

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,

19th November, 1947

Hon. Mr. Semple

PUBLIC WORKS AMENDMENT

ANALYSIS

Title.	
1. Short Title.	6. Restrictions on poles, &c., on motor-ways.
	7. Availability for traffic.
<i>Motor-ways</i>	8. Maintenance and control of motor-ways.
2. Interpretation.	9. Restrictions on access to motor-ways.
3. Governor-General may declare motor-ways.	10. Except as provided, motor-way not a road or street.
4. Power to take land for motor-way.	11. Penalties.
5. Provisions of principal Act to apply to motor-ways.	12. Regulations.

A BILL INTITULED

AN ACT to amend the Public Works Act, 1928.

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 Public Works Amendment Act, 1947, and shall be read together with and deemed part of the Public Works Act, 1928 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. VII, p. 622

Motor-ways

Interpretation.

2. For the purposes of this Act, unless the context otherwise requires,—

“Motor-way” means a motor-way declared as such by the Governor-General in Council under this Act; and includes the land on which any motor-way exists; and also includes all bridges, culverts, ferries, fords, or other structures forming part of any such motor-way or land: 5 10

“Main Highways Board” means the Main Highways Board constituted under the Main Highways Act, 1922.

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

Governor-General may declare motor-ways.

3. At the request of the Main Highways Board the Governor-General may from time to time, by Order in Council published in the *Gazette*, declare any public highway, whether then actually constructed or not, to be a motor-way for the purposes of this Act, and every such Order in Council shall state as nearly as possible the line of the motor-way, and the two termini thereof, and every Order in Council under this section may in like manner be from time to time amended or revoked. 15 20

Power to take land for motor-way.

4. (1) In every case where by statute or other lawful authority the Governor-General or any Minister is empowered to take any land for a road, street, or railway that authority shall be deemed to include power to take that land for a motor-way. 25

(2) Where under the powers conferred upon him by this Act the Governor-General desires to construct a motor-way he may issue a Proclamation defining the middle-line of the motor-way or any part thereof, and in every such case the provisions of sections two hundred and sixteen and two hundred and seventeen of the principal Act shall, as far as they are applicable, and with the necessary modifications, apply in respect of the construction of the motor-way in like manner as if a railway were to be constructed. 30 35

(3) Section ten of the principal Act is hereby amended by inserting in subsection one, after the word “railway”, the word “motor-way”, 40

(4) Where the middle-line of a road has been defined by a Proclamation under section thirty of the principal Act, or where the middle-line of a railway has been defined by a Proclamation under section two hundred and sixteen of the principal Act, whether in either case construction has been completed or not, the Governor-General may issue in substitution for that Proclamation a Proclamation under this section defining the same line as the middle-line of a motor-way and revoking the first mentioned Proclamation.

(5) Where a Proclamation is issued under subsection *four* of this section in substitution for a Proclamation defining the middle-line of a road or railway,—

- 15 (a) Everything done in furtherance of the construction of the road or railway shall be deemed to have been lawfully done in furtherance of the construction of the motor-way except that, if when the Proclamation is issued compensation for land acquired for a road has been agreed upon or fixed by a Compensation Court, the person to whom the compensation is payable or has been paid shall be entitled, at any time within six months after the issue of the Proclamation, to claim further compensation in respect of any loss resulting from the use of the land for a motor-way instead of a road:
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- 25
- 30 (b) Every claim for compensation in respect of the construction of the road or railway that has been served or filed in accordance with Part III of the principal Act shall be read as if amended to accord with the substituted Proclamation:
- 35 (c) The time within which any step is required by the principal Act to be taken in connection with a claim for compensation shall not be extended by reason of the issue of the substituted Proclamation:

Provided that, on application made within six months after the public notification of the substituted Proclamation, the time or times for any step or steps may be extended by a Judge of the Supreme Court, or (in the case of a claim within the jurisdiction of the Native Land Court) by a Judge of that Court, upon or subject to such conditions as the Judge thinks fit, to such period, not exceeding five years from the execution of the works, as he thinks fit.

Provisions of principal Act to apply to motor-ways.

5. (1) Except as provided in this section, where any motor-way is to be constructed under the provisions of any Order in Council under this Act the provisions of sections two hundred and eighteen to two hundred and twenty-two, two hundred and twenty-five, two hundred and twenty-six, and two hundred and twenty-nine to two hundred and thirty-four of the principal Act shall, as far as they are applicable and with the necessary modifications, apply as if the motor-way were a railway and as if the Order in Council were a special Act.

(2) Subsection two of section two hundred and twenty of the principal Act shall have no application to motor-ways.

(3) In their application to motor-ways, subsection three of the said section two hundred and twenty and section two hundred and thirty-four of the principal Act shall be read as if the references therein to the Minister were references to the Main Highways Board.

(4) In their application to motor-ways sections two hundred and thirty-one and two hundred and thirty-four of the principal Act shall be read as if the words "(not being a Government railway open for traffic)" had been omitted.

(5) In addition to the powers conferred by section two hundred and nineteen of the principal Act, the Minister may from time to time construct such roads or streets as he thinks desirable for the purpose of giving access to any motor-way.

(6) As an alternative to the provisions of section two hundred and twenty-two of the principal Act, the Minister may take under the provisions of Part II of

the principal Act, for regrouping or subdivision and subsequent sale or lease (either alone or with other lands), any lands to which convenient access by road or street has been cut off by the construction of a
5 motor-way.

6. No tower, pole, or other structure shall be placed on any motor-way, whether by the Crown or by any local authority or other person, without the prior consent in writing of the Main Highways Board.

Restrictions
on poles, &c.,
on motor-ways.

10 7. (1) No part of any motor-way shall be opened for public traffic until that part has been inspected by some proper person appointed by the Main Highways Board for the purpose, and until that person has
15 inspected the whole of that part, and that it is in good and efficient repair and may safely and conveniently be used for public traffic.

Availability
for traffic.

(2) If in the opinion of the Main Highways Board, or of any officer of the Board, any part of any motor-
20 way cannot safely be used for public traffic, the Board or officer may temporarily close that part for public traffic by such means as are immediately available pending inspection and action by the Board in accordance with subsection *three* of this section.

25 (3) If any part of any motor-way has been inspected by some proper person appointed by the Main Highways Board for the purpose, and that person has reported to the Board that he has inspected the part and that it cannot safely and conveniently be used for
30 public traffic, the Board may fence off and close such part of the motor-way as it may consider necessary or expedient, and thereafter the provisions of subsection *one* of this section shall apply as if the part of the motor-way so closed had not been opened for public
35 traffic.

40 8. Subject to the provisions of this Act, the Main Highways Board shall have the sole powers of maintenance and control of all motor-ways, and for that purpose shall have all the powers and rights vested in it by the Main Highways Act, 1922, as if every motor-way were a main highway:

Maintenance
and control
of motor-ways.

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

Provided that the powers hereby conferred on the Board or any of those powers may with respect to any motor-way or portion of a motor-way be delegated by the Board to the local authority which has control of roads or streets in the district in which the motor-way or portion is situated, and on any such delegation the local authority, to the extent of the powers so delegated, shall have the same powers, rights, duties, and liabilities in respect of the motor-way or portion as the Board.

Restrictions
on access to
motor-ways.

9. (1) No person shall enter, cross, or leave any motor-way except at a motor-way, main highway, road, or street from which vehicular access to the motor-way has been constructed and is authorized by the Main Highways Board, and subject to such conditions as may be approved and publicly notified by the Minister on the recommendation of the Main Highways Board:

Provided that the Board may in writing, and subject to such conditions (whether as to payment or otherwise) as it thinks fit, authorize the construction of a special access to any property or any part of any property adjoining the motor-way to which access is not reasonably available by an authorized route.

(2) Notwithstanding anything to the contrary in any other Act, or in any regulation, or rule of law, no person shall enter upon a motor-way except at such opportunity and at such speed as will place him correctly in the stream of traffic without danger to any other user of the motor-way.

(3) No person shall cause or permit any animal to be taken upon or to enter upon any motor-way unless the animal is confined within a motor-vehicle lawfully using the motor-way.

(4) The owner of any animal which is upon a motor-way in breach of subsection *three* of this section shall be liable for any damage that may result from collision with or attempted avoidance of the animal, unless he proves that the presence of the animal on the motor-way in breach of the said subsection *three* was not due to any negligence on his part.

Except as
provided,
motor-way
not a road
or street.

10. (1) Except as expressly provided in this Act or in any regulations made under this Act, a motor-way shall be deemed not to be a road or street.

(2) Where any property or any part of any property has a special access to a motor-way as provided in section *nine* hereof, that property or part, as the case may be, shall be deemed to have a frontage
5 to a road or street for the purposes of section one hundred and twenty-five of the principal Act.

11. Every person who acts in contravention of or
fails to comply in any respect with any provision of
this Act or any direction, requirement, or condition
10 given or imposed under this Act commits an offence,
and shall be liable on summary conviction to a fine not
exceeding *fifty* pounds. Penalties.

12. (1) The Governor-General may from time to
time, by Order in Council, make regulations, not incon-
sistent with this Act, for all or any of the following
15 purposes:— Regulations.

(a) Classifying traffic and motor-ways, and per-
mitting and regulating, or prohibiting, the
20 use of motor-ways by any class or classes of
traffic:

(b) Applying to motor-ways any Act, regulation,
or by-law that applies to any main highway,
road, or street, including an enactment im-
posing penalties; and modifying any such
25 enactment in its application to motor-ways:

(c) Generally providing for the control, protection,
and proper use of motor-ways:

(d) Prescribing respects in which a motor-way shall
be deemed to be a road or street:

30 (e) Prescribing fines of amounts not in any case
exceeding *fifty* pounds for offences against
the regulations.

(2) Regulations made under this Act may be so
made as to apply generally throughout New Zealand or
35 within any specified part or parts thereof, or within the
whole of New Zealand except such part or parts as may
be specified in the regulations, and may be so made as
to apply to all motor-ways or to any class or classes of
motor-ways or to any motor-way or part thereof and
40 may provide for the exemption of any class or classes
of motor-ways or of any motor-way or part thereof.