

ROADS MAINTENANCE ORDINANCE 1922-1938. ⁽¹⁾

An Ordinance to provide for the Maintenance of Roads and Tracks.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920*, as follows:—

1. This Ordinance may be cited as the *Roads Maintenance Ordinance 1922-1938.*⁽¹⁾

Short title.
Amended by
No. 3 of 1934,
s. 50.

2. This Ordinance shall commence on a day to be fixed by the Minister by notice in the *Gazette.*⁽¹⁾

Commencement.

3. In this Ordinance, unless the context otherwise indicates—

Definitions.

“Road” or “Track” means any road or track proclaimed by the Administrator, by notice⁽²⁾ in the *New Guinea Gazette*, to be a road or track.

(1) The *Roads Maintenance Ordinance 1922-1938* comprises the *Roads Maintenance Ordinance 1922*, as amended by the other Ordinances referred to in the following Table:

TABLE.

PART I.—ORDINANCE MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwllth. Gaz.</i>	Date on which took effect.
<i>Roads Maintenance Ordinance 1922</i> (No. 5 of 1922)	22.2.1922	23.2.1922	17.7.1922 (<i>Cwllth. Gaz.</i> of 20.7.1922)

PART II.—ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Roads Maintenance Ordinance 1936</i> (No. 40 of 1936)	5.8.1936	14.11.1936	5.8.1936 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 524)
<i>Roads Maintenance Ordinance 1938</i> (No. 40 of 1938)	24.8.1938	15.12.1938	24.8.1938 (<i>Laws of T.N.G.</i> , Vol. XIV, p. 169)

(2) A Table containing particulars of proclamations made pursuant to Section 3 is printed on p. 4355, and the proclamations are printed immediately after the Table.

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“Maintain” means to do such acts and things as are necessary to make a road or track reasonably passable for the public, having regard to the manner of its construction, and the purpose for which it is used.

“Reasonably passable” means in such condition as the District Officer in whose District the road or track is situate certifies to be “Reasonably passable”.

“Chief” includes a Luluai or Kukurai.

Application.

Paragraph (a) substituted by No. 40 of 1936, s. 2.

4. This Ordinance shall apply to—

- (a) all roads and tracks, declared under this Ordinance to be a road or track and all roads and tracks which were open to the use of the public on the first day of July, One thousand nine hundred and thirty-six; and
- (b) to the owners, lessees, or occupiers of lands adjacent to or abutting on any road or track.

Owners, lessees, and occupiers to maintain roads and tracks.

5. Every owner, lessee, or occupier of land that abuts on or is bounded by a road or track shall maintain the adjacent half-width of such road or track.

Penalty for neglect or failure to maintain road or track.

6.—(1.) Where a District Officer is satisfied that a road or track or any part thereof is not being maintained he may give notice in writing to the owner, lessee, or occupier of the land abutting on or bounding such road or track or part thereof, requiring him—

- (a) forthwith to make the adjacent half-width of the road or track bounding or adjoining the land or any part thereof reasonably passable; and
- (b) to maintain the adjacent half-width of such road or track.

(2.) If the owner, lessee, or occupier—

- (a) within fourteen days after the service of the notice has not effectually made the adjacent half-width of the road or track reasonably passable; or
- (b) at any time after the expiration of the said fourteen days does not maintain the adjacent half-width of the road,

he shall be liable for a first offence to a penalty of not more than Five pounds or not more than one month's imprisonment, and for a second or any subsequent offence to a penalty of not more than Ten pounds or not more than two months' imprisonment.

Native occupiers.

7. Where roads or tracks run through or are bounded by land in the occupation of natives, the obligation to maintain such roads

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or tracks shall be on all the native inhabitants, or on the community of the district or part of the district through which the road or track passes.

8. Where any native owners, lessees, or occupiers, who are subject to the control of a chief, fail to comply with the provisions of this Ordinance, the notice hereinbefore referred to may be served on the chief, and such chief shall, for the purposes of this Ordinance, be deemed the owner or occupier of the lands referred to in such notice.

Native occupiers subject to chief.

9.—(1.) If the owner, lessee, or occupier for the space of fourteen days refuses or neglects to make reasonably passable or to maintain any half-width of a road referred to in any such notice served on him it shall be lawful for any person authorized in that behalf by any District Officer to take measures to make the road or track referred to in the notice reasonably passable.

Power to have maintenance of road or track effected at cost of owner, lessee, or occupier.

(2.) The District Officer shall be entitled to recover from such owner, lessee, or occupier the cost of such work by action in any Court of competent jurisdiction.

Recovery of cost of work.

10. The half-width of any road or track or portion thereof which is bounded by waste lands, or lands of which there are no owners, lessees, or occupiers shall be maintained by the Administration.

Roads abutting on waste lands.

11.—(1.) The Administration may maintain bridges, culverts, tunnels, retaining walls, and all structures appurtenant to a road or track out of funds specially appropriated for the purpose.

Maintenance of bridges, culverts, etc.

(2.) Where the Director of Public Works is satisfied that materials necessary for the reasonable maintenance of any road or track or half-width of a road or track are unobtainable in or on the land owned, leased, or occupied by the person responsible under this Ordinance for the maintenance of any road or track or half-width of a road or track running through or bounded by such land and that such materials should be supplied by the Administration, he may authorize the supply of such materials out of funds specially appropriated for the purpose.

Section 11 substituted by No. 40 of 1936, s. 3.

12.—(1.) If the Administrator is satisfied that any road or track or portion of any road or track is no longer required by the public he may, by proclamation⁽³⁾ published in the *New Guinea Gazette*, declare such road or track or portion to be an unused road or track.

Proclamation of road or track as an "unused road or track".

(3) Pursuant to Section 12, the Administrator, by Proclamation dated 7.4.1932, published in *N.G. Gaz.* of 15.4.1932, and printed on p. 4362, declared portion of the road passing through Kurakakaul Plantation to be an unused road.

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Liability for maintenance to cease on publication of proclamation.

(2.) From the date of such publication the adjoining owners, lessees, or occupiers shall be relieved of any liability under this Ordinance to maintain such road or track.

Power to place barriers on road &c. during repair &c.

Section 12A inserted by No. 40 of 1938, s. 2.

12A.—(1.) The Administrator may, during such time as any road, track, street, thoroughfare, or public place is under repair or alteration, and during the making and repairing of any bridge or drainage work thereon, prevent the passing of vehicles and animals by causing such fences or barriers to be placed on or across the road, track, street, thoroughfare, or public place as the Administrator or an officer thereto authorized by the Administrator thinks fit.

(2.) Where any such fence or barrier is placed on or across a road, track, street, thoroughfare, or public place, the Administrator shall cause to be fixed and kept alight on the fence or barrier between sunset and sunrise such lights as are sufficient to give due warning to any person passing along the road, track, street, thoroughfare, or public place.

(3.) Any person who, without the authority of the Administrator or such officer, damages, injures, removes, or interferes with any such fence or barrier, or any light fixed thereon, shall be guilty of an offence.

Penalty: Twenty pounds.

Regulations.
Sub-section (1) amended by No. 40 of 1938, s. 3.

13.—(1.) The Administrator in Council may make regulations⁽⁴⁾ not inconsistent with this Ordinance prescribing—

- (a) the form of notices to be served and the time and manner in which notices may be served;
- (b) the making and confirmation of mutual agreements between owners, lessees, or occupiers to maintain roads or tracks;
- (c) the imposition and recovery of penalties not exceeding Five pounds for the breach of any regulation; and
- (d) all matters required or permitted to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

Sub-sections (2) and (3) repealed by No. 40 of 1938, s. 3.

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(4) See the *Roads Maintenance Regulations*, printed on p. 4353. See also the *Roads Regulations* (made under the *Administrator's Powers Ordinance 1923-1938*), printed on p. 4363.