

MAIN HIGHWAYS AMENDMENT BILL.

EXPLANATORY MEMORANDUM.

THIS Bill amends the Main Highways Act, 1922 (Reprint of Statutes, Vol. III, p. 693). The effect of each clause is indicated below.

Clause 2 defines the terms "construction" and "maintenance", and makes consequential amendments in the principal Act and its amendments by omitting the terms "reconstruction", "improvement", and "repair" wherever they occur. By virtue of subclause (2) the Board is empowered to decide whether works of improvement are to be treated as construction or as maintenance.

Clause 3 will render it necessary for the consent of the Minister of Public Works to be obtained before any work of construction of a main highway is commenced. The Minister's consent may be granted subject to conditions imposed by him, and may relate to specified works or to a general programme of works. At the present time, under section 9 of the principal Act, the Main Highways Board has the sole power of deciding whether or not any work (whether of construction or of maintenance) is to be commenced on any main highway. The clause does not restrict the Board's power to sanction works of maintenance.

Clause 4: Section 10 of the principal Act authorizes the Main Highways Board to classify main highways as primary highways or secondary highways and to determine standards of construction and maintenance for each class of highway. In lieu of this provision it is proposed by clause 3 of the Bill to provide that the Board may classify any main highway as a State highway, and that the Minister's approval shall be required before any such classification is made. The Board's power to determine standards of construction and maintenance for main highways will be exercisable as at present without the Minister's approval being required.

Clause 5 provides that the whole of the cost of the construction and maintenance of State highways is to be provided out of the Main Highways Account, subject to the following exceptions:—

- (a) Works in excess of or in addition to the standard prescribed by the Board are not to be paid for out of the Main Highways Account unless the Board decides to provide the whole or a part of the additional cost:
- (b) The liabilities of local authorities at the time of the classification of a State highway are not to be affected, unless the Board decides to remit or refund any contribution payable by the local authority.

At the present time, under sections 18 and 19 of the principal Act and under its amendments, the Board is liable to find not less than one-third of the cost of maintenance and not less than one-half of the cost of construction in respect of all main highways.

Clause 6 provides for appeals to the Minister from decisions by the Main Highways Board fixing the contributions to be made by local authorities towards the cost of any works on main highways, including decisions as to remissions or refunds under clause 5 (3) of the Bill in respect of State highways.

Clause 7 makes provision for the appointment of a Deputy Chairman of the Board, who is to be the one of the two Government members who is not appointed as Chairman, and is to preside at meetings in the absence of the Chairman.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
15th October, 1936.*

Hon. Mr. Semple.

MAIN HIGHWAYS AMENDMENT.

Title.	ANALYSIS.
1. Short Title.	
2. Definition of terms "construction" and "maintenance". Consequential amendments.	5. Cost of construction and maintenance of State highways to be paid out of Main Highways Account.
3. Works of construction of main highways not to be commenced without precedent consent of Minister.	6. Appeals by local authorities against decisions of Board as to contributions towards cost of main highways.
4. Classification of main highways, and standards of construction and maintenance. Consequential repeals.	7. Deputy Chairman of Main Highways Board. Schedule.

A BILL INTITULED

AN ACT to amend the Main Highways Act, 1922.

Title.

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

1. This Act may be cited as the Main Highways Amendment Act, 1936, and shall be read together with and deemed part of the Main Highways Act, 1922 (hereinafter referred to as the principal Act).

Short Title.

10 2. (1) For the purposes of the principal Act, unless the context otherwise requires,—

See Reprint of Statutes, Vol. III, p. 693

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

Definition of terms “construction” and “maintenance”.

“Maintenance” includes repair.

(2) If any question arises as to whether any work in relation to a main highway is a work of construction or a work of maintenance it shall be decided by the Board, and the decision of the Board shall be final.

Consequential amendments.

(3) The enactments specified in the Schedule to this Act are hereby consequentially amended in the manner indicated in that Schedule. 5

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

3. (1) Notwithstanding anything to the contrary in the principal Act or in this Act, no work of construction in relation to a main highway shall be commenced, 10 whether by or on behalf of the Board or by or on behalf of any local authority acting pursuant to a delegation from the Board or to an agreement with the Board, except with the precedent consent of the Minister.

(2) The Minister, in his discretion, may refuse his consent under this section to the commencement of any work or works, or may grant his consent either unconditionally or upon or subject to such conditions as he thinks fit to impose. Any consent under this section may relate to any specified work or works or to a general 20 programme of works.

Classification of main highways, and standards of construction and maintenance.

4. (1) The Board may from time to time, with the approval of the Minister, classify any main highway or portion of a main highway as a State highway.

(2) The Board may from time to time determine a standard with respect to the construction and maintenance of any main highway or portion of a main highway. 25

(3) Any classification or determination made under the foregoing provisions of this section may in like manner from time to time be varied, or may be at any time in like manner revoked. 30

Consequential repeals.

(4) This section is in substitution for section ten of the principal Act, and that section and section eleven of the Main Highways Amendment Act, 1925, are hereby accordingly repealed. 35

Cost of construction and maintenance of State highways to be paid out of Main Highways Account.

5. (1) Subject to the provisions of this section, where a main highway or portion of a main highway has been classified under the *last preceding* section as a State highway the whole of the cost of the construction and maintenance of the State highway in accordance with the standard prescribed by the Board shall, as from the date of the classification, be provided by the Board out of the Main Highways Account. 40

(2) In respect of any State highway the Board may undertake, at the request of a local authority, or may authorize any local authority to undertake any work of construction or maintenance that is of a higher standard
5 than the standard prescribed by the Board or is in addition to the works required to be undertaken in order to comply with that standard. In any such case the Board may, in its discretion, and subject to such terms and conditions as it thinks fit, provide out of the
10 Main Highways Account the whole or such part (if any) as the Board thinks fit of the cost of the work in so far as, in the opinion of the Board, it exceeds or is in addition to the cost that would have been incurred in carrying out works of the standard prescribed by the
15 Board. Except as provided in this subsection, the additional cost, or so much thereof as is not provided by the Board as aforesaid, shall be payable by the local authority concerned.

(3) Nothing in the foregoing provisions of this
20 section shall be construed to relieve any local authority from any liability or obligation to which it may be subject in respect of any main highway at the time of the classification of the highway as a State highway. In any case where, pursuant to an arrangement made
25 between the Board and a local authority before the classification of a highway as a State highway, the local authority is liable for a contribution towards the cost of the construction or maintenance of the highway, the Board may, if it thinks fit, remit the contribution in whole
30 or in part in so far as it relates to a period after the classification of the highway as a State highway. If any amount so remitted has been paid it shall, without further appropriation than this section, be refunded out of the Main Highways Account.

35 6. (1) If any local authority is dissatisfied with any final decision of the Board fixing the proportions of the cost of any work to be provided by the several local authorities in a highway district under section eighteen or section nineteen of the principal Act, or refusing in
40 whole or in part an application for a remission under subsection *three* of the *last preceding* section, it may appeal to the Minister against the decision.

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

(2) Every appeal under this section shall be made in writing within one month after the local authority has received notice of the decision of the Board and of the fact that it is final.

(3) Upon an appeal under this section the Minister may either confirm the decision appealed against or vary it as he thinks fit. 5

(4) For the purposes of this section a decision of the Board shall be deemed to be final when the Board expressly states that it is final. It shall be the duty of the Board whenever required so to do by a local authority that is affected by any decision of the Board to state forthwith whether or not the decision is final. 10

Deputy
Chairman of
Main
Highways
Board.

7. Section five of the principal Act is hereby amended as follows:— 15

(a) By adding to paragraph (a) of subsection three the words "and the other shall be appointed as the Deputy Chairman of the Board":

(b) By inserting in subsection seven, before the words "the members present shall appoint", the words "the Deputy Chairman, if present, shall preside, and in the absence of both the Chairman and the Deputy Chairman". 20

SCHEDULE.

Schedule.

MISCELLANEOUS AMENDMENTS CONSEQUENTIAL ON DEFINITION OF TERMS
"CONSTRUCTION" AND "MAINTENANCE".

Title of Enactment.	Number of Section affected.	Nature of Amendment.
1922, No. 47— The Main Highways Act, 1922 (Reprint of Statutes, Vol. III, p. 696)	Section 9 ..	By omitting from subsection (1) the words "reconstruction, improvement"; by omitting from the same subsection the word "repair"; by omitting from subsection (2) the words "reconstruction, improvement", and substituting the word "or"; and by omitting from the same subsection the words "or repair".
(Ibid., p. 697) ..	Section 11 ..	By omitting from paragraph (b) of subsection (1) the word "reconstruction", and substituting the word "or"; and by omitting from the same paragraph the words "or repair".
(Ibid., p. 698) ..	Section 12 ..	By omitting from subsection (1) the words "or reconstruction".
(Ibid., p. 699) ..	Section 14 ..	By omitting from paragraph (d) the words "and repair".
(Ibid., p. 700) ..	Section 15 ..	By omitting from paragraph (a) of subsection (1) the word "repair".
(Ibid., p. 700) ..	Section 16 ..	By omitting from paragraph (d) the words "or reconstruction".
(Ibid., p. 701) ..	Section 17 ..	By omitting from paragraph (a) the words "or reconstruction".
(Ibid., p. 701) ..	Section 18 ..	By omitting from subsection (1) the words "repair and"; by omitting from the same subsection the words "repair or"; by omitting from subsection (2) the words "and repair"; by omitting from paragraph (b) of the same subsection the words "repair or"; and by omitting from subsection (3) the words "and repair" wherever those words occur.
(Ibid., p. 702) ..	Section 19 ..	By omitting from subsection (1) the words "and reconstruction"; by omitting from subsections (2) and (3) the words "or reconstruction" wherever those words occur.
(Ibid., p. 703) ..	Section 20 ..	By omitting the words "or reconstruction"; and by omitting from the same subsection the words "or repair" wherever those words occur.
(Ibid., p. 704) ..	Section 23 ..	By omitting the words "and repair" wherever those words occur.
1925, No. 27— The Main Highways Amendment Act, 1925 (Reprint of Statutes, Vol. III, p. 705)	Section 4 ..	By omitting from subsection (1) the words "or reconstruct"; and by omitting from the same subsection the words "or reconstruction".
(Ibid., p. 706) ..	Section 5 ..	By omitting the words "or reconstruct"; and by omitting the words "or reconstruction".
(Ibid., p. 706) ..	Section 7 ..	By omitting from subsection (1) the words "reconstruction, repair" wherever those words occur; and by omitting from subsection (3) the words "reconstruction, repair".

Title of Enactment.	Number of Section affected.	Nature of Amendment.
1926, No. 43— The Main Highways Amendment Act, 1926 (Reprint of Statutes, Vol. III, p. 709)	Section 6 ..	By omitting the words "reconstruction, repair".
1928, No. 28— The Main Highways Amendment Act, 1928 (Reprint of Statutes, Vol. III, p. 711)	Section 2 ..	By omitting from subsection (1) the word "reconstruction", and substituting the word "or"; by omitting from the same subsection the words "and repair"; by omitting from subsection (2) the word "reconstruction", and substituting the word "or"; and by omitting from the same subsection the words "or repair".
(Ibid., p. 712)	Section 5 ..	By omitting the word "reconstruction", and substituting the word "or"; and by omitting the words "or repair".
1924, No. 64— The Finance Act, 1924 .. (Reprint of Statutes, Vol. III, p. 713)	Section 33 ..	By omitting from subsection (1) the words "or reconstruction".
1934, No. 31— The Finance Act (No. 3), 1934	Section 4 ..	By omitting from subsection (1) the words "or reconstruction".