

PARLIAMENT OF CEYLON

4th Session 1951



Roads (Transfer of Control) Act, No. 11 of 1951

Date of Assent: March 22, 1951.

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AN ACT TO TRANSFER TO THE DEPARTMENT OF PUBLIC WORKS THE POWERS, FUNCTIONS AND DUTIES IN RESPECT OF ROADS HERETOFORE EXERCISED AND PERFORMED BY PROVINCIAL AND DISTRICT COMMITTEES, TO AMEND THE THOROUGHFARES ORDINANCE (CHAPTER 148) FOR THE PURPOSE OF EFFECTING THE TRANSFER AFORESAID, AND TO MAKE CONSEQUENTIAL AMENDMENTS IN THE ESTATE ROADS ORDINANCE (CHAPTER 149).

[Date of Assent : March 22, 1951.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Roads (Transfer of Control) Act, No. 11 of 1951, and shall come into operation on such date (hereinafter referred to as "the appointed date") as may be appointed by the Minister of Transport and Works by Order published in the *Gazette*.

Short title and date of operation.

2. Every Provincial Committee and every District Committee constituted under the Thoroughfares Ordinance (hereinafter referred to as "the principal Ordinance") shall on the appointed date be dissolved.

Dissolution of Provincial and District Committees. Cap. 148.

3. (1) All property movable or immovable whatsoever belonging to, vested in, or under the control of, any Provincial or District Committee shall with effect from the appointed date be transferred to and held by the Government.

Transfer of property, rights, obligations &c.

(2) All moneys held by or in the possession of any such Committee immediately prior to the appointed date shall on that date be paid into the Consolidated Fund.

(3) All debts, liabilities, obligations and contracts of any such Committee outstanding or subsisting at the appointed date, shall be deemed to be debts, liabilities, obligations and contracts of the Government.

(4) All deeds, bonds, securities and other instruments executed or issued by or in favour of any such Committee and in force or enforceable at the appointed date, shall be deemed to have been executed or issued by or in favour of the Government.

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(5) All actions or other legal proceedings instituted or which might have been instituted by or against any such Committee at the appointed date may, subject to the provisions of any other written law, be continued or instituted by or against the Government.

(6) All decrees or orders made by any competent court in favour of or against any such Committee prior to the appointed date, shall be deemed to have been made in favour of or against the Government.

Provision for
transfer of
officers,
continuance of
pensions, &c.

4. (1) Where any person holding a pensionable appointment under any Provincial or District Committee is appointed under section 5 of the principal Ordinance (as amended by this Act) to any post in the Public Works Department with effect from the appointed date, each pensionable appointment held by him under any such Committee shall be deemed, for the purposes of the Minutes on Pensions, to have been a permanent office in the service of the Island separately provided for in the Estimates and declared to be pensionable by notification published in the *Gazette*.

(2) All pensions, gratuities and retiring allowances which, but for the dissolution by this Act of Provincial and District Committees, would have been payable by any such Committee under the rules made under section 19 of the principal Ordinance to any retired officer or servant of the Committee shall continue to be payable out of the Consolidated Fund upon the like terms and conditions as are provided in such rules; and such rules shall accordingly be deemed to continue in force for the purposes of this sub-section.

(3) Where any person who—

(a) having been the holder of a non-pensionable office under any Provincial or District Committee; or

(b) having been a daily paid employee of any Provincial or District Committee,

is appointed under section 5 of the principal Ordinance (as amended by this Act) to any post in the Public Works Department with effect from the appointed date or is employed with effect from that date by the Government as a daily paid employee, the period of service of that person in such non-pensionable office or as a daily paid employee, as the case may be, shall be deemed for the purposes of the Minutes on Pensions to have been non-pensionable or daily paid service under the Government.

5. All licences granted and surveys made under the principal Ordinance prior to the appointed date by or under the authority of any Provincial or District Committee shall be deemed to have been granted or made by or under the authority of the Director or the appropriate officer of his Department and shall have effect accordingly.

Savings for
licences and
surveys.

6. Section 2 of the principal Ordinance is hereby repealed and the following new section is substituted therefor:—

Substitution of
new section
for section 2
of the principal
Ordinance.

Application of
Ordinance.

2. (1) Subject as hereinafter provided, this Ordinance shall apply to and in relation to all roads and thoroughfares in Ceylon:

Provided, however, that nothing in this Ordinance shall apply—

(a) to any street (as defined in the Municipal Council's Ordinance, No. 29 of 1947) within the administrative limits of any Municipal Council, unless it is by Order made by the Minister and published in the *Gazette* withdrawn from the jurisdiction of the Council; or

(b) to any street (as defined in the Urban Councils Ordinance, No. 61 of 1939, or in the Town Councils Ordinance, No. 3 of 1946) within the administrative limits of any Urban Council or Town Council, unless it is a principal thoroughfare within the meaning of this Ordinance; or

(c) to any road which is for the time being maintained by a Village Committee.

(2) Where any road is immediately prior to the appointed date maintained by any Department, other than the Department of Public Works or where after that date any new road is constructed and maintained by any such

Department, the Minister may by Order published in the *Gazette* declare that, for the purposes of the application of this Ordinance with respect to such road, this Ordinance or any specified provision thereof shall have effect subject to the modification that the powers or functions conferred by this Ordinance or by such specified provision shall be exercised and discharged by specified officers of such Department.

Substitution of new section for section 5 of the principal Ordinance.

7. Section 5 of the principal Ordinance is hereby repealed and the following new section is substituted therefor:—

Appointment and powers, etc., of officers and servants.

5. (1) There may be appointed all such officers and servants as may be necessary for the purposes of this Ordinance.

(2) Subject to the general direction and control of the Director of Public Works, the Superintending Engineer of each division and the Executive Engineer of each district shall be responsible for the administration of this Ordinance in his division or district.

(3) In this Ordinance—

(a) “division”, when used with reference to a Superintending Engineer, means the area for which he is appointed; and

(b) “district”, when used with reference to an Executive Engineer, means the area for which he is appointed.

Substitution of new section for section 10 of the principal Ordinance.

8. Section 10 of the principal Ordinance is hereby repealed and the following new section is substituted therefor:—

Contracts and agreements.

10. It shall be lawful for the Director or the Superintending Engineer, on behalf of the Government, to make and enter into, perform and execute, and compel the performance and execution of all such contracts and agreements, matters and things, as may be necessary for the purposes of this Ordinance.

9. Section 46 of the principal Ordinance is hereby repealed and the following new section is substituted therefor:—

Substitution of new section for section 46 of the principal Ordinance.

Management of works on roads and other powers to be vested in officers of Public Works Department.

46. (1) The direction and control of all work to be undertaken under this Ordinance upon any road shall be vested in the Director of Public Works for the time being and in the officers of his Department acting under his authority.

(2) All powers conferred by any provision of this Ordinance on "the officer in charge of any work" may be exercised by any officer referred to in sub-section (1).

10. The following sections of the principal Ordinance are hereby repealed:—

Repeal of certain sections of the principal Ordinance.

Sections 4, 8 and 9

Sections 11 to 45 (both inclusive)

Section 57

Section 66.

11. The provisions of the principal Ordinance specified in the first column of the First Schedule to this Act are hereby amended in the manner and to the extent mentioned in the corresponding entries of the second column of that Schedule.

Minor and consequential amendments.

*Amendment of the Estate Roads Ordinance
(Chapter 149).*

12. The Estate Roads Ordinance is hereby amended in the manner and to the extent set out in the Second Schedule to this Act.

Consequential amendments of Chapter 149.

FIRST SCHEDULE.

*Amendment of the Thoroughfares Ordinance
(Chapter 148).*

I.

Section 3

Section 7

II.

For "Provincial Committee" substitute "Director".

For "application of the Provincial Committee" substitute "application of the Director".

For "Chairman of the Provincial Committee" substitute "Director or Superintending Engineer".

For "the Chairman of the said Committee" substitute "the Director or the Superintending Engineer".

For "such Chairman" and "the said Chairman" substitute in each case "the Director or Superintending Engineer".

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Section 56

For " the Chairman of the proper Provincial or District Committee " substitute " the Superintending Engineer or the Executive Engineer ".
For " Provincial Committee " substitute " Superintending Engineer ".

Section 59

For " Provincial or District Committee " substitute " Superintending or Executive Engineer ".
For " any such committee ", wherever it occurs, substitute " such Engineer ".
For " by the Chairman thereof " substitute " by him ".

Section 60

For " the Provincial or District Committee " substitute " the Superintending or Executive Engineer ".

Section 61

For " the Chairman of the District Committee " and " the Chairman of the said Committee " substitute in each case " the Executive Engineer ".

For " with the sanction of the Provincial Committee " substitute " with the sanction of the Superintending Engineer ".

For " any Provincial or District Committee ", substitute " the Superintending or Executive Engineer ".

Section 62

For " the Chairman of any Provincial or District Committee " and " the said Chairman of the Provincial or District Committee " substitute in each case " the Executive Engineer ".

Omit the second Proviso.

Section 62A (as amended by Ordinance, No. 18 of 1947).

For " the District Committee " wherever it occurs substitute " the Executive Engineer ".

In sub-section (2)—

(a) Omit paragraph (aa).

(b) For " the Chairman of a District Committee " or " Chairman of any District Committee " wherever they occur substitute " Executive Engineer ".

(c) For " Land Acquisition Ordinance " substitute " Land Acquisition Act, No. 9 of 1950 ".

In sub-section (3)—

(a) In paragraph (a) for all the words from " the District Committee " to " and the Chairman ", substitute " the Executive Engineer in a register to be kept for the purpose at his office; and the Executive Engineer ";

(b) In paragraph (c), for " the Chairman of a District Committee " substitute " the Executive Engineer ".

In sub-section (5), for " the Chairman of the District Committee " substitute " the Executive Engineer ".

Section 62B

For the words " the District Committee of any District " substitute " the Director ".

For " a District Committee " substitute " the Director ".

Omit the second Proviso.

Section 62C (as amended by Ordinance, No. 18 of 1947).	For " the District Committee ", substitute " the Executive Engineer "; For " servant of the Committee, and for that purpose the District Committee " substitute " servant appointed under this Ordinance, and for that purpose, the Executive Engineer or any such officer or servant ".
Section 62E	For " the Chairman of the District Committee ", substitute " the Executive Engineer ".
Section 62F	For " the District Committee " wherever it occurs substitute " the Superintending Engineer ".
Section 62G	For " the Provincial Committee " wherever it occurs in sub-section (1), substitute " the Superintending Engineer ".
Section 63	Omit sub-section (1). For all the words from " Whenever " to " proper authority " substitute " Whenever it appears to an Executive Engineer that the line of any thoroughfare in his district has been altered without proper authority ".
Section 64	For " such committee " or " the said committee " substitute in each case " the Executive Engineer ".
Section 65	For " the Provincial or District Committee " substitute " the Director ".
	For " the Provincial or District Committee " substitute " the Executive Engineer ".
	Omit the words " situate within the province or district for which such committee is assigned to act ".
	For " the said Provincial or District Committee " substitute " the Executive Engineer ".
	For " the Chairman thereof " and " the Chairman of the said committee " substitute " the Executive Engineer ".
	In the Proviso, for " such committee " and " any such committee ", wherever it occurs, substitute " the Executive Engineer ".
Section 68	In sub-section (2), for " any Provincial or District Committee " substitute " any Superintending or Executive Engineer ".
Section 69	For " any Provincial or District Committee " substitute " the Executive Engineer ".
Section 70	Omit the words " within their province or district ".
	For all the words from " and it shall be lawful " to " knowledge " substitute " and it shall be lawful for the Executive Engineer, if it shall come to his knowledge ".
Section 71	In sub-section (2), for " the Chairman of a Provincial or District Committee " substitute " the Executive Engineer ".
	For " the Provincial Committee " substitute " the Executive Engineer ".
Section 73	After the definition of " centre of the road ", insert the following new definitions:— " Director " means the person for the time being appointed to be or to act as Director of Public Works; " Executive Engineer " means the Executive Engineer for any district;

After the definition of " road " insert the following new definition:—

" Superintending Engineer " means the Superintending Engineer for any division;

SECOND SCHEDULE

AMENDMENT OF THE ESTATE ROADS ORDINANCE (CHAPTER 149)

Part A.

Section of Ordinance.

Amendment

Section 2

In sub-section (1), for " Provincial Committee of the province " substitute " Superintending Engineer of the division ".

For sub-section (3) substitute the following:—

" (3) In any case where the estates fall within two divisions, the Minister may by notification published in the *Gazette* authorize the Superintending Engineer of any such division to exercise in that case the powers conferred by this Act."

Sections 5, 7 (1) and 33

For " the Chairman " substitute " the Superintending Engineer ".

Section 9

For " to the Provincial Committee, the Chairman thereof " substitute " to him, the Superintending Engineer ".

Section 18

For " such committee " substitute " the Superintending Engineer ".

Sections 23 and 28

For " such Chairman " substitute " the Superintending Engineer ".

Section 30

For " The Provincial Committee, the Chairman of which " substitute " Any Superintending Engineer who ".

For " such Chairman " substitute " the Superintending Engineer ".

Section 41

Omit the definition of " Provincial Committee ".

In each of the Forms for " Provincial Committee ", " Chairman, Provincial Committee " and " Chairman of the Provincial Committee ", in each case substitute " Superintending Engineer ".

SCHEDULE

Part B.

(1) For the expression " Provincial Committee " and the expression " the Chairman of the Provincial Committee ", wherever occurring in the Ordinance, substitute in each case " the Superintending Engineer ".

(2) For the words " it " and " its ", wherever occurring in the Ordinance in reference to the Provincial Committee, substitute " he " and " his " respectively.

(3) Immediately after section 40, insert the following as new section 40A.—

" Exercise of powers and functions.

40A. (1) Any power, function or duty conferred or imposed by this Ordinance on the Superintending Engineer may be exercised or performed by the Executive Engineer within his district, if authorized so to do by the Superintending Engineer.

(2) The powers, functions and duties of the Superintending Engineer and the Executive Engineer under this Ordinance shall be exercised and performed subject to the general direction and control of the Director of Public Works."