

# NATIONAL ROADS ACT 1974

## No. 52 of 1974

An Act to grant Financial Assistance to the States in relation to the Construction and Maintenance of National Roads.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

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| Short title.         | 1. This Act may be cited as the <i>National Roads Act 1974</i> . <sup>1</sup>   |
| Commence-<br>ment.   | 2. This Act shall come into operation on the day on which it receives the Royal Assent. <sup>1</sup>  |
| Interpret-<br>ation. | 3. (1) In this Act, unless the contrary intention appears—<br>“approved program” means a program of projects approved by the Minister under section 6;<br>“approved project” means a project included in an approved program;<br>“construction”, in relation to a national road, includes—<br>(a) the reconstruction or realignment of the road;<br>(b) the bringing of the road to a higher standard;<br>(c) investigation and associated engineering studies in connexion with—<br>(i) the construction, reconstruction or realignment of the road;<br>(ii) the bringing of the road to a higher standard; or<br>(iii) the planning of alternative routes for the road;<br>(d) the acquisition of land for the purpose of—<br>(i) constructing, reconstructing or realigning the road; or<br>(ii) bringing the road to a higher standard; and<br>(e) the doing of any other thing in relation to a matter specified in paragraph (a) or (b) approved by the Minister for the purposes of this definition,<br>but does not include the maintenance of the road;<br>“export road” means a road or proposed road in respect of which a declaration under sub-section 4 (3) is in force or a part of such a road or proposed road;<br>“maintenance”, in relation to a national road, includes the repair of the road; |

“major commercial road” means a road or proposed road in respect of which a declaration under sub-section 4 (4) is in force or a part of such a road or proposed road;

“national highway” means a road or proposed road in respect of which a declaration under sub-section 4 (1) or (2) is in force, or a part of such a road or proposed road;

“national road” means a national highway, an export road or a major commercial road;

“period to which this Act applies” means the period that commenced on 1 July 1974 and ends on 30 June 1977;

“project” means a project by way of—

- (a) the construction of a national highway;
- (b) the maintenance of a national highway; or
- (c) the construction or maintenance of an export road or of a major commercial road;

“road” includes—

- (a) a road sign;
- (b) traffic control equipment;
- (c) street lighting equipment;
- (d) a vehicular ferry; or
- (e) a bridge or tunnel, including a bridge or tunnel for the use of pedestrians,

associated with a road.

(2) For the purposes of this Act, each of the following years is a year to which this Act applies:—

- (a) the year that commenced on 1 July 1974 and ends on 30 June 1975;
- (b) the year commencing on 1 July 1975 and ending on 30 June 1976;
- (c) the year commencing on 1 July 1976 and ending on 30 June 1977.

(3) Subject to sub-section (4), a reference in this Act to an amount expended by a State in respect of an approved project is a reference to an amount expended in connexion with the carrying out of the works constituting the approved project in accordance with any standards applicable to those works by virtue of a notification under section 5.

(4) Where particulars of an approved project have been approved by the Minister under sub-section 6 (7), an amount expended in connexion with the carrying out of works constituting the project otherwise than in accordance with particulars of the project so approved by the Minister shall be deemed not to have been expended in respect of the project.

(5) Where the Minister has approved a variation of a program, references in this Act to the program shall be read as references to the program as so varied.

(6) A reference in this Act to a notification under section 5 is a reference to such a notification that has not been revoked.

Declaration  
of national  
highways,  
export roads  
and major  
commercial  
roads.

4. (1) The Minister may declare a road in a State that constitutes, or a proposed road in a State that would, if constructed, constitute, a part of the road that, in the opinion of the Minister, is or will be the principal road linking—

- (a) 2 or more State capital cities;
- (b) a State capital city and Canberra;
- (c) a State capital city and Darwin;
- (d) Brisbane and Cairns; or
- (e) Hobart and Burnie,

to be a national highway for the purposes of this Act, and may revoke or vary such a declaration.

(2) The Minister may declare a road in a State that constitutes, or a proposed road in a State that would, if constructed, constitute, a road that should, in the opinion of the Minister, be treated, by reason of its national importance, as a national highway for the purposes of this Act to be, for those purposes, a national highway, and may revoke or vary such a declaration.

(3) The Minister may declare a road in a State that facilitates, or a proposed road in a State, that would, if constructed, facilitate trade and commerce, or the development of trade and commerce, with other countries to be an export road for the purposes of this Act, and may revoke or vary such a declaration.

(4) The Minister may declare a road in a State that facilitates, or a proposed road in a State that would, if constructed, facilitate, trade and commerce, or the development of trade and commerce, among the States to be a major commercial road for the purposes of this Act, and may revoke or vary such a declaration.

Standards  
for national  
roads.

5. (1) For the purpose of ensuring that this Act is conducive to the construction and maintenance of national roads that are of an adequate standard, the Minister may, from time to time—

- (a) request a State to furnish such information as the Minister specifies relating to the use or likely use of national roads, including the effect on the likely use of national roads of projects that the State is carrying out or proposes to carry out by way of the construction or maintenance of other roads in the State;
- (b) after consultation with a State, notify to the State works, or classes of works, by way of construction and maintenance of the

national roads in the State that the Australian Government considers necessary to be carried out;

- (c) notify to a State the order in which the Australian Government considers that works in connexion with national roads in the State should be carried out; and
- (d) notify to a State standards, applicable either generally or otherwise as specified in the notification, that the Australian Government considers necessary to be observed in connexion with the construction or maintenance of national roads.

(2) The Minister may vary or revoke a notification forwarded to a State in accordance with sub-section (1).

6. (1) The Minister may request a State to submit a program of projects to be carried out by the State during a period to which this section applies for the purpose of the construction and maintenance of national roads in accordance with any notification or notifications given to the State under section 5 and may, in the request, specify—

Approval of programs.

- (a) the form in accordance with which, and the date before which, the program of projects is to be furnished to him for the purposes of this section;
- (b) the particulars of projects to be specified in the program; and
- (c) classes of projects in respect of which particulars of the projects are to be approved by him before the projects are included in such a program.

(2) Where, in accordance with a request given to the State under sub-section (1), the State furnishes to the Minister a program of projects of works referred to in a notification or notifications under paragraph 5 (1) (b), the Minister may, having regard to that notification or to those notifications—

- (a) approve the program; or
- (b) modify the program to the extent he thinks desirable, and approve the program as so modified.

(3) A reference in sub-section (2) to the modification of a program includes references to the omission of a project from a program and the addition of a project to a program.

(4) Without limiting the power of the Minister to modify a program under paragraph (2) (b), the Minister may modify a program furnished by a State by omitting a project from that program—

- (a) if he is of the opinion that consultation with the State should be held concerning the project before the project is included in an approved program; or
- (b) if he is of the opinion that preliminary investigations in respect of the project should be carried out before it is included in an approved program.

(5) For the purposes of this Act, the Minister may, at any time before a notification has been given to a State in accordance with paragraph 5 (1) (b), approve, in consultation with the appropriate Minister of the State, programs of projects by way of—

- (a) the construction of national highways in the State;
- (b) the maintenance of national highways in the State; and
- (c) the construction and maintenance of export roads and major commercial roads in the State,

respectively, for a period to which this section applies, being programs submitted in accordance with the form, and containing the particulars, specified in a request given to the State under sub-section (1).

(6) The Minister shall not approve a program that includes a project by way of the construction or maintenance of a part of a national road in the parts of the States of New South Wales and Victoria that constitute the Albury-Wodonga Area for the purposes of the Albury-Wodonga Area Development Agreement a copy of which is set out in the Schedule to the *Albury-Wodonga Development Act 1974* unless the Minister of State for Urban and Regional Development has concurred in the inclusion of the project in the program.

(7) The Minister may approve particulars of a project that is, or is intended to be, included in a program referred to in sub-section (2) or (5).

(8) The Minister may—

- (a) approve a variation of a program of projects approved by him;
- (b) approve a variation of particulars of a project approved by him; and
- (c) revoke an approval of particulars of a project approved by him.

(9) Where the Minister approves a program of projects for a period to which this section applies—

- (a) if the program includes a project that is a stage of a larger project and the Minister has approved the carrying out of the larger project partly in that period and partly in a succeeding period to which this section applies—the Minister shall be deemed to have approved the inclusion of the stage of the project to be carried out in a succeeding period to which this section applies in the program of projects to be carried out in that succeeding period; and
- (b) if the program includes a project that is to be carried out in that period but the project is not completed in that period—the Minister shall, unless the period is the period referred to in paragraph (10) (c), be deemed to have approved the inclusion of the uncompleted part of the project in the program for the next following period to which this section applies.

(10) A reference in this section, in relation to a State, to a period to which this section applies is a reference to—

- (a) a period commencing on a date fixed by the Minister in respect of the State for the purposes of this sub-section and ending on 30 June 1975;
- (b) the year commencing on 1 July 1975 and ending on 30 June 1976; or
- (c) the year commencing on 1 July 1976 and ending on 30 June 1977.

7. (1) Subject to this Act, where a State has, during a year to which this Act applies, expended an amount in respect of an approved project, there is payable to the State, by way of financial assistance, an amount equal to the amount so expended. Grant of financial assistance to States.

(2) The sum of the amounts paid under this section to a State in respect of expenditure during a year to which this Act applies, in relation to the construction of national highways, shall not exceed the amount specified opposite to the name of that State, in relation to that year, in Schedule 1.

(3) The sum of the amounts paid under this section to a State in respect of expenditure during a year to which this Act applies, in relation to the maintenance of national highways, shall not exceed the amount specified opposite to the name of that State, in relation to that year, in Schedule 2.

(4) The sum of the amounts paid under this section to a State in respect of expenditure during a year to which this Act applies, in relation to the construction and maintenance of export roads and major commercial roads, shall not exceed the amount specified opposite to the name of that State, in relation to that year, in Schedule 3.

(5) For the purposes of sub-section (1), a reference to an approved project includes a reference to a project by way of the construction or maintenance of a national road that was carried out after 30 June 1974 and before the date fixed by the Minister in accordance with paragraph 6 (10) (a).

(6) Subject to sub-section (7), a State may treat moneys expended by the State in a year to which this Act applies directly in connexion with the provision or maintenance of roads, including national roads, in the State, other than moneys expended in respect of particular road works, as having, for the purposes of this section, been expended in that year by the State in respect of an approved project carried out by the State in that year.

(7) Moneys treated as having been expended in respect of an approved project in a year by virtue of sub-section (6)—

- (a) shall not include any moneys treated, by virtue of that sub-section, as having been expended in respect of any other approved project or treated, by virtue of sub-section 6 (10) of the *Roads Grants Act* 1974, as having been expended in respect of an approved project within the meaning of that Act; and
- (b) shall not exceed, in the aggregate, 4 per centum of the moneys otherwise expended in respect of that project in that year.

Expenditure  
in respect of  
an approved  
project.

8. An amount expended by a State after the expiration of a year to which this Act applies but before the next following 1 January for the purpose of meeting commitments undertaken during that year in respect of a project included in the approved program for that year shall, for the purposes of section 7, be deemed to have been expended during that year.

Evidence of  
expenditure.

9. A State is not entitled to a payment under section 7 in relation to any expenditure in respect of an approved project unless the State has furnished the Treasurer with—

- (a) a statement in respect of that expenditure, in accordance with a form approved by the Treasurer, accompanied by a certificate of the Auditor-General of the State certifying that, in his opinion, the amounts shown in the statement as having been expended were expended in respect of the approved project; and
- (b) such further information, if any, as the Treasurer requires in respect of that expenditure.

Advances.

10. (1) The Treasurer may, at such times as he thinks fit, make advances to a State of such amounts as he thinks fit on account of an amount that may become payable to the State under this Act.

(2) Without limiting the discretion of the Treasurer under sub-section (1), the Treasurer may refrain from making an advance to a State under that sub-section until the State has furnished to the Treasurer such documents and other evidence justifying the making of an advance to the State or showing how an amount or a part of an amount advanced to a State has been expended as the Treasurer requests.

Variation of  
amounts  
specified in  
Schedules.

11. (1) Where a State satisfies the Minister that the amount specified in Schedule 1, 2 or 3 in relation to the State in respect of a year is greater than the amount that the State has been, or will be, able to expend, in accordance with this Act, for the purpose applicable to the amount under sub-section 7 (2), (3) or (4), whichever is relevant, the Minister may direct that the amount so specified in that Schedule shall be deemed to be reduced by such amount as is specified by the Minister.

(2) Where the Minister gives a direction under sub-section (1) with respect to an amount specified in a Schedule in relation to a State or a direction under section 8 of the *Roads Grants Act* 1974 in relation to an amount specified in a Schedule to that Act in relation to a State, the Minister may, subject to sub-section (3), direct that such other amounts, or such amounts, as the case requires, (if any) specified in a Schedule to this Act in relation to the State be deemed to be increased or reduced by such specified amounts as the Minister considers necessary in consequence of that direction.

(3) A direction shall not be given under sub-section (2) in relation to a State—

- (a) if it could result in the State becoming liable to repay an amount to Australia under this Act; or
- (b) if the effect of the direction, and of the direction given under sub-section (1) of this section or under section 8 of the *Roads Grants Act* 1974 in consequence of which it was given, would result in the sum of the amounts available for payment to the State by way of financial assistance under this Act and under that Act exceeding the sum of the amounts available for payment to the State by way of financial assistance under those Acts in accordance with the Schedules set out in those Acts.

(4) The Minister shall not—

- (a) give a direction under sub-section (2) in consequence of a direction given under section 8 of the *Roads Grants Act* 1974; or
- (b) give a direction under sub-section (2) with respect to an amount specified in a Schedule to this Act in relation to a year in consequence of a direction given by him under sub-section (1) with respect to an amount specified in such a Schedule in relation to another year,

unless the Treasurer has concurred in the direction.

(5) Where the Minister gives a direction under sub-section (1) or (2), this Act has effect as if the amounts referred to in the direction had been respectively reduced or increased, as the case may be, in accordance with the Minister's direction.

**12.** Payments (including advances) to the States under this Act shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly. Appropriation.

**13.** Payment of an amount (including an advance) to a State in relation to an approved project is subject to the following conditions:— Conditions.

- (a) that the State will at all reasonable times, permit a person authorized by the Minister—
  - (i) to inspect any work involved in the carrying out of the approved project;



- (ii) to carry out reasonable tests on any work that has been or is being carried out on the approved project, being tests designed to ascertain whether the work has been or is being carried out in accordance with the standards applicable to that work in accordance with section 5; and
  - (iii) to inspect and take copies of, or extracts from, any plans, designs, tenders, records or other documents relating to the approved project;
- (b) that, if the Minister so requests, there will be furnished to the Minister by the State, as soon as practicable after such date as the Minister specifies, a comprehensive report concerning the project or a specified part of the project, being a report containing such particulars as are specified by the Minister;
- (c) that if the Minister informs the Treasurer of the State that he is satisfied that the State has failed to fulfil a condition specified in a preceding paragraph, the State will repay the amount, or such part of the amount as the Minister specifies, to Australia; and
- (d) that the Treasurer may deduct any sum repayable by a State under paragraph (c) from an amount payable by Australia to the State under this Act.

Additional  
conditions.

**14.** Payment of an amount (including an advance) to a State under this Act is subject to the following conditions:—

- (a) that the State will repay to Australia, on demand by the Treasurer, the amount by which, at the time of the demand, the total of the amounts (including advances) paid to the State under this Act exceeds the total of the amounts that have become payable to the State under this Act;
- (b) that the State will permit a person authorized by the Minister, at all reasonable times, to inspect and take copies of, or extracts from, any plans, designs, tenders, records or other documents relating to a project that has been submitted to the Minister for approval under this Act or that is included in a program that has been so submitted to the Minister;
- (c) that the State shall not, without the consent of the Minister, cause or permit a toll or fee to be charged for the right to travel in a vehicle on or over a particular part of a national road unless a toll or fee was charged for the right to travel in a vehicle on or over the road constituting that part of the national road immediately before the commencement of this Act;
- (d) that the State will make provision satisfactory to the Minister for the construction and maintenance of roads connecting the national roads in the State with other roads in the State;
- (e) that if the Minister informs the Treasurer of the State that he is satisfied that the State has failed to fulfil a condition specified in paragraph (b), (c) or (d), the State will repay the amount or

such part of that amount, as the Minister specifies, to Australia; and

- (f) that the Treasurer may deduct any sum repayable by a State under paragraph (a) or (e) from an amount payable by Australia to the State under this Act.

15. (1) The Minister may, either generally or otherwise as provided *Delegations.* by the instrument of delegation, by writing under his hand, delegate to an officer of the Australian Public Service any of his powers under sections 5 and 6.

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

(3) A delegate is, in the exercise of his powers and the performance of his functions under this Act, subject to the directions of the Minister.

(4) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Minister.

## SCHEDULE 1

Section 7 (2)

### AMOUNTS OF GRANTS IN RESPECT OF THE CONSTRUCTION OF NATIONAL HIGHWAYS

State	Year commencing 1 July 1974	Year commencing 1 July 1975	Year commencing 1 July 1976	Total
	\$	\$	\$	\$
New South Wales . . . . .	26,300,000	36,300,000	50,300,000	112,900,000
Victoria . . . . .	12,800,000	16,800,000	23,800,000	53,400,000
Queensland . . . . .	16,000,000	19,600,000	26,600,000	62,200,000
South Australia . . . . .	14,900,000	15,200,000	17,300,000	47,400,000
Western Australia . . . . .	7,500,000	9,100,000	9,500,000	26,100,000
Tasmania . . . . .	4,900,000	6,100,000	8,900,000	19,900,000
Total . . . . .	82,400,000	103,100,000	136,400,000	321,900,000

## SCHEDULE 2

Section 7 (3)

### AMOUNTS OF GRANTS IN RESPECT OF THE MAINTENANCE OF NATIONAL HIGHWAYS

State	Year commencing 1 July 1974	Year commencing 1 July 1975	Year commencing 1 July 1976	Total
	\$	\$	\$	\$
New South Wales . . . . .	3,000,000	3,200,000	3,500,000	9,700,000
Victoria . . . . .	1,500,000	1,600,000	1,800,000	4,900,000
Queensland . . . . .	3,600,000	3,900,000	4,200,000	11,700,000

## SCHEDULE 2—continued

State	Year commencing 1 July 1974	Year commencing 1 July 1975	Year commencing 1 July 1976	Total
South Australia . . . . .	1,200,000	1,300,000	1,400,000	3,900,000
Western Australia . . . . .	1,900,000	2,200,000	2,400,000	6,500,000
Tasmania . . . . .	400,000	500,000	500,000	1,400,000
<b>Total . . . . .</b>	<b>11,600,000</b>	<b>12,700,000</b>	<b>13,800,000</b>	<b>38,100,000</b>

## SCHEDULE 3

Section 7 (4)

AMOUNT OF GRANTS IN RESPECT OF THE CONSTRUCTION AND  
MAINTENANCE OF EXPORT ROADS AND MAJOR COMMERCIAL ROADS

State	Year commencing 1 July 1974	Year commencing 1 July 1975	Year commencing 1 July 1976	Total
	\$	\$	\$	\$
New South Wales . . . . .	3,400,000	5,300,000	5,400,000	14,100,000
Victoria . . . . .	3,100,000	4,800,000	5,200,000	13,100,000
Queensland . . . . .	1,300,000	2,000,000	2,800,000	6,100,000
South Australia . . . . .	300,000	1,000,000	1,300,000	2,600,000
Western Australia . . . . .	700,000	700,000	1,400,000	2,800,000
Tasmania . . . . .	200,000	400,000	700,000	1,300,000
<b>Total . . . . .</b>	<b>9,000,000</b>	<b>14,200,000</b>	<b>16,800,000</b>	<b>40,000,000</b>

## NOTE

1. Act No. 52, 1974; assented to 20 September 1974.