposes of this Act, the Commission may acquire wayleave easements and enter into wayleave contracts.

(2) Every wayleave contract shall be binding on the land affected thereby without the necessity of registration in the office of the Registrar of Deeds or the Recorder of Titles.

...
53. (1) Except as provided by section fifty, the Commission shall not be answerable for any damage or injury caused by it otherwise than by—

- (a) the negligence or default of the Commission; or
- (b) any nuisance caused or permitted by the Commission which the Commission has failed to take all due and reasonable precautions to prevent.

...
56. All electric lines, conduits, fittings, apparatus, meters, and appliances let on hire by or belonging to the Commission shall, whether they are or are not fixed or fastened to any part of any premises, in or upon which they may be situate, or to the soil under any such premises, at all times continue to be the property of the Commission.

63. (1) Subject to this Act, the Commission, with the approval of the Governor, may make by-laws for any purpose whatsoever connected with—

- (a) the safe and economic generation, voltage, frequency, transmission, and distribution of electrical energy, and the methods, appliances, and apparatus to be employed in the utilization thereof, and the precautions which shall be observed in connection therewith;

- ...
(g) prohibiting and penalizing any damage to, or interference with, any installation, wiring, or apparatus belonging to the Commission, and providing that the occupier of any premises where any installation, wiring, or apparatus belonging to the Commission is placed shall be held responsible for any damage or interference thereto.

75. The Commission shall have the same rights, privileges, and priorities in all respects with regard to any sum of money owing to it by any person, as the Crown would have in the like case, but any action by the Commission against any person for the recovery

at law of any sum of money shall be instituted and carried on by the Commission in its own name as plaintiff in the same manner as an ordinary action between subject and subject.

HOBART CORPORATION ACT, 1963 (Tas.)

135. Subject to this Part, Part XV of the *Local Government Act 1962* applies to the city.

(Note: Section 135 will be repealed by s.5 of the *Hobart Corporation Amendment Act 1982* which will come into force on the day fixed by proclamation of the *Local Government (Highways) Act 1982*.)

LAUNCESTON CORPORATION ACT, 1963 (Tas.)

142. Except as provided in this Part, Divisions II to X and Division XIV of Part XV of the *Local Government Act 1962* apply to the city.

(Note: Section 142 will be repealed by s.4 of the *Launceston Corporation Amendment Act 1982* which will come into force on the day fixed by proclamation of the *Local Government (Highways) Act 1982*.)

LOCAL GOVERNMENT ACT, 1962 (Tas.)

4. (1) In this Act, unless the contrary intention appears—

“Highway”, except in the expression “any highway whatever”, does not include highways over water other than bridges and fords;

“Municipality” means—

- (a) a municipal district which is—
 - (i) a city; or
 - (ii) continued under section six or created under section seven as a municipality; or
- (b) the corporation thereof, as the context requires;

“Road” means—

- (a) any land subject to a right of way for wheeled vehicles;
- (b) any land so much used for the passage of wheeled vehicles that it obviously appears to be regularly so used; and
- (c) any land made ready to be regularly so used, together with any adjoining path; but—
- (d) where a path would be adjoining but for a nature strip, it shall be deemed to be adjoining and the nature strip part of the road; and
- (e) no railway or tramway other than a street tramway shall be deemed to be a road except where it crosses a road on the same level or in running along a road it is not separated from the road by any fence, cattle-guard, hedge, ditch, or wall;

"State highway" means a State highway or subsidiary road within the meaning of the *Roads and Jetties Act 1935*;

"Street" means a road with building continuous or nearly continuous on both sides or with the adjoining lands laid out for that purpose, and includes a terrace or cul-de-sac, a terrace being a road with such building or land so laid out on only one side, and a cul-de-sac being a rectangular, polygonal, or rounded space containing a road with the perimeter so built on or so laid out;

...

5. This Act applies to the cities of Hobart and Launceston except as otherwise expressly stated.

...

176. (1) A municipality—

(a) may for the welfare and good government of its district and the inhabitants thereof—

(i) make by-laws;

(ii) undertake, make, and maintain works, buildings, and services; and

(iii) order and dispose the common affairs of its members; and

(b) shall cause the Queen's peace to be kept and maintained within its district.

(2) The exercise of the powers set forth in subsection (1) shall be subject to the provisions of this and any other Act and in conformity with the common law.

...

188. Every municipality may, in pursuance of section one hundred and seventy-six and subject to section one hundred and ninety-seven, make by-laws as provided in this Part—

(a) for the good rule and government of its municipal district or any part thereof;

(b) for securing the health of the inhabitants of its municipal district or any part thereof;

(c) for the prevention and suppression of nuisances in its municipal district or any part thereof;

(d) for any other purpose for which by-laws may be made by the corporation or the council under this or any other Act; and

(e) so far as they are not within any preceding paragraph of this section, for any of the purposes set forth in the fourth schedule.

SCHEDULE 4

PART VIII

ROADS AND OTHER PUBLIC PLACES

1. Providing for the control and management of highways and other public places.

2. Preventing injury or obstruction to highways or other public places by digging or otherwise.

3. Regulating, and prescribing fees for, the opening up of the soil of highways by persons other than the

authorized officers of the corporation or persons authorised by any Act or Commonwealth Act so to do.

4. Prohibiting or regulating the erection of advertisements, signboards, or other signs upon or over any highway or any matter or thing projecting over any highway or in such a place or manner as to be dangerous to persons using a highway.

5. Prohibiting or regulating the erection of structures for the exhibition of advertisements, including sky signs, on or near any road, or regulating, restricting, or preventing the exhibition of advertisements on or near any roads.

6. Prohibiting or regulating the setting up and use of stalls, vehicles, and stands for the sale of goods or refreshments or for the pursuit of any trade, business, or employment in any highway.

7. Prohibiting or regulating the itinerant vending of goods on highways.

8. Fixing the hours when and roads or other public places where, and other restrictions under which animals (other than working bullocks in yoke and milch cows being driven to or from pastures) brought within any municipality or town may not be driven.

9. Preventing the depositing or dropping of stones, metal, cement, glass, filth, dust, ashes, and refuse in any highway or other public place.

...

331. This Part does not apply to the cities of Hobart and Launceston.

332. (1) The duty at common law of the inhabitants at large to repair the highways shall be deemed to have passed from the inhabitants of parishes to the corporations of municipalities.

(2) The corporation's duty referred to in subsection (1) does not include the repair of—

(a) any State highway, except as provided in section eleven of the *Roads and Jetties Act 1935*; or

(b) except as otherwise expressly provided in this Part, any highway in a city or town opened before the commencement of this Act which has not—

(i) been declared public under an Act;

(ii) at any time been formed, made, repaired, or improved by a highway authority; or

(iii) been made under Division IIA of Part II of the *Towns Act 1934*.

...

335. (1) In the corporation is vested every highway repairable by it and, subject to the *Traffic Act 1925*, the care, control, and management of every such highway.

(2) Where under section three hundred and thirty-three two municipal corporations are jointly liable to repair a boundary road, the matters vested by subsection (1) are vested in them jointly, and they jointly have the same powers over and in respect to the whole

width as each would otherwise have over and in respect to its own side.

...

369. The corporation may make, remake, or otherwise improve any highway repairable by it.

370. (1) The corporation may in or upon any road repairable by it—

- (a) plant trees and erect guards to protect them;
- (b) erect statues, monuments, sundials, fountains, signposts, flood posts, snow poles, milestones, drinking troughs, and seats, and receptacles for litter (being litter within the meaning of the *Litter Act 1973*);
- (c) erect posts, lights, stones, fences, and places of refuge for protecting passengers, regulating traffic, or making crossing less dangerous;
- (d) make lawns, gardens, shrubberies, and rockeries; and
- (e) erect buildings and shelters for the protection and convenience of passengers by tram, bus, or coach, cabmen, or others whom the corporation may permit to use them.

but not so as to create a serious obstruction to traffic.

(2) The corporation may in, under, or upon any such road make privies, urinals, and similar conveniences for the public, but not so as to create a serious obstruction to traffic.

(3) The corporation may at any time remove anything planted, erected, or made under this section or any corresponding previous enactment.

(4) Where in the exercise of its powers under this section the corporation does anything in or in respect of land under the surface not vested in it, it is liable to pay compensation only for damage to some cellar, tunnel, pipe, or other work of the owner of the soil or to land adjoining or near the road.

372. The corporation may, with the consent of the Minister responsible for State highways and in accordance with such conditions as he may impose, exercise the powers conferred by sections three hundred and seventy and three hundred and seventy-one in respect of roads that are State highways.

...

374. (1) Where in connection with the making, improvement, deviation, raising, or lowering of any highway repairable by the corporation, the corporation deems it necessary to shift any bridge, wire, or other aerial work, pipe, cable, conduit, tank, tunnel, or other underground work or to fill up any cellar or excavation, it may by notice in writing require the person to whom the work belongs to cause to be done the acts specified in the notice for the purpose of doing what the corporation deems necessary within some reasonable time specified in the notice, and that person shall comply with the notice.

(2) The expenses attending compliance with a notice under subsection (1) and full compensation for damage reasonably resulting therefrom shall be paid by the corporation as well to the person given the notice as to other persons injuriously affected by his compliance.

(3) If a person given notice under subsection (1) does not comply with it the corporation may itself do the acts specified in the notice, making full compensation to all persons injuriously affected thereby.

(4) Nothing in subsection (3) authorizes the corporation to cut any wire, cable, pipe, or conduit carrying an electric current, gas, water, oil, or sewage.

...

376. The Governor may by proclamation on the recommendation of the corporation authorize any person to lay down, construct, and maintain a tramway or railway along or across any highway other than a State highway subject to such terms and conditions as may be recommended by the corporation.

...

416. The Minister may, if authorised by the Governor, lay out, form, make, open, remake, repair, widen, divert, or improve any highway for the benefit of any municipality and has for any such purposes the powers of the corporation for that purpose, except that the *Lands Resumption Act 1957* applies in place of the *Public Authorities' Land Acquisition Act 1949*; but the corporation may instead employ the latter Act on the Minister's behalf.

...

589. (1) Without prejudice to the operation of section one hundred and seventy-six, the corporation may cause any highway or other public place within its district to be lit with gas, electricity, or other illuminant.

(2) For this purpose the corporation may on any land—

- (a) lay pipes, conduits, and cables;
- (b) erect posts, wires, stays and other works;
- (c) attach lamps, brackets, wires, insulators, and stays to nearby trees and structures; and
- (d) contract for any period not exceeding (except in the case of the Hydro-Electric Commission) seven years at any one time with any person for the supply of gas, electricity, or other illuminant, or construct or purchase any gas works or other such means of lighting,

but on land not under the control of the corporation it shall do as little damage as possible and make compensation for all damage done.

(3) The powers conferred by this section may be used over State highways only with the consent of the Minister and subject to such conditions as he may impose.

590. (1) The corporation may, by order, require the owner of any private way or court to which the public ordinarily has access to light it as directed in the order.

(2) Nothing may be required under this section better than exists in the road from which there is access to the private way or court affected.

(3) A person on whom an order under this section is made is not bound to comply with it while he keeps his way or court closed to the public by night.

...

806. Where a highway runs over land of the municipality that municipality's liability for torts in respect of the highway is—

- (a) as landowner, that of a private owner of land subject to a highway repairable by the inhabitants at large; and
- (b) as highway authority, where it is the highway authority, that of a highway authority for a highway over land of a private owner.

(Note: Section 806 will be repealed when the *Local Government (Highways) Act 1982* is proclaimed.)

807. Except where in this Act otherwise expressly provided, and notwithstanding the provisions of any other Act to the contrary, any compensation payable by a municipality to any person by reason of the exercise of any power conferred by this Act shall be—

- (a) as agreed between the parties; or
- (b) in default of agreement, determined by action in a court of competent jurisdiction.

ROADS AND JETTIES ACT, 1935 (Tas.)

3. (1) In this Act, unless the contrary intention appears—

“Country road” means a road not being or forming portion of a State highway or subsidiary road;

...

“Maintenance”, used in relation to—

- (a) a road, includes the reconstruction, improving, widening, diverting, altering, and repairing thereof; and
- (b) any plant, includes the reconstruction, repair, improving, and unkeep thereof;

...

“Road” means a public highway;

“Road authority”, used in relation to a State highway or subsidiary road, means the Minister; and, used in relation to any other road, means the council having the control of such road;

“Service authority” means a person having the charge and control of a system for supplying water, gas, or electricity, or of drainage or sewerage;

“State highway” means a road in respect of which a proclamation declaring the same to be a State highway for the purposes of Part II is in force;

“Subsidiary road” means a road in respect of which a proclamation declaring the same to be a subsidiary road for the purpose of Part II is in force;

...

(3) Where in any Act passed before the commencement of the *Roads and Jetties Act 1944*, reference is made to a main road, it shall be construed as a reference to a road which is a State highway within the meaning of this Act.

7. (1) The Governor may, by proclamation, declare any road or any specified portion thereof to be a State highway or subsidiary road for the purposes of this Part, and in like manner may at any time declare that

any such road, or any specified portion thereof, shall cease to be a State highway or subsidiary road.

(2) Every proclamation under this section shall have effect upon and from the date specified therein or, if no date is so specified, from the date of the gazettal of the proclamation.

(3) In any proclamation under this section which declares any road or portion thereof to be a subsidiary road, every subsidiary road to which the proclamation relates shall be classified as a—

- (a) main road;
- (b) secondary road;
- (c) developmental road; or
- (d) tourist road;

Provided that no road or portion thereof shall be classified as a main road or secondary road unless the Governor is satisfied, on the report of the Director of Public Works, that the council of the municipality in which the road is situated has consented thereto.

8. (1) All State highways and subsidiary roads shall be vested in His Majesty, and shall be under the control and direction of the Minister.

(2) Except as otherwise provided, the Minister shall cause all State highways and subsidiary roads to be maintained as he shall direct.

(3) For the purposes of carrying out maintenance on a State highway or subsidiary road—

- (a) the Minister or a person authorized by him may close the State highway or subsidiary road wholly or to specified kinds of traffic; and
- (b) a person acting under the authority of the Minister may close part of the State highway or subsidiary road to all traffic so long as there is left open a sufficient passage for ordinary traffic.

(4) Where under subsection (3) of this section a road—

- (a) is closed wholly or in part the Minister shall cause to be displayed on the fences by which it is closed sufficient red lamps by night and at the end of each closed section a notice setting forth by what authority it is closed; and
- (b) is closed to specified kinds of traffic, the Minister shall cause to be displayed at either end of the closed section a notice to that effect specifying the kinds of traffic to which, and indicating by what authority, it is closed.

(5) A person shall not, except for the purpose of maintenance of the road, go, or cause any animal or vehicle to go, along a road or part of a road—

- (a) closed by fences under this section; or
- (b) contrary to a notice displayed under paragraph (b) of subsection (4) of this section.

Penalty: Forty pounds.

15. (1) In any case where a service authority desires to erect any pole or tower for carrying electric mains or wires along any portion of a State highway or

subsidiary road, such authority shall apply in writing to the Minister for permission so to do, and shall submit a plan showing the proposed disposition of the poles or towers, the mains or wires carried thereby, and the stays thereof in relation to the pavement, shoulders, and structures of the road to be affected thereby.

(2) The Minister may grant such permission as aforesaid, either in accordance with the plan so submitted or subject to such alteration of the disposition of the poles or towers as the Minister may think fit.

(3) The Minister may require the service authority forthwith to remove, at its own expense, any pole or tower erected by it as aforesaid otherwise than in accordance with such permission, and the authority shall comply with every such requirement.

16. (1) Structures shall not be erected or placed and other works shall not be done in a State highway or subsidiary road without the consent in writing of the Minister.

Penalty: One thousand pounds.

(2) This section—

- (a) extends to local authorities acting under section eleven;
- (b) does not authorize a common nuisance;
- (c) does not affect the operation of Chapter XV of the *Criminal Code*; and
- (d) does not affect civil remedies.

(3) The Minister's consent under this section may be, at his discretion, granted absolutely or on condition, withheld, or withdrawn.

(4) Where the Minister's consent is withdrawn, whether for breach of condition or otherwise, the person who erected, placed, or did the work consented to and his assigns shall forthwith at his or their own cost remove or undo the work and restore the surface of the road in a proper and workmanlike manner to the satisfaction of the Minister.

Penalty: One thousand pounds.

52A. (1) The Governor may, by proclamation, declare any State highway or subsidiary road, or part thereof to be a "limited access road".

(2) A proclamation under this section may be combined with a proclamation under section nine A and will then become effective upon the opening of the highway in accordance with the latter proclamation.

(3) A proclamation under this section shall set forth the places of access for the purposes of section fifty-two B.

52E. (1) The Minister may make roads and other works, alter existing roads and other works, and stop up existing roads—

- (a) for the convenience of lands—
 - (i) deprived of existing access; or
 - (ii) rendered unable to obtain access, to a highway by reason of the proclamation of a limited access road; or
- (b) so as to make the road system of its neighbourhood agree with the scheme of a limited access road.

(2) For the purposes of this section the Minister may—

- (a) exercise over the roads and works hereby affected the same powers as if those roads were State highways; and
- (b) carry roads under or over the limited access road or one another,

and the Governor may in the name and on behalf of His Majesty by letters patent, proclamation, or otherwise as the case may require, dispose of lands, works, and the control of roads and of viaducts over and tunnels under the limited access road.

(3) A person whose land is injuriously affected by an act of the Minister under this section is entitled to compensation therefor, which compensation if not agreed upon shall be determined as a disputed claim for compensation under the *Lands Resumption Act 1957*.

TRAFFIC ACT, 1925 (Tas.)

59. (1) The Commission may issue to all or any any highway authorities and such other authorities as may be prescribed general or particular directions as to the traffic signs to be used on public streets generally or on specified classes of such streets or in any specified cases.

(2) The Commission may cause prescribed traffic signs to be made and supplied to highway authorities and such other authorities as may be prescribed.

(3) Every highway authority and such other authority as may be prescribed shall cause all traffic signs supplied to it by the Commission to be used in conformity with the Commission's directions, and shall provide all such posts, holders, and appliances as may be necessary for that purpose.

(4) Except as hereinbefore provided, no traffic sign shall be placed on or near any public street.

(5) In any case where any traffic sign or object, so nearly resembling a traffic sign as to be calculated to be mistaken for a traffic sign or to mislead, is on any land in proximity to a public street, the highway authority may require the owner of such land to remove such sign or object forthwith.

(6) If such owner as aforesaid fails to comply with such requirement within a reasonable time, the highway authority may enter upon such land and may cause such removal to be effected (doing as little damage therein as may be), and may recover the cost of such removal from such owner.

(7) In any case where the Commission directs, the highway authority shall proceed as provided by subsections (5) and (6), and in default thereof the Commission may exercise the powers thereby conferred on the highway authority.

(8) For the purposes of this section the expression "traffic sign" means any signal, warning, sign-post, direction post, or other device for the guidance or direction of traffic on public streets or for the giving of information to persons driving on or using public

streets; and "highway authority" means the persons responsible for the maintenance of the public street in relation to which the expression applies.

EXTRACTS FROM VICTORIAN LEGISLATION

LOCAL GOVERNMENT ACT 1958

COUNTRY ROADS ACT 1958

STATE ELECTRICITY COMMISSION ACT 1958

ELECTRIC LIGHT AND POWER ACT 1958

ROAD TRAFFIC ACT 1958

ROAD TRAFFIC REGULATIONS 1973

LOCAL GOVERNMENT ACT 1958 (Vic.)

3. (1) In this Act unless inconsistent with the context or subject-matter—

...

"Public highway" includes any inland lake whether natural or artificial, and any navigable water vested in any municipality or the council thereof upon which boats are used to ply for hire.

...

"Street" and "road" respectively means a street or road being a public highway, and includes every public highway.

...

518. It is hereby declared and enacted that notwithstanding any presumption of law to the contrary the absolute property in the land heretofore or hereafter reserved or proclaimed under the *Land Act 1958* or any corresponding previous enactment as a road, street or highway is and shall be vested in the Crown.

519. (1) It shall be lawful for the Governor in Council at any time and from time to time upon the request of the council of any municipality (including the city of Melbourne and the city of Geelong) by notice in the *Government Gazette* to proclaim any land reserved used or by purchase or exchange acquired for a street road highway thoroughfare bridge square court alley or right-of-way or any street road lane or passage made or laid out or proposed to be made or laid out on any land of which a plan of subdivision delineating that street road lane or passage has been sealed with the seal of the municipality under subdivision (3) of Division 9 of Part XIX, or a corresponding previous enactment to be a public highway.

(2) Such land shall thereupon and thenceforth from the date of such proclamation become and be absolutely dedicated to the public as a public highway within the meaning of any law now or hereafter in force.

...

535. (1) The council of every municipality shall have the care and management of all public highways streets, roads, bridges, culverts, ferries and jetties within the municipal district and of all levees constructed or acquired by the municipality within such district.

(2) Subject to the provisions of this Act, the council of every municipality may within the municipal district or with the consent of the Governor in Council in any part of Victoria from time to time make improve and maintain public highways, streets, roads, bridges, ferries, levees or jetties, and may cause to be raised or lowered the ground or soil of any street or road.

...

551. (a) The materials of all public highways, streets, roads, bridges, culverts, ferries and jetties and also of any levees constructed or acquired by the municipality and all matters and things appurtenant thereto; and

(b) All buildings, fences, gates, posts, boards, stones and erections placed upon such public highways, streets, roads, bridges, culverts, ferries, levees or jetties by any person or persons or body corporate for the time being having the management thereof; and

(c) All materials, tools and implements provided for constructing repairing or maintaining such public highways, streets, roads, bridges, culverts, ferries, levees and jetties; and

(d) The scrapings of all streets, roads and the sand on public highways, streets and roads—

shall belong to the municipality of the district within which the same respectively are.

...

553. (1) It shall be the duty of the council of every municipality except as by this or any other Act of Parliament now or hereafter to be in force provided, to open and to keep open for public use and free from obstruction every road street or highway required for public traffic.

(2) Every such road, street or highway shall be considered to be required for public traffic unless the council and the Minister otherwise decide, and every such decision the Governor in Council may revoke; and every such decision and the revocation thereof shall be published in the *Government Gazette* and take effect thereon.

...

555. (1) The council of any municipality (including the city of Melbourne and the city of Geelong) may in or upon any street or road in the municipal district without unduly obstructing the thoroughfares—

...

(c) erect, either permanently or temporarily, as it may think fit, traffic buttons, roundabouts, posts, fences, raised pavings, safety zones, places of refuge and other works and structures for protecting passengers or regulating traffic along the street or road or on the footways, or for making the crossing of any street less dangerous to passengers;

...

687. (1) The council of every municipality for the supply of light heat or motive power for public or private purposes within the municipal district or any part or parts thereof or with the consent of the

Governor in Council without the municipal district may—

- (a) construct any gasworks, works for the purpose of supplying electricity or works for the purpose of supplying light heat or motive power by any other means; or
- (b) purchase any gasworks, works for the purpose of supplying electricity or works for the purpose of supplying light heat or motive power by any other means; or
- (c) contract for any period not exceeding fourteen years at one time with the owner of any gasworks, electric lighting works, or with any other person for the supply of gas or electricity for lighting or oil or other means of lighting; and

...

(2) The council may provide and erect such lamps, lamp-posts poles for erecting or connecting electric wires and fittings as the council think necessary; or may when it contracts with any such owner or person permit the same to be provided and erected by such owner or person; and in the last-mentioned case may also provide that all such lamps, lamp-posts poles for erecting or connecting electric wires and fittings shall during such period be vested in the municipality.

...

(5) This section shall be read and construed subject to the *Electric Light and Power Act 1958*.

COUNTRY ROADS ACT 1958 (Vic.)

(It should be noted here that the *Country Roads Act 1958* has been repealed by the *Transport Act 1983*, which now incorporates, with amendments, the provisions previously contained in the *Country Roads Act 1958*.)

3. In this Act unless inconsistent with the context or subject-matter—

"Ancillary works" means works which while not forming part of a road or bridge are in the opinion of the Board required to be executed in conjunction with—

- (a) the making of a new road or a deviation from or widening of an existing road; or
- (b) the construction reconstruction strengthening widening or improvement of a bridge—

and (without affecting the generality of the foregoing) includes works of and incidental to the closing or diversion of any street or road the opening of any new street or road the installation, erection, deviation or replacement of any pipes, wires, bridges, sewers, drains, channels, conduits, poles, posts or other means of supplying services the diversion of any water-course whether natural or artificial the installation or replacement of traffic control items or the means of street lighting and works of beautification or improvement.

...

"Developmental road" means any road declared to be a developmental road under Part IV of this Act or any corresponding previous enactment or any part of such road.

"Forest road" means a road proclaimed to be a forest road under Part VI or any corresponding previous enactment.

"Freeway" means a freeway or by-pass road authorized to be constructed under Part VII or any corresponding previous enactment.

"Highway" means any State highway under this Act and any other public highway and any street or road and any main road, developmental road, forest road, freeway or tourists' road, or any part thereof respectively.

...

"Main road" means any road declared to be a main road under the provisions of this Act or any corresponding previous enactment or any part of such road.

"Maintenance" of a road or bridge includes the execution of all works of any description which are in the opinion of the Board required to keep the road or bridge in the state of utility in which it was—

- (a) in the case of a road—on the completion of the original making thereof or of any further making or widening thereof or of the carrying out of any permanent improvements thereon;
- (b) in the case of a bridge—on the completion of the construction thereof or of any reconstruction strengthening widening or improvement thereof—

and "maintain" has a corresponding meaning.

"Permanent improvements" in relation to a road includes all works of any description exclusive of maintenance which are in the opinion of the Board calculated to increase the utility safety capacity or amenities of the road or any portion thereof and includes bridges, overpasses, subways, tunnels and culverts in, on, over, under, along or across the road, traffic engineering works on or in connexion with the road, channels and drains for draining and lights for illuminating the road and works of beautification or improvement.

"Permanent works" in relation to roads includes new roads deviations from and the widening of existing roads ancillary works and permanent improvements to roads.

"Road" includes bridge, culvert, ferry, ford.

"State highway" means any highway (including any main road or developmental road) or any part thereof declared and confirmed as a State highway or any part thereof.

...

4. (1) For the purposes of this Act there shall be a Board to be called the Country Roads Board consisting of three members who shall be appointed by the Governor in Council.

...

44. Subject to the general direction and control of the Minister, and any specific directions given by him in relation to a matter or class of matters specified in the directions, the Board shall administer this Act and exercise the rights powers and authorities and discharge the duties conferred or imposed on it by this or any other Act.

5. The members of the Board shall be a body corporate by the style and title of the Country Roads Board and shall have perpetual succession and a common seal and be capable in law of suing and being sued and of purchasing taking holding selling leasing exchanging or disposing of real and personal property for the purposes of and subject to the provisions of this Act.

15. The Board so far as any moneys legally available for the purpose permit shall—

(a) carry out all such surveys and investigations as may be necessary or expedient to ascertain—

(i) what roads shall be main roads;

(ii) the nature and extent of the resources of Victoria in metals minerals and materials suitable for the purposes of road-making and maintenance and the most effective and economical methods for dealing with the same and for supplying or utilizing the same for the said purposes in the whole or any part of Victoria;

(iii) the most effective methods of road construction and maintenance in the whole or any part of Victoria;

(iv) what deviations (if any) in or widening (if any) of existing roads or what new roads should in its opinion be made so as to facilitate communication and improve the conditions of traffic;

(b) record publish and make available for general information the results of all such surveys and investigations.

18. (1) The Board shall from time to time by resolution declare to be a main road any highway which is in the opinion of the Board of sufficient importance and may also rescind such resolution as regards any main road or portion of main road already proclaimed which, owing to the diversion or cessation of traffic, is in the opinion of the Board no longer of sufficient importance to be considered a main road or on which a tramway has been constructed by the Melbourne and Metropolitan Tramways Board. Such resolutions shall describe the course of and distinctly specify the points of commencement and termination of such road.

(2) The Governor in Council may by Order published in the *Government Gazette* confirm such resolution and thereupon any road mentioned in such resolution shall be a main road or cease to be a main road within the meaning of this Act.

(3) The Order shall set forth the terms of the resolution. A copy of the *Government Gazette* containing such Order shall be evidence that the road therein described is a main road or ceases to be a main road.

Permanent Improvements

22. The Board may from time to time cause to be prepared estimates of the cost of permanent improvements to any main road or portion of a main road, and upon being satisfied that there are funds legally available for carrying out such works may approve of the same and such works shall be carried out as herein-after provided.

23. (1) The council of each municipality shall carry out all permanent works to be made within its municipal district but the Minister may direct that any permanent works specified by him shall be carried out by the Board.

(2) Any permanent works carried out by any council shall be carried out to the satisfaction of the Board.

24. (1) The council of each municipality shall maintain the main roads within its municipal district but the Minister may direct the Board to maintain any main road specified by him.

(2) The Board shall each year notify to the council of each municipality in whose municipal district a main road is the amount such council may expend on the maintenance of each of the main roads within its district.

(3) All maintenance carried out by any council shall be carried out to the satisfaction of the Board.

. . .

43. (1) The absolute property in the land over which a main road is declared shall be vested in the Crown.

(2) (a) The materials of all main roads and all matters and things appurtenant thereto;

(b) all buildings, fences, gates, posts, boards, stones and erections placed upon the main roads; and

(c) scrapings of all main roads and the sand on main roads—
shall belong to the Board.

. . .

52A. Every person who without the consent in writing of the Board or without other lawful authority destroys damages alters or in any way interferes with any guide-post, bridge hand-rail, sign, notice, light or other fixture or equipment situated or placed upon any main road shall be liable to a penalty of not more than \$200.

53. (1) Every person who makes or causes to be made any building, hedge, ditch, fence, hole, heap, drain or obstruction on across or in any main road without the consent in writing of the Board or without other lawful authority shall for every such offence be liable to a penalty of not more than \$200, and a further penalty of not more than \$20 for every day while the same is so continued.

(2) The Board may cause such building, hedge, ditch, fence, hole, heap, drain or obstruction to be taken down or filled up or otherwise made good at the expense of any person by whom the same has been made or to whom it belongs, and such expenses may

in default of payment be recovered before any magistrates' court.

...
55. (1) If the Board is of opinion that any main road is in any manner prejudiced or obstructed by any tree growing or being in land adjoining thereto it shall be lawful for any magistrates' court on the application of the Board and after summons duly served on the owner and occupier or upon the occupier only if the owner cannot be found of the land on which such tree is to make an order for the removal of such tree or any part thereof by such owner or occupier as such court sees fit.

...
Saving Powers of Municipalities

64. Save in so far as inconsistent with this Part every municipality shall have the same powers over the main roads within its municipal district as it has over other public highways within its municipal district.

...
68. The Governor in Council may from time to time make regulations for the purpose of carrying this Part into execution or conferring upon the Board with respect to main roads any right power protection privilege or obligation relating to the construction improvement or maintenance of highways conferred upon the council of a municipality by any Act relating to local government.

70. (1) The Board may by resolution declare to be a State highway any highway (including any main road or developmental road) or any portion of a highway main road or developmental road which in the opinion of the Board is of sufficient importance to be declared a State highway, and may rescind such resolution as regards any State highway or portion of a State highway which owing to the diversion or cessation of traffic is in the opinion of the Board no longer of sufficient importance to be considered a State highway.

(2) Every such resolution shall describe the course of and distinctly specify the points of commencement and termination of any State highway or portion thereof as aforesaid.

(3) The Governor in Council by Order published in the *Government Gazette* may confirm any such resolution; and thereupon—

- (a) any highway (including any main road or developmental road) or any portion of a highway main road or developmental road mentioned in such resolution shall be a State highway; or
- (b) (as the case may be) any State highway or portion thereof mentioned in such resolution shall cease to be a State highway.

(4) Every such Order in Council shall set forth the terms of the resolution; and a copy of the *Government Gazette* containing any such Order in Council shall be evidence of the facts therein set forth.

...
72. (1) The Board out of moneys legally available for the purpose shall maintain every State highway and,

subject to sub-section (5), no municipality shall be liable to pay any contribution in respect of such maintenance.

(2) The Board and the council of any municipality may contract upon such terms and conditions as are mutually agreed upon for or with respect to the carrying out by the council for and on behalf of the Board of the maintenance of any portion of any State highway whether within or without the municipal district of such municipality and the council may carry out such maintenance accordingly.

...
(5) Where the street lighting (being an existing installation, an improved existing installation or a new installation) on any State highway or any section of a State highway is of a standard not lower than the standard determined by the Street Lighting Committee, and is approved by that Committee, the cost of—

- (a) the operation and maintenance of a lighting installation which the Committee approves as an existing installation requiring no improvements;
- (b) the operation maintenance and improvement (being improvement made on or after the coming into operation of section 6 of the *Country Roads (Amendment) Act 1978* or the date on which the road or section of the road in question becomes a State highway, whichever of these events last happens, but before the date on which the lighting installation is approved as an improved existing installation) of a lighting installation which the Street Lighting Committee approves as an improved existing installation; and
- (c) the installation operation and maintenance of a lighting installation which the Street Lighting Committee approves as a new installation—

shall be borne in the following proportions—

- (i) In the case of the lighting of a State highway within the municipal district of a municipality which is an undertaker within the meaning of the *Electric Light and Power Act 1958*—
one-third by the Board; and
two-thirds by the council of the municipality;
- (ii) In the case of the lighting of a State highway within the municipal district of a municipality which is not an undertaker within the meaning of the *Electric Light and Power Act 1958* but which receives power from a municipality which is such an undertaker—
one-third by the Board;
one-third by the municipality which is not an undertaker; and
one-third by the municipality which is an undertaker; and
- (iii) In the case of the lighting of a State highway within the municipal district of

a municipality which is not an undertaker within the meaning of the *Electric Light and Power Act 1958* and does not receive power from a municipality which is such an undertaker—

one-third by the Board;

one-third by the municipality; and

one-third by the State Electricity Commission of Victoria.

(6) The following provisions shall apply to and in relation to any cost with respect to operation or maintenance referred to in sub-section (5)—

(a) The day from which any cost with respect to the operation or maintenance is to be borne shall be—

(i) in the case where the installation is approved as a new installation—the day on which the installation comes into service;

(ii) in the case where the installation is approved as an improved existing installation—the day on which the installation comes into service after improvement (being improvement made before the installation was approved as an improved existing installation); and

(iii) in the case where the installation is approved as an existing installation—the first day of the month immediately following the month in which the Street Lighting Committee approves of the installation; and

(b) Where—

(i) different parts of a new installation come into service at different times—any reference in paragraph (a) to the day on which the installation comes into service shall, in relation to each of those parts, be read and construed as a reference to the day on which the parts of the installation comes into operation and any reference in paragraph (a) or sub-section (5) to any cost with respect to operation or maintenance of the installation shall, in relation to each part of the installation, be read and construed as a reference to the cost with respect to the operation or maintenance of the part of the installation; and

(ii) different parts of an improved existing installation come into service on different dates after improvement—any reference in paragraph (a) to the day on which the installation comes into service shall, in relation to each part of the installation, be read and construed as a reference to the day on which the part of the installation comes into service after improvement, and any reference in paragraph (a) or sub-section (5) to any cost with respect to operation or main-

tenance of the installation shall, in relation to each part of the installation, be read and construed as a reference to any cost with respect to operation or maintenance of the part of the installation.

(7) The Board may enter into a contract with the State Electricity Commission of Victoria and the council of a municipality, or any of them, and the council and the State Electricity Commission of Victoria are hereby authorized and empowered to enter into a contract with the Board, for or in relation to the payment by the parties to the contract in such sums or proportions or on such other conditions as are specified in the contract, of the costs and charges or any of those costs or charges specified in the contract relating to the installation, improvement, maintenance or operation of street lighting on a road or a section of a road constructed or being constructed on land taken or proposed to be used for the purposes of a State highway or a main road, in respect of any period during which that road or section of a road is not a State highway or main road, and the Board, the council and the State Electricity Commission of Victoria are hereby authorized and empowered to do or suffer any thing necessary or expedient for carrying out any such contract into effect.

(8) Any costs and charges required to be borne by the council of a municipality under this section or under a contract entered into under this section, other than costs and charges required to be borne by the council pursuant to the provisions of sub-section (5)(i) shall be paid out of the Municipal Fund.

(9) Where the council of a municipality which is an undertaker within the meaning of the *Electric Light and Power Act 1958* pays moneys pursuant to the terms of a contract entered into under sub-section (7), those moneys shall not for any purpose be regarded as having been paid for or in connexion with the electrical undertaking of the council, and shall not be debited to any account established by the council in connexion with that undertaking.

(10) For the purposes of sub-sections (5) and (6)—

(a) "cost" means—

(i) in the case of the lighting of a State highway or a section of a State highway within the municipal district of a municipality which is not an undertaker within the meaning of the *Electric Light and Power Act 1958* and does not receive power from a municipality which is such as undertaker—the charges with respect to street lighting as determined by reference to the current schedules of tariff charges relating to lighting units lit by the State Electricity Commission of Victoria;

(ii) in the case of the lighting of a State highway or a section of a State highway within the municipal district of a municipality which is an undertaker within the meaning of the *Electric Light and Power Act 1958* or receives power from a municipality which is such an undertaker—the charges with respect to street

lighting as determined by reference to the current tariff charges which the undertaker is by or under that Act authorized to make in relation to lighting units lit by it; and

- (iii) all other costs and charges associated with the installation, improvement, operation or maintenance of street lighting, other than the costs or charges associated with the removal and re-location without improvement of the whole or any part or parts of a lighting installation if it was necessary to remove and re-locate the installation or part of the installation by reason of the carrying out of road works;

(b) "existing installation" means—

- (i) a lighting installation which existed before the 19th day of May, 1971; and
- (ii) a lighting installation installed on or after the 19th day of May, 1971 on a road or a section of a road which after the lighting was installed becomes a State highway;

(c) "improved existing installation" means—

- (i) an existing installation referred to in subparagraph (i) of paragraph (b) which is improved on or after the 19th day of May, 1971; and
- (ii) an existing installation referred to in subparagraph (ii) of paragraph (b) which is improved on or after the date on which the road or the section of the road in question becomes a State highway; and

(d) "new installation" means a lighting installation installed on or after the 19th day of May, 1971 on a road or section of a road which is at the time at which the lighting is installed a State highway.

72A. (1) There shall be a Street Lighting Committee consisting of three members appointed by the Governor in Council—

- (a) one being a person nominated by the Chairman of the Country Roads Board who shall be the Chairman;
- (b) one being a person nominated by the Chairman of the State Electricity Commission; and
- (c) one being a person nominated by the Municipal Association of Victoria.

(2) A member of the Committee shall be appointed for such period not exceeding three years as the Governor in Council determines before the appointment, and shall be eligible for re-appointment.

[(2A)-(2G) inserted by 9177 but relate to conditions re members of Street Lighting Committee.

(3)-(5) Travelling expenses etc. . . .]

(6) The functions of the Committee in respect of State highways shall be—

- (a) to determine a minimum standard of street lighting as required by sub-section (5) of section 72;
- (b) to examine plans and specifications for lighting installations and lighting installations and, where the standard of lighting is not lower than the minimum standard determined by the Committee, to approve the installations as set out in sub-section (5) of section 72;
- (c) to resolve any problems or disputes associated with the installation improvement operation or maintenance of street lighting schemes; and
- (d) generally, to do all things that by this Act the Committee is required to do.

72B. The Board shall be responsible—

- (a) for initiating such action as the Board considers necessary to have street lighting installed on State highways or sections of State highways which in the opinion of the Board require to be lit to a standard not lower than the standard determined by the Street Lighting Committee to a standard not lower than the standard determined by the Street Lighting Committee and to have existing street lighting installations on State highways or sections of State highways which in the opinion of the Board require to be lit to a standard not lower than the standard determined by the Street Lighting Committee improved to such a standard;
- (b) for making all necessary arrangements with the State Electricity Commission or with undertakers within the meaning of the *Electric Light and Power Act 1958* concerning such installations or improvements of street lighting;
- (c) for requesting the Street Lighting Committee to approve street lighting installations which in the opinion of the Board are of a standard not lower than the standard determined by that Committee; and
- (d) for taking all other action as the Board considers necessary to ensure that any State highway or section of any State highway which in the opinion of the Board requires to be lit to a standard not lower than the standard determined by the Street Lighting Committee, is so lit.

. . .

74. The provisions of sections fifteen, sixteen, nineteen to twenty-one and twenty-five (so far as it relates to permanent works) and the provisions of Division three of Part II of this Act shall so far as applicable and with such alterations modifications and substitutions as are necessary extend and apply to State highways and be read and construed accordingly and in particular with the modification that a reference in section 43(1) to "declared" shall be read and construed as if it were a reference to "declared and confirmed".

99. (1) The Board shall be charged with the carrying out of permanent works on and permanent improve-

ments to and the maintenance of every freeway so authorized to be constructed.

(2) The Board may construct, improve and maintain local access roads to serve any freeway and may carry any such local access road or other highway over or under any freeway or carry any freeway under or over any such local access road or other highway and for such purposes may exercise the same powers in relation to any such local access road or other highway as it may exercise in relation to freeways.

100. (1) The cost of permanent works on and maintenance of and permanent improvements to freeways and, pursuant to this Part, of works on or in relation to local access roads and other highways as aforesaid shall be defrayed out of the Country Roads Board Fund and any other moneys legally available for the purpose.

(2) The Board may defray any cost incurred in operating any permanent improvements out of the Country Roads Board Fund and any other moneys legally available for the purpose.

101. For the purposes of this Part the provisions of sections fifteen, sixteen, nineteen to twenty-one, Division three of Part II, and section seventy-three of this Act shall so far as applicable and with such adaptations as are necessary extend and apply with respect to freeways and in particular with the modification that a reference in section 43(1) to "declared" shall be read and construed as if it were a reference to "declared and confirmed".

101A. (1) Where the Board has by resolution declared a road or deviation or widening to be a freeway or by-pass road it may, by resolution, vary or revoke the declaration.

(2) The Board shall publish the terms of the resolution in the *Government Gazette* and upon such publication the declaration shall be varied or revoked in accordance with the resolution.

(3) A copy of the *Government Gazette* containing the terms of the resolution shall be evidence of the variation or revocation of the declaration.

102. The provisions of Division two of Part II of this Act (except sections twenty-seven to thirty) so far as they relate to permanent works on main roads shall extend and apply with respect to permanent works on freeways; and notwithstanding anything in the said Part II so much of any moneys legally available for making permanent works under that Part as is required for the purpose of making permanent works on freeways under this Part be applied accordingly for the purposes of this Part.

103. (1) The Board out of moneys legally available for the purpose shall maintain every freeway, and no municipality shall be liable to pay any contribution in respect of such maintenance.

(2) The Board and the council of any municipality may contract upon such terms and conditions as are mutually agreed upon for or with respect to the carrying out by the council for and on behalf of the Board of the maintenance of any portion of any freeway whether within or outside the municipal district of the municipi-

ality and the council may carry out such maintenance accordingly.

(3) Notwithstanding anything in this Act the Country Roads Board Fund may be applied in payment of any costs incurred by the Board in or about any works on freeways.

106. Notwithstanding anything in any Act no tower pole wire pipe or other structure or apparatus shall be placed on over or under any freeway by any public authority or Government department or any person without the prior consent in writing of the Board.

112A. (1) The provisions of sub-sections (4), (5), (6) and (10) of section 72 and the provisions of sections 72A and 72B shall, with such modifications as are necessary, extend and apply to and with respect to main roads in the same manner in which they apply to State highways, and without affecting the generality of the foregoing, in particular with the modifications that—

- (a) a reference to a State highway (in whatever form) shall be construed as a reference (in that form) which includes a main road;
- (b) the cost with respect to the installation improvement and maintenance of lighting installations shall, notwithstanding anything to the contrary in this Act, be borne in the same proportions and in the same manner with respect to main roads as they are required to be borne with respect to State highways;
- (c) the functions of the Street Lighting Committee shall be the same with respect to main roads as to State highways;
- (d) the responsibility of the Country Roads Board as set out in section 72B shall be the same with respect to main roads as it is to State highways.

113A. The Board may in or upon any road without unduly obstructing the thoroughfare install or erect either permanently or temporarily, as it may think fit, roundabouts posts fences raised pavings safety zones places of refuge and other works and structures for protecting pedestrians or regulating traffic along the road or on the footways.

113B. (1) Where the Board is constructing or has constructed a new road or is carrying out or has carried out works of permanent improvement deviation or widening on a road and considers that as a result of that construction or carrying out of works it is necessary or expedient to install traffic control signals to control traffic on or on roads approaching the road, the Board may, after consultation with the Road Safety and Traffic Authority, purchase, construct, install and maintain traffic control signals on the road or on roads approaching the road.

(2) The Board may out of the Country Roads Board Fund or any other moneys at the disposal of the Board expend moneys for or towards the purchase construction installation and maintenance of traffic control signals under this section.

(3) In this section "the Road Safety and Traffic Authority" means the Road Safety and Traffic Authority constituted under the *Road Traffic Act 1958*.

STATE ELECTRICITY COMMISSION ACT 1958
(Vic.)

21. (1) Subject to this Act the Commission may on behalf of Her Majesty—

- (a) construct maintain and work any electrical undertaking as defined in this Act;
- (b) supply electricity to any Commonwealth or State Government Department and to any public body or institution;
- (c) supply electricity in bulk to any undertaker or to any statutory corporation;
- (d) supply electricity to any person or body of persons corporate or unincorporate outside any area for which there was an order in force immediately prior to the seventh day of January One thousand nine hundred and nineteen;
- (e) in connexion with any such undertaking carry on any business usually associated with such an undertaking; and
- (f) open establish supervise operate and maintain open-cut workings for the production of raw brown coal briquetting works and by-product recovery works.

(2) The Commission may—

- (a) purchase electricity in order to supply the same for any purpose for which it is authorized to supply electricity;
- (b) sell and dispose of coal pulverized coal briquettes or any by-products of its works and undertakings; and
- (c) upon such terms and conditions as are agreed upon supply electricity in bulk to any undertakers corporations and persons or bodies of persons within the areas referred to in the *Second Schedule to this Act*.

(3) The commission may with the consent of the appropriate authority of any Territory or State of the Commonwealth transmit or supply electricity in that State and do all things necessary in that behalf.

106. (1) For the purposes of this Act the Commission by its officers and employes, subject to the provisions and restrictions in this Act contained, may—

...

- (b) with poles conduits towers motors electric lines or other conductors or devices receive store conduct convey transmit distribute supply or furnish electricity water brown coal or products of brown coal over through under along or across any lands street road bridge viaduct railway waters or water-course and through over or under the lands of any corporation or person, and enter upon any lands upon either side of such lines or conduits and fell or remove any tree or limb

thereof or obstruction which in the opinion of the Commission it is necessary to fell or remove;

...

- (f) enter upon any public or private lands streets or roads and construct any works and lay or erect or place on under over along or across the same any poles pipes towers conduits electric lines railways tramways sidings platforms briquette stores reservoirs loading and stacking equipment conveyors haulages and appliances and repair alter cut off or remove any such works poles pipes towers conduits lines railways tramways sidings platforms briquette stores reservoirs loading and stacking equipment conveyors haulages or appliances or any other works under its control or in any way connected with such works; and
- (g) do all other things necessary or convenient for constructing maintaining altering repairing or using any works and undertakings of the Commission.

...

107. For the purposes of this Act the provisions of sections forty-two to forty-four and forty-nine to fifty-two of the *Electric Light and Power Act 1958* shall be read and construed as if they were incorporated herein and as if for any reference to the "undertakers" in the said provisions there were substituted a reference to the Commission and as if the words "under any order" in the said section forty-four were omitted therefrom.

108. (1) Save as otherwise expressly provided nothing in this Act shall affect any rights powers authorities or duties of any Government department other than the Commission.

(2) Where the exercise of any rights powers or authorities or the discharge of any duties by the Commission may affect the exercise of any rights powers or authorities or the discharge of any duties by any other Government department or by any municipality or any local authority within the meaning of the *Public Contracts Act 1958* the Commission shall so far as practicable confer and co-operate with such department or such municipality or authority.

(3) Any question difference or dispute arising or about to arise between the Commission and any other Government department or any municipality or any such local authority with respect to the exercise of any rights powers or authorities or the discharge of any duties by either or both of them may be finally and conclusively determined by the Governor in Council.

ELECTRIC LIGHT AND POWER ACT 1958 (Vic.)

52. Every person who carelessly or accidentally cuts, breaks throws down or damages any electric line post lamp meter or fittings belonging to or under the control of the undertakers shall pay such sum of money by way of satisfaction to the undertakers for the damage done with such costs and expenses of the proceedings as a Magistrates' Court deems reasonable.

ROAD TRAFFIC ACT 1958 (Vic.)

(It should be noted here that the *Road Traffic Act* 1958 has been repealed by the *Transport Act* 1983, which incorporates, with amendments, the provisions previously contained in the *Road Traffic Act* 1958.)

4. (1) The Governor in Council may make regulations for or with respect to the regulation and control of vehicular animal or pedestrian traffic on streets or roads and any matter incidental or related thereto and in particular without affecting the generality of the foregoing for and with respect to—

- (a) prescribing rules to be observed by persons driving or in charge of vehicles or animals and by pedestrians and maximum speeds for vehicles;
- (b) prescribing standard warning and operative signs and safety devices and the siting thereof and regulating the installation and maintenance thereof;
- (c) prescribing marks for use on the surface of streets or roads;
- (d) prescribing the legal effect of any such signs devices or marks and the evidence that shall be sufficient to prove the existence of any such sign device or mark;
- (e) eliminating causes of danger and of congestion of traffic;
- (f) delegating to—
 - (i) the Authority or any officers thereof or thereunder;
 - (ii) municipal councils or any officers thereof;
 - (iii) the Melbourne and Metropolitan Board of Works or any officers thereof;
 - (iv) the Country Roads Board or any officers thereof;
 - (v) the Transport Regulation Board or any officers thereof;
 - (vi) the Victorian Railways Board or any officers thereof or thereunder;
 - (vii) the State Rivers and Water Supply Commission or any officers thereof or thereunder;
 - (viii) the Forests Commission or any officers thereof or thereunder;
 - (ix) the Port of Melbourne Authority or any officers thereof;
 - (x) the Port of Geelong Authority or any officers thereof;
 - (xi) the Port of Portland Authority or any officers thereof;
 - (xii) a harbor board constituted under the *Harbor Boards Act* 1958 or any officers thereof;
 - (xiii) a port officer appointed under the *Marine Act* 1958 or any officers under the control of any such port officer;

- (xiv) the House Committee constituted under Part VI of the *Parliamentary Committees Act* 1968 (hereafter in this Act referred to as "the House Committee");
- (xv) a committee of management referred to in sub-section (1A) or any officers thereof;
- (xvi) the Director of National Parks or any officer employed in the administration of the *National Parks Act* 1975;
- (xvii) the council of a university established by or under any Act or any officers thereof;
- (xviii) the council or governing body of any affiliated college of the Victorian Institute of Colleges or any officers thereof;
- (xix) a committee of management appointed pursuant to the *Crown Land (Reserves) Act* 1978;
- (xx) the Minister of Public Works or any officers of the Public Works Department;
- (xxi) members of the police force;
- (xxii) the Melbourne Wholesale Fruit and Vegetable Market Trust;
- (xxiii) the committee or other governing body of a hospital mentioned in Schedule 5 of the *Hospitals and Charities Act* 1958—
or any other person any authority discretion or power in relation to the regulations subject to any conditions or restrictions that the Governor in Council thinks fit.
- (g) prescribing penalties of not more than \$600 for any breach of the regulations.
- (h) regulating bicycle racing or speed trials on any highway.

(5) The Governor in Council may at the request of—

- (a) the Victorian Railways Board;
- (b) the Forests Commission;
- (c) the State Rivers and Water Supply Commission;
- (d) the Port of Melbourne Authority;
- (e) the Port of Geelong Authority;
- (f) the Port of Portland Authority;
- (g) a harbor board constituted under the *Harbor Boards Act* 1958;
- (h) a port officer appointed under the *Marine Act* 1958;
- (i) the House Committee;
- (j) any municipality;
- (k) the Director of National Parks;
- (l) a university established by or under any Act;
- (m) any council incorporated under the *Post-Secondary Education Act* 1978 or the council or governing body of any institution mentioned in Schedule 2 to that Act;
- (n) a committee of management appointed pursuant to the *Crown Land (Reserves) Act* 1978;

- (o) the Melbourne Wholesale Fruit and Vegetable Market Trust; or
- (p) the committee or other governing body of a hospital mentioned in Schedule 5 of the *Hospitals and Charities Act 1958*—

extend the application of the provisions of this Act to any land or premises vested therein or under the control thereof and thereupon the provisions of this Part and the regulations made hereunder shall extend and apply to the land or premises so far as applicable and with such modifications as are necessary in all respects as if the land or premises were a street or road and, in particular, with the modification that in any such regulations any reference to a highway authority shall be read and construed as including the person or body in which the land or premises is vested or by which the land or premises is controlled (as the case requires).

(5A) The Governor in Council may at the request of the Minister of Public Works extend the application of the provisions of this Act to any land or premises used for or in connexion with any public offices of the Crown and thereupon the provisions of this Part and any regulations made hereunder shall extend and apply to the land or premises so far as applicable and with such modifications as are necessary in all respects as if the land or premises were a street or road and, in particular, with the modification that in any such regulation any reference to a highway authority shall be read and construed as including the Minister of Public Works.

5. (1) The Governor in Council may by Order—

- (a) require the council of any municipality or the Country Roads Board or the Melbourne and Metropolitan Board of Works to remove or establish or renovate alter or improve any particular sign mark or device, or to remove any parking area obstruction or erection, in or on any street or road;
- (b) require the council of any municipality to take any particular action under the *Petrol Pumps Act 1958*;
- (c) require the council of any municipality to adopt the road accident prevention practices specified in the Order.

(2) Before any such Order is made the council concerned or the Country Roads Board or the Melbourne and Metropolitan Board of Works (as the case may be) shall be given an opportunity to make any representation on the matter.

(3) Every Order under this section shall be given effect to by the council concerned or the Country Roads Board or the Melbourne and Metropolitan Board of Works (as the case may be).

ROAD TRAFFIC REGULATIONS 1973 (Vic.)

(Number 178 of 1973)

(Pursuant to *Road Traffic Act 1958* (Vic.))

102. Interpretation.

(1) In these Regulations, unless inconsistent with the context or subject-matter—

. . .

“Highway” means any street or road, and includes every carriageway, footpath, reservation, traffic island, segregated footway, shared footway and bicycle path on any street or road.

“Highway Authority” means—

- (a) in respect of warning signs, direction signs, traffic islands and signs and marks for the control of moving traffic (other than signs and marks associated with school and pedestrian crossings) on any highway which is a State highway, a main road, a tourists’ road, a freeway or a forest road under the *Country Roads Act 1958*—the Country Roads Board;
- (b) in respect of no-standing signs or parking signs on any highway which is a freeway under the *Country Roads Act 1958*—the Country Roads Board; and
- (c) in every other respect—
 - (i) the authority legally responsible for the care and management of the highway; or
 - (ii) if the Country Roads Board is so responsible—the municipal council in whose municipal district the highway in question is situated.

“Major Traffic-control Item” means—

- (a) any clearway sign, end clearway sign, give-way sign, give way to right sign, roundabout sign, traffic-control signal, stop-on-red-signal sign, stop here on red signal sign, protected intersection sign, right turn from left only sign, pedestrian-crossing sign or mark, marked cross-walk for a school crossing, stop sign, single flashing red light at or near an intersection, single flashing light at or near an intersection, restriction sign, de-restriction sign, bus lane sign, end bus lane sign, transit lane sign, end transit lane sign, tram lane line, bicycle way sign, end bicycle way sign, segregated footway sign, shared footway sign, no bicycles sign or road hump;
- (b) any parking sign permitting or directing—
 - (i) angle parking, parking at or near the centre of a carriageway or parking referred to in sub-regulation (3A) of Regulation 1103; or
 - (ii) parking in any place in which, except for the operation of sub-regulation (2) and (3) of Regulation 1104, the leaving of a vehicle standing would be prohibited by paragraph (j), sub-paragraph (i), (vi) or (vii) of paragraph (n) or sub-paragraph (ii) of paragraph (o) of that Regulation;
- (c) any no-parking sign permitting vehicles to stand, but not to park, in any place in which, except for the operation of sub-regulation (2)

and (3) of Regulation 1104, the leaving of a vehicle standing would be prohibited by paragraph (j), sub-paragraph (i), (vi) or (vii) of paragraph (n) or sub-paragraph (ii) of paragraph (o) of that Regulation;

- (d) any no-standing sign erected at or near the centre of a carriageway; or
- (e) any sign of a type referred to in Regulation 402 which has an inscription limiting its operation in respect of classes of persons or classes of vehicles.

...

"Minor Traffic-control Item" means any sign, mark, structure or device (other than a major traffic-control item) placed or erected for the purpose of controlling, directing, guiding, regulating or warning drivers or pedestrians.

...

"Traffic-control Item" means any major traffic-control item or any minor traffic-control item.

"Traffic-control Signal" means any device using a word or words, a symbol or symbols, a coloured light or lights or any combination thereof operated mechanically, electrically, manually or otherwise by which traffic is capable of being controlled or regulated.

...

301. Erection of and Interference with Traffic-control Items.

(1) A person shall not, except under the authority of these Regulations or with the consent in writing of the Road Safety and Traffic Authority, erect, establish or display on any highway or in view of any person on any highway, or interfere with, alter, deface or take down, any traffic-control item.

(2) A person shall not erect, establish, place, maintain or display on any highway or in the view of any person on any highway anything which purports to be or is an imitation of or is similar to any traffic-control item, or which interferes with the effectiveness of or prevents an approaching driver from clearly distinguishing the whole or any part of any traffic-control item or distracts his attention from any traffic-control item.

Penalty: \$400.

...

307. Erection of Traffic-control Items.

A highway authority may—

- (a) with the consent in writing of the Road Safety and Traffic Authority erect, establish or remove major traffic-control items; or
- (b) erect, establish or remove minor traffic-control items—

on highways under its control.

308. Servicing Traffic-control Items.

Any person who has erected or established a traffic-control item by or under the authority of these Regulations may maintain, repair, replace or adjust the item.

...

311. Power of Police to Erect Various Signs.

(1) Where, in the opinion of any member of the police force not below the rank of Senior Constable, unusual traffic congestion occurs or is likely to occur, such member may cause to be erected and maintained for any continuous period of not more than 48 hours—

- (a) no-parking signs;
- (b) no-standing signs; or
- (c) any sign of a kind referred to in Regulation 402.

(2) The member of the police force may cause inscriptions to be made on any signs so erected limiting their operation in relation to days, periods of the day, classes of persons, classes of vehicles or circumstances.

(3) If any sign erected under the authority of these Regulations is tripod-mounted, the inscription on it shall operate and take effect irrespective of the inscription on any other sign.

EXTRACTS FROM WESTERN AUSTRALIAN LEGISLATION

LOCAL GOVERNMENT ACT, 1960-1978

MAIN ROADS ACT, 1930-1977

PUBLIC WORKS ACT, 1902-1974

ROAD TRAFFIC ACT, 1974-1982

ROAD TRAFFIC CODE, 1975

STATE ENERGY COMMISSION ACT, 1979-1981

LOCAL GOVERNMENT ACT, 1960-1978 (W.A.)

300. A council has the care, control, and management of public places, streets, ways, bridges, culverts, fords, ferries, jetties, drains and, subject to the Rights in Water and Irrigation Act, 1914, the Water Boards Act, 1904 and any direction in writing of the Minister for Works, water courses, which are within the district, or, which although not within the district, are by this Act placed under the care, control, and management, of the council, or are to be regarded as being within the district, except where and to the extent that under an Act, another authority has that care, control, and management.

301. A council—

- (a) may make, form, alter, level, grade, pave, improve, repair, maintain, light, water, cleanse, and keep in good order and condition the streets, ways, and other public places, and bridges, culverts, fords, ferries, jetties, drains, water courses, and other things and places which are under the care, control, and management of the council, and do such acts and things as are necessary for or incidental to the proper care, control, and management of them;
- (b) may during such time as the whole or part of a street or other public place, is under

repair or alteration, or during the making, altering, or repairing of a bridge, or drain, or other necessary work in a street or other public place, prevent the passing of vehicles and animals by causing such fences and barriers to be placed on or across the street or place as the council thinks fit; but so that during the time that the fences or barriers continue to be so placed, the council shall cause them to be indicated every night from sunset to sunrise by such lights as are sufficient to warn persons using the street and where needed and practicable, shall cause passable and suitable side tracks to be provided;

- (c) shall observe such directions, as the Minister thinks fit to issue and is authorised by this paragraph to issue, for the purpose of preventing undue or avoidable restriction of traffic;
- (d) shall not in exercise of the power conferred by this section, close or cause a street to be closed to traffic for a longer period than twenty-eight days, or for periods aggregating more than twenty-eight days in any period, of twelve months without the previous permission of the Minister;
- (e) may for the purpose of repairing a street, cause material intended for use in connection with street works to be placed in the street, clear of the made portion of the street, but so that the material does not obstruct other streets, whether public or private, intersecting or abutting the street to be repaired, or the entrance or approach to private land;
- (f) shall, if in the course of doing any of the things which the council is authorised by this Act to do, including the clearing of land in preparation for the making of a street, the council deposits or causes to be deposited felled trees or scrub or spoils or debris adjacent to a fence, remove them within a reasonable time, and until they are removed take such precautions as are necessary to prevent them from being a fire hazard or a harbour for vermin;
- (g) may, from time to time, in accordance with the provisions of this Act, provide and open new streets or ways, divert streets or ways, alter or increase the width of streets or ways, or cause to be raised or lowered the ground, or soil of street or ways, except where the council is precluded from doing so because by the provisions of an Act the power to do so is conferred on another authority, or because of other provisions of an Act; and
- (h) may, in carrying out work under this section, use mechanically propelled plant and when doing so shall, if practicable, provide barriers at the ends or in sections of the streets and ways so as to prevent ingress or egress during the time the work is being carried out.

302. (1) A person is not entitled to recover damages against a municipality in respect of loss or injury

sustained either to himself or to another person or to property by reason of a mishap upon or while using a portion of a street or way in the district of the municipality or under the care, control, and management of its council, which portion has not been interfered with by the council, merely because some other portion of that street or way, whether distant laterally or longitudinally, has been taken over or improved by the council.

(2) Subsection (1) of this section does not relieve a municipality from liability where the mishap is caused by the negligence of the council in the execution of works then in progress, or which have been completed by the council in a street or way.

303. No person may bring action against a municipality in respect of works carried out or constructed under or by virtue of this Part, or in respect of damage or injury arising out of the carrying out or constructing of those works, by reason only that the municipality carried out or constructed the works or caused them to be made or constructed, without exercising a power created or conferred by this Act.

304. The property in—

- (a) materials of, and matters and things appurtenant to, public streets, ways, and other public places, bridges, culverts, fords, ferries, wharves, jetties and drains;
- (b) buildings, fences, gates, posts, boards, stones and erections placed upon a street, way, bridge, culvert, ford, ferry, wharf, jetty, drain or other public place by a person for the time being having the care, control, or management of the street, way, bridge, culvert, ford, ferry, wharf, jetty, drain or other public place; and
- (c) the scrapings, soils, sand, and materials of public streets, and ways and other public places,

in, or regarded under this Act as being in, a district may, in proceedings brought by the council of the municipality in relation to the property, be alleged to be the property of the municipality, and where so alleged may for the purposes of the proceedings be regarded as the property of the municipality.

306. (1) A council may, in or upon a street, or other public place in its district—

- (a) provide trees and shrubs and treeguards and kerbing to protect them;
- (b) provide flower gardens and kerbing to protect them;
- (c) erect statues, monuments, fountains, shelter sheds, and seats;
- (d) for the purpose of protecting passengers or regulating traffic along the street, or other public place, or on the footpaths, or for minimising danger at junctions and intersections of streets, erect, either permanently or temporarily, as the council thinks fit, posts, fences, lamp-posts, raised pavings, places of refuge or devices or places known as median

strips, traffic islands and any traffic device for the regulation of traffic;

- (e) provide suitable buildings for the use, convenience, and shelter of passengers using public transport, and such other persons as the council permits to use them.

(2) A council may, in, under, or upon a street or other public place but not in, under, or upon a portion of a street, which portion is set aside for vehicular traffic, in proper and convenient situations but so as not unduly to obstruct the thoroughfares, provide telephone boxes, drinking fountains, closets, privies, urinals, and other conveniences for public accommodation.

(3) A council may maintain and from time to time remove anything erected or provided under this section.

(4) (a) A council may by appropriate notices indicate that a seat so provided is for the use only of persons of a particular sex.

(b) Where by notice a seat is indicated as being for the use of persons of a particular sex, a person, who not being of that sex, uses the seat, commits an offence.

...
331. (1) The council of a city or a town shall in the city or town, and the council of a shire shall in townsites in the shire, open and keep open for public use and free from obstruction surveyed and reserved streets or ways declared under this or any other Act as being required for public traffic, unless precluded from doing so because by the provisions of an Act the power to do so is conferred on another authority, or because of other provisions of an Act.

(2) A street or way is to be regarded as being required for public traffic unless the Council and the Minister decide otherwise.

(3) The Minister shall cause notice of a decision so made and the cancellation of a decision so made to be published in the *Gazette*, and the decision or cancellation takes effect according to its tenor when the notice is so published.

331b. (1) Notwithstanding section three hundred and thirty-one, but subject to this section, a council may, with the approval of the Minister, construct or place any obstruction in a street or way for the purpose of prohibiting the movement of vehicular traffic.

(2) Where a council resolves to exercise the power conferred by subsection (1) of this section it shall cause to be published notice of the proposal specifying the situation of the obstruction and the manner in which it is proposed to prohibit the movement of vehicular traffic in the street or way.

(3) The notice referred to in subsection (2) of this section shall be published in a newspaper circulating in the district and shall state that a person who desires to object to the proposal may deliver written grounds of his objection to the council within thirty-five days from the date of publication.

(4) The council shall consider all objections duly made and shall, if, after considering the objections, it is still of the opinion that the street or way should be obstructed in the manner set out in the notice, forward particulars of the proposal, together with the objections received by it and its report thereon, to the Minister.

(5) The Minister shall not approve of a proposal submitted to him under subsection (4) of this section unless he has obtained the written consent of the Minister to whom the administration of the Road Traffic Act, 1974, is for the time being committed by the Governor.

(6) If the Minister approves of the proposal he shall by notice in writing notify the council of his approval.

(7) Where before the coming into operation of the Local Government Act Amendment Act (No. 4), 1976—

- (a) a council and the Minister have, pursuant to section three hundred and thirty-one of this Act, decided that a street or way is not required for public traffic; and
- (b) the Minister has caused notice to be published in the *Government Gazette* of a decision so made; and
- (c) the council has placed or constructed an obstruction in that street or way,

that obstruction shall be deemed to be, and to have always been, validly placed or constructed in that street or way.

...

436. A council may, by contract or otherwise—

- (a) cause the streets, ways, and other public places in its district to be lighted by gas, oil, electric, or other lights;
- (b) provide such lamps, lamp posts, lampirons, poles for erecting or connecting gas pipes, electric wires, and other works and materials as are necessary for that purpose; and
- (c) manufacture or contract for the manufacture or supply of gas or electric light for the lighting of those streets, ways, and public places, and provide or contract for gasometers, electric lighting plant and any requisite apparatus and machinery.

...

660. (1) Subject to subsection (2) of this section, no action is maintainable against—

- a municipality; or
- a member, officer, or servant, of a council of a municipality in his capacity as member, officer, or servant, of the council,

in respect of a tort, the provisions of section forty-seven A of the Limitation Act, 1935 notwithstanding,

- (a) unless the action is commenced within twelve months after the cause of action arose;
- (b) unless at least thirty-five days before the action is commenced a notice in writing stating,
 - (i) particulars of the cause of action;
 - (ii) the claim; and
 - (iii) the name and address of the party about to sue;

is served on the council by delivering to the clerk in person or by posting it addressed to the clerk by prepaid registered letter post; nor

- (c) unless as soon as practicable after the cause of action arose a notice in writing setting forth so far as the particulars can then be reasonably supplied,

- (i) particulars of the cause of action;
- (ii) where personal injury is claimed to have been sustained, particulars of the injury and the name and address of the person injured;
- (iii) where damage to property is claimed to have been sustained, particulars of the property and the damage;
- (iv) particulars of the claim being made or about to be made; and
- (v) an intimation, if such is the case, that action is about to be commenced against the municipality, member, officer or servant;

is so served;

- (d) where personal injury is claimed to have been sustained, unless the person claiming to have been injured submits himself when required by the council at reasonable times to medical examination by a medical practitioner or medical practitioners nominated by the council;
- (e) where damage to property is claimed to have been sustained, unless the owner or person having control of the property permits the property to be examined when required by the council at reasonable times by a person or persons nominated by the council; and
- (f) unless the person claiming or about to claim against the municipality, member, officer, or servant, when required by the council at reasonable times answers in writing such reasonable inquiries relating to the cause of the action and the claim as are addressed to him by or on behalf of the council, member, officer or servant.

(2) Notwithstanding—

- (a) that an action has not been commenced within the period prescribed in paragraph (a) of subsection (1) of this section; or
- (b) the failure to serve any notice as required to be served by subsection (1) of this section, within the period prescribed by this section for its service.

application may be made at any time before the expiration of six years from the date on which the cause of action arose to a judge for leave to commence the action and if the judge considers that the failure—

- (c) to commence the action within the prescribed period; or
- (d) the failure to give the notice within the prescribed period.

was occasioned by mistake or by other reasonable cause or that the prospective defendant is not materially prejudiced in his defence or otherwise, by the failure, the judge may if he thinks it just to do so, grant leave

to bring the action, subject to such conditions as the judge thinks it is just to impose.

MAIN ROADS ACT, 1930-1977 (W.A.)

6. In this Act, subject to the context—

“Commissioner” means the Commissioner of Main Roads appointed under this Act;

“control of access” in relation to any road means that a section or part of that road is intended for use by prescribed traffic without avoidable hindrance, whether from traffic from an intersecting road or otherwise, and that such section or part of the road has been declared by proclamation to be subject to control of access and may be entered or departed from at specified places only;

“declared road” means a road declared to be a highway, main road or secondary road under this Act, and includes any part of any such road;

“highway” means a road declared by proclamation to be a highway for the purposes of this Act, and includes any part thereof;

“local authority” means the council of a municipality that is a city, town or shire constituted under the Local Government Act, 1960;

“main road” means a road declared by proclamation to be a main road for the purposes of this Act, and includes any part thereof;

“Minister” means the Minister for Works;

“proclaimed area” means a portion of the State to which this Act applies;

“road” means any thoroughfare, highway or road that the public is entitled to use and any part thereof, and all bridges (including any bridge over or under which a road passes), viaducts, tunnels, culverts, grids, approaches and other things appurtenant thereto or used in connection with the road;

“road construction” includes—

- (a) the reconstruction of roads and, for that purpose, the acquisition of land, the demolition of buildings and the taking or defending of legal proceedings;
- (b) the purchase and maintenance of plant, and the supply of labour and materials, for road construction;
- (c) the administration of road construction, including planning, research, investigation, survey and design; and
- (d) the maintenance of roads and the provision and maintenance of street lights and traffic lights; and

“secondary road” means a road declared to be a secondary road for the purposes of this Act, and includes any part thereof.

...

9. For the purposes of this Act the Commissioner shall be a body corporate under the name of the “Commissioner of Main Roads”, and shall have per-

petual succession and a common seal, and power to acquire, hold and dispose of real and personal property, and to sue and be sued, and to do and exercise all such acts and powers as may, in the opinion of the Minister, be necessary or convenient for carrying into effect any of the purposes or objects of this Act.

. . .

13. (1) The Governor may, on the recommendation of the Commissioner, declare by proclamation that any road shall 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. The footpaths of any road may, by such proclamation or any subsequent proclamation, be excluded from the main road.

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

- (a) the moneys available or likely to be available for main roads;
- (b) whether the road is or will be the main 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 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 one or more large centres of population; and
- (d) whether the road is or will be the main route between the capital and any large producing area or any large centre of population.

(3) The Commissioner, before recommending to the Governor—

- (a) that any road be a main road;
- (b) that the maps, plans, and estimates of any proposed new main road or deviation from an existing main road be approved;
- (c) that plans and estimates of any permanent improvements to any main road or any part thereof be approved,

shall serve on the Surveyor General and each local authority in whose district such road is or new road or deviation is proposed to be made, or improvements are proposed to be made, notice of his intention to make such recommendation.

Such notice shall fix a day not less than 30 days from the service of the notice upon which any objections which may be made by any local authority concerned will be considered by the Surveyor General and the Commissioner before making any recommendation.

Provided that any local authority which feels aggrieved by any such recommendation may, within 30 days after the consideration of such objections, appeal to the Minister, who may vary or disallow such recommendation.

(4) All main roads shall, for the purposes of the Traffic Act, 1919-1926, be deemed to be Government roads.

14. (1) The Governor, on the recommendation of the Commissioner, may authorise and empower the Commissioner to provide highways and to provide main roads, and where such a road is provided it shall be deemed to have been proclaimed when it is opened to traffic as such; and

(2) Before making any such recommendation the Commissioner shall take into account such matters as are mentioned in subsection (2) or subsection (3) as the case may require, of section 13 of this Act.

15. (1) The absolute property in the land over which a highway or main road is declared shall vest in the Crown.

(2) The Commissioner shall have the care, control and management of the land over which a highway or main road is declared.

(3) The property in—

- (a) the materials of all highways and main roads, and all live and dead timber and vegetation thereon, and all matters and things appurtenant thereto; and
- (b) all buildings, fences, gates, posts, boards, stones, erections, and structures placed upon any highway or main road; and
- (c) the scrapings of any main road and all gravel, sand and other material on any highway or main road,

shall vest in the Commissioner.

16. (1) The Commissioner may—

- (a) make, form, level, grade, pave, improve and maintain all highways or main roads, and do all things necessary for or incidental to the proper management thereof;
- (b) exercise in regard to any highway or main road any power which a local authority could exercise in regard thereto if such road were within its district.

(2) Subject to the provisions of section 15 of this Act, the powers of any local authority over any highway or main road shall not be deemed to be taken away by this Act, but the exercise of such powers shall be subject to the control and direction of the Commissioner.

(3) A local authority may, at the request in writing of the Commissioner and as his agent, and at a cost to the Commissioner to be stated in such request, undertake, or may at its discretion, tender for and enter into any contract with the Commissioner for the construction, maintenance, and repair of any highway or main road within its district, or the construction of any secondary road within its district; and, subject to the work being done to the satisfaction of the Commissioner, the cost to the Commissioner stated in the request as aforesaid, or the amount stated in the contract, as the case may be, shall, subject to the conditions (if any) stated in such request or contract, be payable to the local authority out of the Main Roads Trust Fund. In any case where a local authority undertakes the work at the request of the Commissioner and as his agent, and the actual cost incurred by the local authority exceeds the cost to the Commissioner

stated in the request, the amount of the excess shall be deemed to be expense incurred by the local authority of paragraph (b) of section thirty-three.

(4) The Minister may, for the purposes of this Act delegate to the Commissioner all or any of the powers conferred on the Minister by section one hundred and twelve of the Public Works Act, 1902, but subject to the provisions of section one hundred and thirteen thereof.

(5) The Commissioner may provide, construct, reconstruct, improve, maintain and supervise all or any of the works and undertakings mentioned in sections thirty-two and thirty-two A of this Act.

17. The Commissioner so far as any moneys legally available for the purpose permit, shall—

(1) carry out all such surveys and investigations as may be necessary or expedient to ascertain—

- (a) what roads shall be highways and what roads shall be main roads;
- (b) 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 applying the same to, and utilising the same for the said purposes in, the whole or any part of the State;
- (c) the most effective methods of road construction and maintenance for the whole or any part of the State; and
- (d) what deviation (if any) in existing roads or what new roads should in his opinion be made so as to facilitate communication and improve conditions of traffic; and

(2) conduct or cause to be conducted experiments with different materials to test their relative durability and suitability for the construction and maintenance of roads; and

(3) records, publish, and make available for general information the results of all such surveys and investigations; and

(4) purchase all land, machinery, tools, implements, and materials that may be needed for the purposes of this Act.

...

19. The Commissioner shall also—

- (a) inspect and report on and construct or supervise roads and works when so desired by the Minister;
- (b) report to the Minister at least once a year, and on such other occasions as the Minister directs, on his proceedings under this Act;
- (c) keep a full and complete record of all stock, machinery, plant, and materials the property of the Commissioner under this Act;
- (d) supervise the construction, improvement, and maintenance of highways, main roads and secondary roads, and other works to be carried out under this Act; and

(e) perform such other duties as may be prescribed.

...

22. The Commissioner may, with the approval of the Minister, construct and maintain on any road works necessary for facilitating the exercise of the powers conferred on the Commissioner by this Act, and the approval so given shall be sufficient authority for the carrying out of any works incidental to the exercise of those powers.

...

24. (1) The Governor, on the recommendation of the Commissioner, may—

- (a) declare any road to be a secondary road for the purposes of this Act;
- (b) authorise and empower the Commissioner to provide and construct any secondary road.

(2) A declaration made under this section may be revoked or varied by the Governor on the recommendation of the Commissioner.

(3) In considering whether to make any recommendation to the Governor that any road should be declared to be a secondary road, the Commissioner shall take into account—

- (a) the funds available or likely to be available for secondary roads;
- (b) whether the road is or will be in the near future a feeder route connecting producing areas with a highway or main road or with their market outlets or connecting centres of population;
- (c) whether the road is, or will be, the main means of access to a national park, scenic reserve or site, or seaside resort, and

before making any recommendation the Commissioner shall consult with the local authority.

(4) The powers of a local authority over a secondary road shall not be deemed to be taken away by this Act and the Commissioner may enter into agreements with local authorities for the construction of secondary roads or any parts of a secondary road.

(5) A local authority in whose district a secondary road or any part of a secondary road is situated shall be responsible for maintaining such secondary road or part; but where a secondary road, or part of a secondary road, follows the common boundary of two districts, the cost of the maintenance shall be apportionable between the local authorities of those districts and the Commissioner may determine the respective liabilities of each local authority.

(6) Where a local authority fails to maintain to the satisfaction of the Commissioner any construction works carried out by the Commissioner on a secondary road, the Commissioner may, by notice in writing, direct the local authority to carry out the works of maintenance specified in the notice within the period limited by the notice.

(7) Where a local authority fails to comply with a direction given under subsection (6) of this section, the Commissioner may carry out such works and any expenses so incurred by the Commissioner shall be

repaid by the local authority to the Commissioner, and, if not repaid within three months after demand by the Commissioner, shall be deemed a debt due and payable to Her Majesty enforceable in the name of Her Majesty against the local authority and the revenues of the local authority.

(8) All moneys repaid by, or recovered from a local authority under this section shall be placed to the credit of the Main Roads Trust Fund.

26. The Minister, the Commissioner, and the officers acting under this Act shall have the same powers with regard to the provision and construction of secondary roads as are by this Act conferred on them regarding highways and main roads, and the provisions of this Act regarding the provision and construction of highways and main roads, shall, as far as practicable, apply *mutatis mutandis* to secondary roads.

27A. (1) The Commissioner may provide, construct or improve roads or parts of roads for the development of an area or for any other purpose, and any such road need not be declared to be a highway, a main road or a secondary road.

(2) Before commencing the construction of any road pursuant to this section, the Commissioner shall consult with the local authority and when that road, or any part thereof, has been constructed or any work executed thereon, that road or part shall be the responsibility of the local authority in whose district it is situated and shall be maintained by that local authority.

(3) The Commissioner and officers acting under this Act shall have the same powers with regard to the provision and construction of roads under this section as are by this Act conferred on them regarding highways and main roads, and the provisions of this Act regarding the provision and construction of highways and main roads shall, as far as practicable, apply *mutatis mutandis* to any such roads.

28A. (1) (a) Where the Commissioner is of the opinion—

- (i) that any section or part of a road should have control of access and should be entered and departed from at specified places only; or
- (ii) that any land acquired should be reserved for a future road section with control of access,

the Commissioner shall make a recommendation to the Governor accordingly but may in so doing exclude a part of the road reserve from that recommendation.

(b) On the recommendation of the Commissioner the Governor may, by proclamation, declare—

- (i) that such a section or part of a road is subject to control of access, and the places only at which it may be entered or departed from; or
- (ii) that the land acquired is to be reserved for a future road section subject to control of access.

(c) Where the Commissioner is of opinion that a proclamation so made should be varied or cancelled, he shall make a recommendation to the Governor accordingly.

(d) If of opinion that the recommendation should be given effect, the Governor may, by subsequent proclamation, vary or cancel a former proclamation.

(e) Proclamations made pursuant to the provisions of this subsection, as well as being published in the *Gazette* shall also, if the Governor thinks fit, be published or made known in such other manner as will, in the opinion of the Governor, afford reasonable opportunity to all persons concerned, to know of the substance of the proclamations.

(f) The powers conferred by this subsection may be exercised from time to time, and notwithstanding the provisions of section ninety-two of the Public Works Act, 1902.

(2) (a) There is no right of access into or from a section or part of a road subject to control of access except at the places provided pursuant to the provisions of this Act for the purpose.

(b) Where a right of access between a road, section or part of a road not subject to control of access and the land adjoining that section or part is, by operation of paragraph (a) of this subsection extinguished as a result of that section or part being declared to be subject to control of access, any person, the market value of whose estate or interest in that land is depreciated by the extinguishment of the right, is entitled to compensate for the depreciation.

(c) The amount of compensation, if any, is a sum equal to the difference between the market value, ascertained on such of the days mentioned in paragraph (d) or paragraph (e) of this subsection as is applicable, of the estate or interest when the right of access exists and that market value when the right is extinguished, less such amounts, if any, as are taken into account in respect of the matters mentioned in paragraph (j) of this subsection.

(d) If proclamation declaring the section or part of the road to be subject to control of access is published in the *Gazette* on or before the thirtieth day of June in any year, the respective values referred to in paragraph (c) of this subsection are those obtaining on the first day of January next preceding the publication.

(e) If the proclamation declaring the section or part of the road to be subject to control of access published after the thirtieth day of June in any year, the respective values mentioned in paragraph (c) of this subsection are those obtaining on the thirtieth day of June next preceding the publication.

(f) The Commissioner may enter into agreements relating to rights of access.

(g) By an agreement so entered into the Commissioner may agree—

- (i) on the amount of compensation;
- (ii) to pay that amount on execution of the agreement or upon such terms and conditions as the parties agree; and
- (iii) to the exercise of a right of access in respect of a section or part of a road subject to control of access but subject to such conditions and undertaking as having regard to the purposes of the section or part of a road subject to control of access he thinks fit.

(h) Where there is no agreement, Part III of the Public Works Act, 1902 as modified by the provisions of this subsection apply *mutatis mutandis* in respect of the compensation.

(i) For the purpose of the application of Part III of that Act to the provisions of this subsection, section thirty-six of that Act, which relates to the period of time within which the claim for compensation may be made, is regarded as if reference in that section to the date of publication in the *Gazette* of the notice of taking land were a reference to the date of publication in the *Gazette* of the relevant proclamation made pursuant to the provisions of subsection (1) of this section.

(j) (i) Where the compensation is to be assessed by the Court, the Court shall take into account in assessing the compensation—

agreement, if any, by the Commissioner pursuant to subparagraph (iii) of paragraph (g) of this subsection;

benefit, if any, which may accrue to land in which the claimant has an estate or interest as a result of the construction or improvement, by the Commissioner or any other authority at any time after the proclamation declaring the section or part of the road to be subject to control of access, upon land adjacent to the land in respect of which compensation is claimed, of a road whether a road to provide local access or any other road subsidiary to the road, or by reason of the proclamation declaring the section or part of the road to be subject to control of access.

(ii) Where there is an agreement or benefit mentioned in subparagraph (i) of this paragraph, the effect of the Court's taking it into account shall be specified in the Court's award.

(3) The provisions of—

subsection (4) of section thirteen;

sections fifteen to nineteen, both inclusive;

sections twenty-one to twenty-three both inclusive; and

sections twenty-nine to thirty-five both inclusive;

of this Act, apply, *mutatis mutandis* in respect of sections or parts of a road subject to control of access.

(4) Notwithstanding the provisions of any Act a person shall not without the consent of the Commissioner use a section or part of a road subject to control of access for movement of live stock, except by transport in a vehicle in accordance with the provisions of this Act and the regulations.

(5) (a) The Commissioner may construct roads to provide local access and may carry a road to provide local access over or under any section or part of a road subject to control of access, or may carry a section or part of a road subject to control of access over or under a road to provide local access.

(b) The provisions of subsection (5) of Section twenty-four of this Act, apply, *mutatis mutandis*, to a road to provide local access.

(6) A section or part of a road subject to control of access may, in accordance with the regulations, be

divided into zones for the use of specified classes of traffic.

(7) A person who—

(a) enters or leaves a section or part of a road subject to control of access otherwise than at a place provided pursuant to the provisions of this Act for that purpose;

(b) without the consent of the Commissioner, constructs, forms or lays out any means of access to a section or part of a road subject to control of access or does not comply with the conditions of the consent where consent is given;

(c) removes or damages the whole or part of an impediment erected by the Commissioner across a side road;

(d) obliterates, removes or damages a notice erected by the Commissioner;

(e) without the consent of the Commissioner uses a section or part of a road subject to control of access for movement of live stock, except by transport in a vehicle, in accordance with the provisions of this Act and the regulations; or

(f) uses a zone of a section or part of a road subject to control of access for traffic otherwise than in accordance with the regulations,

commits an offence against this Act.

Penalty: Forty dollars.

28b. (1) Notwithstanding the provisions of any Act, no person, local authority or agent or instrumentality of the Crown, except the Commissioner, shall place on, over or under a section or part of a road subject to control of access or any land acquired, set apart, taken or resumed for a section or part of a road subject to control of access, any tower, pole, wire, pipe or other structure or apparatus of any kind, without the prior consent in writing of the Commissioner.

(2) The Commissioner may by notice in writing, direct a person, local authority, agent or instrumentality of the Crown who or which has contravened subsection (1) of this section to remove, pull down or take up the tower, pole, wire, structure or apparatus placed on, over or under a section or part of a road subject to control of access or any land in contravention of that subsection.

(3) Where the person, local authority, agent or instrumentality of the Crown on whom or on which a notice referred to in subsection (2) of this section has been served, fails to comply with the notice within the time specified therein, the Commissioner—

(a) may remove, pull down or take up the tower, pole, wire, pipe, structure or apparatus specified in the notice; and

(b) may recover, in a court of competent jurisdiction as a civil debt due to him from the person, local authority, agent or instrumentality of the Crown, the amount of the expenses incurred by him in exercising the

power conferred by paragraph (a) of this subsection.

...

35. The Governor may, on the recommendation of the Commissioner, make regulations not inconsistent with this Act, prescribing all things which by this Act are required or permitted to be prescribed or which it may be necessary or convenient to prescribe for the purpose of giving effect to the objects and purposes of this Act, including regulations prescribing the travelling expenses to be allowed to the Commissioner and his officers, and may by such regulations prescribe penalties for offences against the regulations not exceeding in any case the sum of forty dollars and regulations relating to the employment by the Commissioner of persons as cadets.

PUBLIC WORKS ACT, 1902-1974 (W.A.)

84. Throughout this Act, the word "road" means a public highway, whether carriage-way, bridle-path, or footpath, and unless repugnant to the context, includes all roads which have been or may hereafter be set apart, defined, proclaimed, or declared roads under any law or authority for the time being in force, and all bridges, culverts, drains, ferries, fords, gates, buildings, and other things thereto belonging, upon, and within the limits of the road, and includes arable soil of every road.

85. The soil of all roads is hereby declared to be and is hereby vested in Her Majesty, including, in the case of Government roads, all materials and things of which such roads are composed, or which are capable of being used for the purpose thereof, and are placed or laid upon any such roads.

86. (1) The Minister may construct or repair any road within any part of the State, but such road shall not, by reason of such construction or repair, become a Government road if at the time of such construction or repair it is within the limits of a municipality or road board district.

(2) The Governor may, by Order in Council duly gazetted, declare that any road or part thereof shall be, or cease to be, a Government road, and such road or part thereof shall become or, as the case may be, shall cease to be a Government road accordingly.

(3) The Governor may in like manner declare that any Government road or any part thereof shall be under the control of any municipal council or road board, and thereupon such road or part thereof shall cease to be a Government road.

(4) The powers hereby conferred may be exercised from time to time, and any Order in Council made hereunder may be revoked or altered, and any road declared to be a Government road may again be declared to be within the control of a municipal council or road board, and any such road may again be declared to be a Government road, as often as occasion shall require.

(5) For the purpose of making or repairing any Government or other road the Minister shall have all the powers and authorities which, by the Roads Act,

1902, are given to or conferred upon a road board, and shall also have power to close any road pending repairs or in the interests of public safety.

87. (1) Government roads shall be under the exclusive control and management of the Minister.

(2) In respect of all Government roads, and of all bridges and other public works connected therewith, the Minister may make all such by-laws as any road board may for the time being have power to make in connection with any road within its district, and may impose a penalty not exceeding Forty dollars for the neglect or breach of any such by-law.

ROAD TRAFFIC ACT, 1974-1982 (W.A.)

5. (1) In this Act, unless the contrary intention appears—

"Board" means the Traffic Board constituted under section 6;

"Government road" means a road declared by Order in Council under the Public Works Act, 1902, to be a Government road or a highway or main road to which subsection (4) of section 13 of the Main Roads Act, 1930, applies;

"local authority", in relation to a district, means the council of the district and, for the purposes of Part VIII of this Act, includes the county council of a county district and the regional council of a regional district constituted under the Local Government Act, 1960, for the local government purpose of controlling traffic;

"municipality" has the same meaning as that expression has in, and for the purposes of, the Local Government Act, 1960;

"regulation" means a regulation made under this Act, and includes a by-law made by a local authority under this Act;

"road" means any highway, road or street open to, or used by, the public and includes every carriage-way, footway, reservation, median strip and traffic island thereon;

"this Act" includes the regulations.

6. (1) For the purposes of this Act there shall be established a body by the name of the Traffic Board.

(2) The Board may exercise and discharge the powers, authority, duties, and functions conferred or imposed upon it by or under this or any other Act.

11. (1) Subject to subsection (1) of section 13 and to subsection (2) of this section the Board is charged with administration of this Act.

(2) The Board shall give effect to any direction, not inconsistent with this or any other Act, that may, from time to time, be given to it by the Minister.

(3) Without limiting the generality of subsection (1) of this section, the functions of the Board include—

(a) the exercise and performance of all powers, duties and responsibilities vested in or imposed on it by this or any other Act;

(b) the collection and analysis of road traffic statistics;

- (c) the undertaking of research into the causes, and prevention of road accidents and injuries arising therefrom;
 - (d) the publication of information for the instruction of, or use by, road users on road safety and traffic laws, and the supplying of technical information and advice relating to road traffic problems to other authorities concerned with road traffic;
 - (e) the attaining of the continuous co-operation and support of the community in achieving higher standards of road safety and more efficient traffic movement;
 - (f) the investigation of, and reporting to the Minister upon, proposals for alterations to traffic laws; and
 - (g) the investigation of, and reporting upon, any other matter relating to road traffic or road traffic safety.
- (4) In discharging its functions under this Act, the Board—
- (a) shall ensure that it maintains a comprehensive knowledge of—
 - (i) significant changes in traffic administration occurring elsewhere, and the benefits and results derived therefrom; and
 - (ii) significant research projects conducted elsewhere into road accidents and injuries resulting therefrom, and into any other subject related to road traffic, vehicle use, or vehicle design;
 - (b) where any other body or authority, whether established within the State or elsewhere, is engaged in the performance of any function identical with or related to any of the functions of the Board, shall, so far as practicable, act so as to eliminate duplication and to achieve the most efficient use of the resources, both of the Board and that other body or authority; and
 - (c) shall co-operate with local authorities with a view to making the best use of resources and facilities previously provided by local authorities for traffic purposes, and in particular those so provided for the purposes of the licensing of vehicles and the collection of fees therefor.

12. (2) The Governor may, on the request of the Board, engage under contract for services such professional, technical, or other assistants as may be necessary to enable the Board to carry out effectively its functions under this Act, and may enter into arrangements with—

- (a) a Minister of the Crown of any State of the Commonwealth, a Minister of State of the Commonwealth, a department or instrumentality of the Commonwealth or any State;
- (b) a university or other tertiary institution; or
- (c) any other body or person,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act.

(3) The Board, may with the approval of the Minister—

- (a) delegate to the Commissioner of Police or to any public authority or officer or employee thereof specified in the instrument of delegation all or any of its powers and functions under this Act; and
 - (b) vary or revoke any delegation.
- (4) A power or function delegated by the Board may be exercised or performed by the delegate—
- (a) in accordance with the instrument of delegation; and
 - (b) if the exercise of the power or the performance of the function in relation to a matter is dependent upon the opinion, belief, or state of mind of the Board—upon the opinion, belief, or state of mind of the delegate in relation to that matter.

(5) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Board.

...

87. (1) For the purposes of this section—

“Commissioner” means the Commissioner of Main Roads;

“light” includes any fire, lamp, light, illuminated sign, street light, or other mechanical manufactured or constructed illumination, and also the glow from any such light;

“owner” includes the owner, lessee, tenant, purchaser, hirer, or other person in possession or entitled to the possession of a light, and, in the case of a street light, means the local authority in whose district such street light is erected or installed.

(2) Where any light is used, kept, burnt, or exhibited at any place or in such a manner as in the opinion of the Commissioner to be likely to confuse or create circumstances or conditions likely to interfere with adversely or to cause risk of danger to the traffic of persons or vehicles on any road, the Commissioner may by notice in writing require the owner of or the person in charge of such light or the occupier of the place or premises where such light is used, kept, burnt, or exhibited within a time specified in the notice to take effectual means—

- (a) to extinguish the light; or
- (b) to remove the light entirely or to some other position; or
- (c) to modify the light or to alter its character or colour, or to screen the light to such an extent and in such manner as the Commissioner may direct; or
- (d) to refrain from using, keeping, burning, or exhibiting the light either entirely or for such period or during such hours as the Commissioner may direct; or

- (e) to do or refrain from doing such other act, matter, or thing in relation to using, keeping, burning or exhibiting the light as the Commissioner may direct and in accordance with his directions.

...

(5) Every owner, occupier, or other person on whom a notice is served under subsection (2) of this section who fails without reasonable cause (proof whereof shall lie upon him) to comply in all respects with the directions contained in the notice shall be guilty of an offence against this Act.

Penalty: Two hundred dollars, and, in addition, a daily penalty of ten dollars for every day or part of a day during which the directions contained in the notice are not complied with after the time specified in the notice for the compliance therewith.

(6) If any owner, occupier, or other person served with a notice under subsection (2) of this section fails in any respect to comply with the directions of such notice within the time specified in the notice for such compliance, the Commissioner or any person authorized in writing by the Commissioner may enter upon the place or premises whereon the light to which the notice relates is used, kept, burnt or exhibited, and forthwith take effectual means (but doing no unnecessary damage) to carry out and otherwise give effect to the directions contained in the notice which have not been complied with as aforesaid.

(7) Any expense incurred by the Commissioner or the person authorized by the Commissioner under subsection (6) of this section shall be a debt owing to the Commissioner by the person upon whom the notice was served as aforesaid and shall be recoverable at the suit of the Commissioner in any court of competent jurisdiction.

...

(9) Where any owner, occupier, or other person upon whom a notice under subsection (2) of this section has been served has failed within the time specified in such notice to comply with the directions of such notice, and by reason of such non-compliance and by reason of the light to which the said notice relates confusing or creating circumstances or conditions which interfered with adversely or caused risk of danger to the traffic of persons, animals, or vehicles on a road, any person suffers injury to the person or damage to his property, the non-compliance with the said notice shall, for the purpose of enabling the person who has suffered such injury or damage to recover compensation or damages in respect of the injury or damage suffered, be deemed to be a tort in the nature of a nuisance committed by the owner, occupier, or other person upon which an action for damages may be instituted.

(10) The omission on the part of the Commissioner to give any notice under subsection (2) of this section, or the failure on the part of the Commissioner to exercise the power conferred by subsection (6) of this section shall not make the Commissioner in any respect responsible or liable for any injury to the person or damage to property suffered as the result of any light confusing or creating circumstances or conditions which

interfered with adversely or caused risk of danger to the traffic of any person or vehicle on a road.

...

101. No matter or thing done or omitted to be done by the Minister, the Board, any member of the Board, officer or employee of the Board, police officer, member of the Police Force, Warden or inspector in good faith under or for the purposes of this Act, or purportedly under or for the purposes of this Act shall subject the Crown, the Minister, the Board or any person hereinbefore referred to, to any liability in respect thereof.

...

111. (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the licensing, equipment and use of vehicles and for the regulation of traffic, generally.

(2) Without limiting the generality of subsection (1) of this section, the Governor may make regulations—

- (a) empowering an authority therein named to—
 - (iii) erect traffic signs and traffic control signals and similar devices;
- (b) relating to the duties, obligations, conduct and behaviour of owners, persons in charge, drivers and passengers of vehicles or of any class of vehicle;
- (c) requiring drivers and passengers of motor vehicles to wear or use the prescribed items of equipment;
- (d) prescribing the standards of, and equipment to be fitted to, vehicles and requiring vehicles or equipment to be maintained in the prescribed manner;

...

- (i) requiring any matter affected by them to be in accordance with a specified standard or requirement and requiring any matter or thing to be done to the satisfaction of, or to be approval of, a specified person or body;
- (j) prescribing such fees as are not prescribed by this Act;
- (k) imposing penalties not exceeding four hundred dollars for a first offence, and not exceeding eight hundred dollars for any subsequent offence, against any regulation made under this section, not being an offence referred to in paragraph (l) or (m) of this subsection;
- (l) imposing for offences against regulations made pursuant to paragraph (f) of this subsection not being an offence referred to in paragraph (m) of this subsection—
 - (i) minimum penalties not exceeding from ten dollars to one thousand dollars irreducible in mitigation notwithstanding the provisions of any other Act; and
 - (ii) maximum penalties not exceeding three thousand dollars;

in accordance with a scale so prescribed according to the nature of the offences and the circumstances by which they are attended;

. . .

(4) Where there is any inconsistency between the regulations and any by-law made or preserved pursuant to this section, the regulations shall prevail and the by-laws shall, to the extent of the inconsistency, be of no effect.

(5) Any by-laws made under section 49 of the repealed Act shall continue in force, but may be amended or revoked, as if made under subsection (3) of this section.

ROAD TRAFFIC CODE, 1975 (W.A.)

103. (1) In these regulations, unless the context requires otherwise—

“regulation” means one of these regulations;

“the Act” means the Road Traffic Act, 1974;

“traffic-control signal” means any device, however operated, for the control or regulation of traffic by the use of a word or words, a symbol or symbols, a coloured light or coloured lights or any combination of those things;

“traffic island” means any physical provision, other than lines marked on a carriageway, made at or near an intersection, to guide vehicular traffic;

“traffic sign” means a sign, mark, structure or device placed, or erected, on or near a road, for the purpose of regulating, guiding or directing traffic;

. . .

301. (1) The Commissioner of Main Roads may erect, establish or display, and may alter or take down any traffic sign or traffic control signal.

(2) The Commissioner of Main Roads may authorise the Council of any municipality to erect, establish, display, alter or take down any particular traffic sign or traffic control signal or of traffic signs or traffic control signals of a class or type of classes or types specified in his instrument of authorisation.

(3) A person shall not, without the consent of the Commissioner of Main Roads, remove, take down, damage, deface or interfere with any traffic sign or traffic control signal.

(4) A person shall not erect, establish, place, maintain or display, on a road, or in the view of any person on a road, anything that—

- (a) is a false representation of, or a colourable imitation of, a traffic sign or traffic-control signal;
- (b) interferes with the effectiveness of, or of any part of, a traffic sign or traffic-control signal;
- (c) prevents an approaching driver from clearly distinguishing the whole, or part, of a traffic sign or traffic-control signal;
- (d) distracts his attention from a traffic sign or traffic-control signal; or

(e) not being a traffic sign, displays a word or direction ordinarily associated with a traffic sign.

(5) Notwithstanding any other provision of these regulations, a traffic sign or traffic control signal that was erected prior to the coming into operation of these regulations, shall be a valid and effective traffic sign or traffic control signal for the purpose of these regulations.

(6) The provisions of this regulation do not apply to the erection of road direction signs by any duly incorporated association or union of motorists approved by the Minister.

(7) Notwithstanding the foregoing provisions of this regulation, where, for the purpose of temporarily controlling traffic it is expedient to do so, a member of the Police Force, patrolman or warden, may erect or cause to be erected, signs regulating the parking or standing of vehicles and any sign so erected shall be a valid and effective traffic sign for the purposes of these regulations.

STATE ENERGY COMMISSION ACT, 1979-1981 (W.A.)

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

. . .

“Commission” means the body corporate known as The State Energy Commission of Western Australia preserved and continued pursuant to section 7;

. . .

“distribution works” means any works, apparatus or system, utilised or capable of being or intended to be utilised for the purpose of transmitting or distributing energy to consumers and includes any other equipment or plant used in conjunction therewith, and any part thereof;

. . .

“local authority” means the council of the municipality in question constituted pursuant to the Local Government Act, 1960, or where the municipality has no council a commissioner of the municipality appointed pursuant to that Act;

. . .

“premises” means any land, street, structure, or other place, and may include a vehicle or other thing in or in connection with which energy is or is to be supplied;

. . .

“street” includes any highway, road, thoroughfare, lane, alley, square, court, or place of public passage;

. . .

“supply system” may include the generating works, distribution works, and service apparatus pertaining thereto;

. . .

“undertaking” includes works of whatever description used or intended to be used for the purpose

of enabling or facilitating the prospecting for, obtaining of, or the generation, conversion, development, storage, distribution, provision or use of energy, and also includes any necessary or convenient lands, water, mines, quarries, buildings, structures, equipment, plant, apparatus, services, facilities, and other works or means provided or used for or in connection therewith, together with any activities, studies, projects, administrative arrangements, legal entities, securities or financial arrangements, concessions, rights, patents, contracts, or other things relating thereto;

...

"works" includes any works, excavation, construction or thing used or intended to be used for the purposes of a supply system or undertaking.

...

6. (1) This Act binds the Crown—

- (a) to the extent that the Crown is a consumer; and
- (b) in respect of its provisions relating to matters of safety,

but not otherwise.

(2) Where in relation to a provision of this Act any question, difference, or dispute arises, or may arise, between the Commission and any government department or local authority as to the rights, powers or authority of, or the discharge of any duty by, the Commission, or as to their respective functions or interest, then—

- (a) where the matter relates to a government department—the Minister charged with the administration of that government department may consult with the Minister;
- (b) where the matter relates to a local authority—the local authority shall refer the matter to the Minister charged with the administration of the Local Government Act, 1960, who may consult with the Minister,

and where the Ministers so agree after such consultation the Minister shall give to the Commission such directions as result from the consultation, but where no such consultation is concluded or if the Ministers can not agree as to the matter the matter may be finally and conclusively determined by the Governor and effect shall be given to any such determination.

(3) The Governor may finally and conclusively determine any question, difference or dispute arising or about to arise in relation to a provision of this Act between the Commission and any government department or local authority with respect to the exercise of any right, power, or authority or the discharge of any duty whether or not referred to him under subsection (2) and whether or not the Ministers had purported to agree pursuant to that subsection, and effect shall be given to any such determination.

7. The body corporate which was—

- (a) prior to the first day of July, 1975, constituted under the State Electricity Commission Act, 1945-1974, by the name "The State Electricity Commission of Western Australia"; and

- (b) thereafter, constituted under the State Energy Commission Act, 1945-1978, by the name "The State Energy Commission of Western Australia",

is hereby preserved and continues in existence as a body corporate having perpetual succession and a common seal under the name "The State Energy Commission of Western Australia", so that the corporate identity of that body corporate and its rights, securities and assets of every description and its engagements, obligations and liabilities, as at the date immediately preceding the coming into operation of this section, are not affected and vest in or are imposed upon the Commission as constituted under this Act, but so that on and after the coming into operation of this section the Commission shall be subject to this Act.

...

10. (1) The administration of this Act shall be vested in the Minister.

(2) The Minister may give directions to the Commission to act as agent for the Crown, or to carry out on behalf of the Crown any function in respect of which a power is conferred on the Commission by this Act or any other Act.

(3) The Commission shall, in so far as the provisions of this Act so permit, give effect to any such direction as to policy received from the Minister.

(4) Subject to the Minister, the implementation of the provisions of this Act shall be a duty of the Commission to be carried out, except in so far as subsection (5) applies, with the assistance and advice of the Council.

(5) Where the Commission refers a question or matter to the Council for advice, the Commission may act notwithstanding that the advice has not been received, and where advice is received from the Council the Commission is not bound to act on or give effect to it.

(6) Where the Minister—

- (a) grants any exemption pursuant to this Act;
- (b) exercises a direction authorised by this Act, or
- (c) gives to the Commission any direction under this Act,

and that exemption, discretion or direction has a continuing effect the Commission shall record the same in writing and submit that record to each Minister assuming the charge of the administration of this Act within twenty-eight days of that Minister undertaking that function, and any such exemption, exercise of discretion, or direction shall be deemed not to continue to have effect after the expiry of a further period of twenty-eight days from the date on which the record was submitted unless confirmed in writing by the Minister then charged with the administration of this Act.

18. (1) The Commission may be an instrument in writing in relation to such matter or class of matters and to such activity of the Commission as is specified in that instrument and to the extent therein set out, delegate any of its powers, rights, or duties under this Act, (except this power of delegation and its powers in relation to the making of by-laws), to a member or

officer or servant of the Commission, a committee appointed by the Commission, or a person to whom paragraph (b) of subsection (2) of section 4 applies, therein named as delegate.

(2) No delegation under subsection (1) prevents the exercise by the Commission of any of its powers, rights, or duties.

(3) The Commission may by the terms of the instrument of delegation limit the exercise of the powers conferred, and may by notice in writing served on the delegate vary or revoke any delegation granted under subsection (1).

(4) Where a power is delegated that involves the exercise of a discretion which would be dependent upon an opinion or state of mind and is vested in the Commission, the power may be exercised by the delegate upon his own discretion unless the power so to do is limited by the terms of the instrument of delegation.

(5) A person or body purporting to exercise a power pursuant to a delegation granted under subsection (1) is presumed to do so in accordance with the terms of the delegation in the absence of proof to the contrary, and shall be requested so to do produce evidence of the terms of the delegation to any person in relation to whom it is proposed to exercise the power.

...
27. (1) The function of the Commission is, pursuant to subsection (4) of section 10, to implement the provisions of this Act and carry out the duties imposed on the Commission by or under this Act, or expressly or impliedly required pursuant to any other Act, and for the purpose of the performance of that function, the Commission has and may exercise the powers conferred on the Commission by and under this Act.

(2) It shall be the duty of the Commission to provide, maintain and extend throughout the State an efficient, co-ordinated and economical supply of energy in the form of electricity or gas derived from such source or sources, whether in the State or elsewhere, as the Commission may think appropriate.

(3) The Governor may from time to time by Order in Council charge the Commission with a duty on behalf of the Crown in right of the State—

- (a) to provide and maintain a supply of energy, whether in the form of electricity or gas or otherwise, for use in the State or elsewhere;

...
(notwithstanding that such would not normally be undertaken by the Commission for the purposes of providing a supply of energy to be transmitted by the Commission) for such purposes and in such manner as may be directed pursuant to the provisions of that Order and any such Order may authorise the Minister or the Commission, or both, as may be specified in the Order, to act in the matter as the agent of the Crown or to carry out functions on behalf of the Crown.

...
(7) It shall be a duty of the Commission—

- (a) so far as the Commission considers it to be practicable, to undertake, promote, and assist in, the development of safe, economical and

effective measures to establish, maintain, expand and improve the works and other facilities needed for the conversion, production, manufacture, generation, accumulation, reception, provision, acquisition, storage, transmission, distribution, supply, sale, or use, of energy;

...
28. (1) Subject to this Act the Commission for the purposes of this Act—

- (a) shall be capable of doing all such acts and things as bodies corporate may by law do or suffer;
- (b) may sue and be sued in its corporate name, and may compound or compromise any claim, or demand made, or any debt or sum of money owing, to or by it, or any action brought by or against it;
- (c) may enter upon land and carry out works thereon, and may purchase, take, hold, sell, lease, take on lease, exchange, or otherwise acquire, deal in or dispose of real and personal property;
- (d) may exercise the powers as to finance and investment conferred by this Act; and
- (e) generally, shall have all such powers, rights and privileges as may be reasonably necessary to enable it to exercise and perform its function and to carry out the duties imposed on it.

...
(3) Without prejudice to the generality of the power conferred by subsection (1), for the purposes of its function under this Act or its functions under any other Act administered by the Commission, the Commission, subject to this Act may—

- (c) enter upon and occupy any land or other premises and there, without being bound to acquire the same or any estate or interest therein (except where otherwise provided by this Act or such as may be required by a claimant to be taken or resumed pursuant to the Public Works Act, 1902) by the best available route and in a practicable manner, construct, extend, or improve works, maintain and conduct undertakings and facilities, and carry on undertakings or works requisite, advantageous, or convenient to the exercise and performance of the functions of the Commission or any such function;
- (f) produce, supply, sell, provide, store, maintain, dispose of, or generally trade in, energy or energy resources, and by-products of the undertakings or works of the Commission, and machinery, equipment, or apparatus, or systems or works associated with the use of any form of energy, whether supplied by the Commission or otherwise, and acquire, hold and deal with energy or any such other thing by purchase or otherwise, or assist in or contribute towards the cost of the provision of energy or any such other thing;

- ...
- (m) specify and establish standards and criteria, and the methods of testing, to be used for the purposes of this Act, and undertake investigations, inspections and prosecutions under this Act;

...

43. (1) Where any works or other things are or have been placed upon, in, over or under any land by the Commission in the exercise or purported exercise of a power conferred by this Act or any Act repealed by this Act, those works or other things shall be taken to have been lawfully so placed and are, and shall at all times continue to be, the property of the Commission, unless the Commission has otherwise specified or may otherwise determine, and the Commission shall be deemed to have a right of access thereto for the purposes of this Act and any other Act administered by the Commission.

...

44. (1) Regulations made under this Act may make provision—

- (a) in respect of and appropriate to any works or other things placed upon, in, over, or under any land by the Commission prior to the coming into operation of this section, being works or things of a kind prescribed by those regulations, for the vesting in the Commission by force of this section and without further assurance of an estate or interest in the land upon, in, over, under, or adjacent to which the works or things were so placed, and any such estate or interest may be so prescribed and dealt with by reference to the standard series of forms that may be prescribed pursuant to section 38; and
- (b) for the recording of the interest of the Commission on, or by way of memorial in the register relating to, the title to the land in question,

and any such regulations may make provision for such restriction of the use of the land as may in the opinion of the Commission be necessary in the interests of safety.

(2) The vesting in the Commission of an estate or interest in any land pursuant to subsection (1) shall not be taken to authorise the Commission to place upon, in, over or under that land any works not substantially of the kind so placed at the time the estate or interest was created.

...

49. For the purposes of, and subject to this Act, the Commission may exercise the power—

- ...
- (c) to enter upon any land, premises, or thing and set up, lay down, establish, maintain, utilise, and operate, any supply system, or any undertaking or other related things necessary for the establishment or maintenance of any supply system, in, over, under, or through any such land, (including any shore of the sea or any stream or water) premises, or thing, and

at any time to inspect, service, maintain, replace, repair, or alter, or remove, any such system, undertaking or things; and for that purpose to—

- (i) break, excavate and remove any soil to the extent and depth required;

...

(v) remove or carry out any works;

- (d) to cause any distribution works or service apparatus or related things to be supported by affixing or annexing them to or against any part of a house, building or other structure (subject to the condition that if the owner or occupier wishes to rebuild or alter that house, building or other structure, such of those works, apparatus, or things as are not so attached for the sole purpose of providing a supply of energy for the use of that owner or occupier shall at the cost of the Commission be removed but may, if so required by the Commission, be affixed to the new structure);

- ...
- (f) to do all such other things as may be necessary or convenient for constructing, maintaining, altering, or using any supply system, undertaking, or related works,

and for any such purpose the Commission may occupy any land or premises, and may remove, or erect a gate in, any fence (taking all reasonable steps to notify the owner and occupier of the land on which, or on the boundary of which, the fence is erected).

51. Subject to section 52, where the Commission considers it necessary at any time to alter the position of any works which are laid in, over or under any street and are under the control or management of any person or local or other authority then it may by notice in writing request any such person or authority concerned to effect the alterations in such manner and within such reasonable time as shall be specified in that notice, and if that notice is complied with the reasonable expenses incurred by that person or authority attendant upon or connected with those alterations shall be repayable by the Commission, but where that notice is not complied with the Commission may at its own cost cause such alterations to be made to those works as are required by the Commission.

121. (1) The Commission shall not be liable for any injury or damage, other than damage of the kind referred to in section 120, occasioned in the exercise or purported exercise of a power conferred by this Act, or any other Act administered by the Commission, and attributable to the Commission, its officers, servants, or agents, unless negligence is established.

(2) No action shall be maintained against the Commission in respect of any injury to the person, where the person injured fails without reasonable excuse to submit himself to medical examination by a specified medical practitioner or practitioners nominated by the Commission within such period as the Commission may by notice in writing require of him where that request is made by the Commission within three calendar months of the commencement of proceedings in respect of that injury.