

# REPRINT

## **ROADS ACT (CAP. 129)**

**As in force at: 1 October 2009**

<b>STATUS:</b> <b>CURRENT</b>
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For details see Endnotes
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**AN ACT RELATING TO PUBLIC ROADS**

## **ROADS ACT (CAP. 129)**

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# ROADS ACT (Cap. 129)

As in force at: 1 October 2009

## 1 Short title

This Act may be cited as the *Roads Act*.

## 2 Interpretation

In this Act, unless the context otherwise requires:

**“poundable animal”** means any horse, mare, gelding, colt, filly, ass, mule, bull, cow, ox, steer, heifer, calf, goat, kid, sheep, lamb, hog, sow, pig or any other great or small cattle;

**“public road”** means any road, street or thoroughfare heretofore declared or which may hereafter be declared by the Minister under section 3 and includes all carriageways, cartways, bridletracks and pathways as well as all bridges, drains, dams, embankments, causeways, fences and ditches belonging or appertaining to a public road and also any adjoining land declared as aforesaid;

**“Director”** means the Permanent Secretary of the Ministry of Public Works and Utilities or any other officer appointed by the Minister to superintend the construction, alteration and maintenance of public roads.

## 3 Minister may declare public roads

The Minister by order may declare any road, street or thoroughfare and any adjoining land which he may deem necessary for the protection or benefit of the road, street or thoroughfare, to be a public road for the purposes of this Act.

## 4 Power to vest roads in local authorities

The Minister may by order vest in a local authority, the control of any public road or part thereof situated within the limits of the area of jurisdiction of that local authority, and thereupon all references to the Director in this Act shall, in relation to the road or part thereof so

vested, be deemed to be a reference to the local authority.

## **5 Director may order road to be closed or diverted**

The Director may order that any existing road be closed, diverted or turned and that some shorter or more convenient course be substituted for any road so closed, diverted or turned. The Director with the approval of the Minister first had and obtained may order that any new road be opened or any road be widened and enlarged and if in the execution of any order under this section it shall become necessary to take possession for public purposes of the land of any person the Director, subject to the like approval, may make an agreement on behalf of the Government with the owner for the compensation to be made for such land and for any building, tree or fence thereon, and if the Director cannot agree with such owner as to the compensation to be made or if the owner cannot be found, proceedings may be taken for obtaining possession of such land and for compensating the owner in the manner prescribed in Part V of the *Land and Titles Act*.

## **6 Director may enter into contracts and may sue and be sued**

The Director may enter into all contracts relating to matters necessary for the purposes of this Act and in the event of any breach thereof or of any claims or disputes arising out of the execution of the powers conferred upon him by this Act may sue and be sued in his own name.

## **7 Power of Director to enter upon lands**

- (1) The Director and any officers, servants, workmen and labourers employed by or under him may at all reasonable times and with all necessary and proper vehicles and animals and other means enter upon any land adjacent to or near to any existing or intended public road and may do and perform all acts, matters and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, fencing, building or excavating any such public road and for performing any act, matter or thing under the provisions of this Act.
- (2) The Director and any officers, servants, workmen and labourers employed by or under him may at all reasonable times and with all

necessary and proper vehicles, animals and other means pass through any land adjoining or near any existing or intended public road in order to enter upon Crown lands for any purpose connected with the building, maintenance or repair of such public road and in similar manner may carry away material obtained from Crown land for any purpose aforesaid through any land adjacent or near to such public road.

- (3) The provisions of subsection (2) shall not derogate from the generality of the provisions of subsection (1).

## **8 Power to take materials**

The Director and any officers, servants, workmen and labourers employed by or under him may at all reasonable times and with all necessary and proper vehicles, animals and other means search for, dig, cut, take and carry away any water, timber, brushwood, stone, gravel, clay or any other materials whatsoever for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, fencing, building or excavating or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, fencing, building or excavating any public road or for the construction or repair of any lines or any building whatsoever required on or near any such public road or for the use of any officers, servants, workmen, labourers, animals, vehicles, persons or things employed in his service in and from any land adjacent or near to any such public road and may carry away the same through the ground of any person without being deemed a trespasser:

Provided that no such materials shall be dug for, cut or taken away upon or from any yard, avenue to a house or lawn or any enclosed garden, plantation, field or wood without the consent of the owner thereof unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands or bush or common or abandoned grounds, in which case the Director may take any of such materials where he can conveniently procure the same:

Provided also that reasonable compensation for the damage done in the course of getting and carrying away the materials so taken, but not for the materials taken, shall be made to the owner thereof.

And provided further that the Director shall rail or fence any quarries or pits from which any such materials shall be taken so that the same shall not be dangerous to any person or animal.

**9 Power to erect buildings**

The Director may when tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, building or excavating any public road make and erect temporary buildings on any land adjacent or near thereto for the accommodation of any officers, servants, workmen, labourers, animals, vehicles or things employed by him during the progress of the work and may keep duly tethered and stabled all such animals as may be employed upon any lands near or adjacent thereto and may continue to keep the said animals on such lands for such time as may be necessary:

Provided that no such building shall be erected nor any such animals kept on any land which shall be under cultivation where there are neighbouring waste lands or bush or common or abandoned ground available for the purpose:

And provided further that reasonable compensation for any damage done to the land shall in all cases be made to the owner by the Director.

**10 Power to throw rubbish upon adjacent lands**

In the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, building or excavating of any public road the Director may throw upon any lands adjacent or near thereto such earth, rubbish or materials as it shall or may be necessary to remove from the place of any such work.

**11 Power to make temporary roads**

The Director may make a road through the grounds adjacent or near to any public road during the execution of any work thereon or in any way connected therewith:

Provided that such road shall not run over any ground whereon any building stands nor over an enclosed garden or yard.

**12 Power to cut overhanging trees**

Where any tree or the branches thereof or any bush, shrub or other vegetation overhangs any public road or causes any obstruction thereon the Director may serve a notice in writing on the owner or occupier of the land whereon such tree, bush, shrub or other vegetation is planted requiring the owner or occupier to cut and remove such tree or the branches thereof or such bush, shrub or other vegetation, and if the owner or occupier refuses or neglects to comply with such notice within one week from the date of the service of the notice it shall be lawful for the Director and any other person duly authorised by him to cut and remove the aforesaid tree or the branches thereof or the aforesaid bush, shrub or other vegetation and for that purpose to enter upon the land whereon such tree, bush, shrub or other vegetation is planted, and the expenses incurred by the Director in the execution of the work hereby authorised may be recovered from the owner or occupier.

**13 Power to construct fences**

The Director may construct and maintain fences, hedges, ditches, drains or banks on the side of any public road whenever to him it shall appear necessary.

**14 Power to make and keep ditches and lay trunks, etc.**

The Director may make, scour, cleanse and keep open all ditches, gutters, drains or watercourses and also may make and lay such trunks, tunnels or bridges as he shall deem necessary for the protection, preservation, improvement, repair or construction of any road in and through any lands or grounds adjoining or lying near to such public road.

**15 Power to place stones, etc., on public roads**

The Director may place any stone, gravel, wood or other matter or thing whatsoever upon any public road and may allow the same to remain there during the time such public road is under repair and for such time before the repairs are commenced and after the repairs are completed as may be necessary for facilitating the making of such repairs or for preventing damage to such recently repaired public road, but he shall take due and reasonable precautions for

preventing danger or injury to persons, vehicles or animals passing along such public road.

## **16 Compensation for injury to property**

- (1) Every person who sustains any loss or damage by reason of the exercise of any of the powers and authorities conferred by this Act upon the Director shall, subject to section 8, be entitled to receive compensation for the same provided he makes application in writing in that behalf to the Director at any time before the expiration of three months after the act, matter or thing in respect of which such damage is alleged to have been done, and if he fails to make application within the aforesaid period his claim to compensation for the alleged injury may be disallowed:

Provided that such application may be served by posting the same in a registered letter addressed to the Director at Honiara, and such application shall contain particulars of the injury alleged to have been suffered.

- (2) In assessing the amount of compensation payable under subsection (1), regard shall be had to the benefit arising from the act, matter or thing in respect of which the claim is made, and from the public road to which it related.
- (3) In default of agreement, the amount of compensation shall be determined by a Magistrate's Court where the amount claimed does not exceed one thousand dollars, and in all other cases, by the High Court.

## **17 Who may exercise Director's powers**

The Director and every person authorised by him in writing shall and may by themselves, their servants, workmen and labourers exercise the several powers and authorities conferred by this Act on the Director.

## **18 Obstruction of officers**

All persons who wilfully resist, obstruct, hinder or molest, and all persons who incite, assist or procure others to resist, obstruct, hinder or molest any person acting under the authority of this Act in the



discharge of any duty or the performance of any act which he is authorised or required to perform by this Act, shall be guilty of an offence and be liable on conviction thereof to a fine of ten penalty units or in default of payment to imprisonment for one month.

**19           Where the erecting of temporary premises is allowed**

Nothing herein contained shall prevent any public officer duly authorised in that behalf from making temporary use of any part of any public road for the public service nor shall anything herein contained prevent the Director from granting his licence to any person or persons for the erecting of temporary fences and enclosures upon any public road for the purpose of the building, pulling down or repairing of their houses and other buildings or of temporary decorations providing the length and breadth of such enclosures be described in such licence and that there is sufficient room for vehicles to pass:

Provided that the person or persons obtaining such licence shall immediately after sunset during all the time that the enclosure continues, if so required in such licence by the Director, place and keep a sufficient light upon the premises till sunrise, and any person removing or extinguishing such light during such time shall be liable to a fine of ten penalty units or in default of payment to imprisonment for one month.

**20           Survey by qualified land surveyor to be prima facie evidence**

Any plan or survey produced in evidence purporting to be signed by a qualified land surveyor in any proceedings under this Act shall be deemed to be *prima facie* proof of the facts contained therein.

**21           Removal of obstructions or encroachments**

- (1) The Director may give notice in writing to any person obstructing or encroaching on any public road forthwith to remove or abate such obstruction, and if any such person to whom such notice has been given refuses or neglects to comply with the same within a reasonable time, or if there be any doubt as to who is the proper person to whom such notice shall be given, the Director, after due notification of his intention in that behalf by a notice affixed in a conspicuous manner on or adjacent to the said obstruction or

encroachment, may cause any such obstruction or encroachment to be forthwith removed or abated and for that purpose the Director or any person thereto authorised in writing by him may enter into any house, garden, enclosure or other premises and may cause to enter therein such persons with such instruments and things and may proceed to do therein or cause to be done all such things as may be necessary for such removal or abatement, and may, in the case of an obstruction or encroachment erected, placed or otherwise howsoever caused after the declaration of the road as a public road, recover the costs thereby occasioned from the person so offending.

- (2) No compensation shall be payable under section 16 in respect of the removal of any encroachment or obstruction under this section, except in the case of a building, structure or other thing whatsoever of economical value, which both acceded to the land and existed prior to the declaration of the road as a public road.

*Authority to fence in or graze cattle on public road*

- (3) The Director may give authority in writing to any person to fence in or graze cattle and other animals on any public road and may attach such conditions as he may think proper to such authority, and any person contravening any such condition shall be liable to be proceeded against as if no such authority had been given.

**22 Damaging roads, etc.**

*Destroying mile-stones, bridges, etc.*

Whoever without proper authority:

- (a) destroys, pulls up, defaces, breaks or injures any mile-stone, mile-post, lamp-post, road sign, traffic sign or direction-post or any bridge, battlement, arch, wall, dam, drain, sluice, lock or embankment, abutment, mound, prop, post, lamp, railing, chain or fence belonging to any public road or put up at or near any pit opened or used for getting road materials; or

*Removing temporary fence*

- (b) removes any fence, post, stone, log or other thing laid or erected by the authority of the Director on or in any public road

for the temporary prevention of the use thereof or for preventing danger or injury to persons passing along the same whilst undergoing repair; or

*Taking away stones, gravel, etc.*

- (c) gathers or heaps up or takes away any stones, gravel, sand or other material or any dirt drift or soil from any public road; or

*Making ditches, etc.*

- (d) makes or causes to be made any dam, ditch, drain or watercourse upon or across or otherwise breaks up or injures the surface of any public road; or

*And buildings*

- (e) constructs any house, building, structure or sign so as to project over or encroach upon any public road,

shall be liable on conviction to a fine of eighty penalty units or to imprisonment for two months or to both such fine and imprisonment and in addition to the payment of the costs occasioned by the damage done or by the removal of the obstruction.

## **23 Other offences**

Whoever:

*Injuring public roads by driving animals*

- (a) leads or drives any horse, mule or pig or other animal from, on or off or into any public road in such manner as to cause injury to the same or suffers any animal to damage the same; or

*Obstructing passage of water from public road*

- (b) obstructs or causes to be obstructed the passage of water from a public road or from any ditch or drain leading therefrom; or

*And allowing water, etc., to flow thereon*

- (c) being the owner or occupier of any land contiguous to a public

road permits any water, filth or other matter or thing to flow from such land into or upon the said public road or suffers any accumulation of dirt or rubbish from or off his land to impede the flow of the water in any ditch or drain on such public road; or

*Hauling or trailing timber, etc.*

- (d) hauls or draws upon any public road any timber, stone or other thing otherwise than upon wheeled vehicles or suffers any timber, stone or other thing which is carried principally or in part upon wheeled vehicles to drag or trail upon such public road to the damage thereof; or

*Obstructing free passage*

- (e) obstructs the free passage on a public road by exposing goods or merchandise of any description thereon,

shall be liable on conviction to a fine of eighty penalty units or to imprisonment for two months or to both such fine and such imprisonment and in addition to the payment of the costs occasioned by the damage done or by the removal of the obstruction.

**24 Closing new public road for certain time after making**

The Director may forbid all persons from riding or driving any kind of beast or vehicle on any public road for such space of time as he shall consider necessary not exceeding one month after such public road has been made or repaired, and any person who wilfully disobeys such order (the same being duly notified by a notice affixed to a board or boards erected upon or near to such public road) shall be liable to a fine of eighty penalty units or to imprisonment for two months or to both such fine and such imprisonment.

**25 Owner to have bridge, etc., over drain leading to his house**

If the owner or occupier of any house or premises adjoining any public road by the side of which a drain has been made or excavated requires the means of access to such house or premises from such public road, he shall be bound to place over such drain a bridge, platform or arch which shall in no case cover less than four feet of

the length of such drain and the Director, if it shall come to his knowledge that any parties have any access to any house or premises so situated without such bridge, platform or arch as aforesaid, may call upon the owner or occupier thereof forthwith to construct the same and, if he fails to do so within a reasonable time, may cause the same to be done and recover the costs incurred from the owner or occupier.

## **26 Further offences**

Whoever:

(a)

### *Turning animals loose on public roads*

- (i) turns or permits to be turned loose any poundable animal upon any public road; or
- (ii) tethers or causes to be tethered any poundable animal in, upon or near a public road so that such animal causes obstruction or inconvenience to the passers-by, unless such animal is so tethered during the time required for loading or unloading it or for the loading or unloading of any cart to which it may belong; or

### *Driving animals without proper assistance*

- (b) leads or drives any horse, mule, ox, sheep, goat or other animal on any public road without proper and sufficient assistance; or

### *Slaughtering animals*

- (c) slaughters on any public road any animal except such as may have met with an accident or which for public safety or other reasonable cause ought to be killed on the spot; or

### *Leaving carts on public roads*

- (d) leaves or permits to be left on any public road any cart or other vehicle unless such cart or other vehicle has accidentally broken down there and, in case of such accident, for a longer time than may be necessary for its removal; or

*Throwing rubbish, etc., on public road*

- (e) places or throws any stones, bricks, timber, sand, lime, dung, straw, rubbish or scourings of any ditch or drain or other object or thing on or in any public road and allows the same to remain there except for such a period as is absolutely necessary for the removal thereof; or

*Encroachment on public road*

- (f) encroaches on any public road by planting thereon any tree or shrub or by making or causing to be made thereon without proper authority any building, platform, hedge, ditch or fence or other obstruction; or

*Leaving block on public road*

- (g) after having blocked or stopped any cart or other vehicle, causes or suffers to be or remain on any public road the stone, timber or other thing with which such cart or other vehicle shall have been blocked or stopped; or

*Preventing others from passing*

- (h) in any manner wilfully prevents any person or any carriage or other conveyance or vehicle from passing along any public road,

shall be liable on conviction to a fine of eighty penalty units or to imprisonment for two months or to both such fine and such imprisonment:

*Road officer not to be liable except in certain cases*

Provided that nothing herein contained shall render any officer in charge of any work on any public road or any road contractor liable to any fine for any act done by such officer in the discharge of the duties of his office or by such contractor in the necessary execution or performance of his contract, but if any such officer or contractor lays or causes to be laid any heap of stones, gravel, rubbish or other matter whatsoever upon any public road and allows the same to remain there at night to the danger or damage of any person, vehicle

or animal passing thereon (all due and reasonable precaution not having been taken by him to prevent any such danger or damage) such officer or contractor shall be liable to a fine of eighty penalty units or to imprisonment for two months or to both such fine and such imprisonment.

**27 Power of Director to recover expenses of extraordinary traffic**

When it appears to the Director that, having regard to the average expense of repairing public roads in the neighbourhood, extraordinary expenses have been incurred in repairing any public road by reason of the damage caused by excessive weight passing along the same or extraordinary traffic thereon, the Director may recover by an action in the Court from any person by or in consequence of whose order such weight or traffic has been conducted the amount of such expense as may be proved to the satisfaction of the Court having cognisance of the same to have been incurred by reason of the damage arising from such weight or traffic as aforesaid.

Provided that any person against whom expenses are or may be recoverable under this section may enter into an agreement with the Director with the approval of the Minister for the payment to the Director of a composition in respect of such weight or traffic and thereupon the persons so paying the same shall not be subject to any proceedings under this section.

**28 Non-liability for condition of roads**

- (1) No action shall lie against the Government or the Director or the servants, officers, or agents of either for any loss or damage which may be caused to any person or property through the conditions of a public road or the failure of a public road to sustain the weight of a vehicle.
- (2) Nothing in this Act shall affect the right of the Director or of any person to recover compensation from the owner or driver of any vehicle for any loss, damage or injury which may be sustained by the Director or such person by the use of a vehicle.

It shall be lawful for the Minister to make rules not inconsistent with any rules made under the provisions of the *Traffic Act*:

- (a) for fixing the size of the tyres of the wheels of any cart, carriage, motor car, motor wagon, taxi-cab or any other conveyance whatsoever used upon any public road for the transport of passengers, goods, wares and materials of any kind whatsoever;
- (b) for regulating the traffic on public roads and the general good rule and government thereof;
- (c) for the general control, use, management, survey, construction and repair of all public roads, bridges and ferries and the prevention of obstruction thereto, with power to impose, levy and collect from any person using any bridge, or ferry such dues, tolls and fees as may be decided upon;
- (d) to prevent and prohibit animals suffering from any infectious or contagious disease straying or being driven or ridden on any public road and for the slaughter and destruction of all animals found so suffering on any public road;
- (e) for lighting public roads;
- (f) for directing the manner in which oxen or horses in teams shall be driven, yoked or harnessed upon a public road;
- (g) to impose penalties for offences against any such rules not exceeding a fine of eighty penalty units or imprisonment for a term not exceeding two months or to both such fine and such imprisonment.



## ENDNOTES

### 1

#### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 129 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act since that date.

### 2

#### LIST OF LEGISLATION

##### ***Roads Act (Cap. 129)***

<i>Constituent legislation:</i>	2 of 1955 (Commenced 18 March 1955)
	13 of 1959
	16 of 1967
	4 of 1968
	LN 46A of 1978

##### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

### 3

#### LIST OF AMENDMENTS

s 18	amd by Act No. 14 of 2009
s 19	amd by Act No. 14 of 2009
s 22	amd by Act No. 14 of 2009
s 23	amd by Act No. 14 of 2009
s 24	amd by Act No. 14 of 2009
s 26	amd by Act No. 14 of 2009
s 29	amd by Act No. 14 of 2009