

THE PUBLIC ROADS ACT, 2002

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II

THE ROADS DEVELOPMENT AGENCY

3. Establishment of Agency
4. Functions of Agency
5. Powers of Agency
6. Composition of Agency
7. Director
8. Secretary and other staff

PART III

ROADS AND ROAD RESERVES

9. Classification and vesting of public roads
10. Inter-territorial main roads and territorial main roads
11. District roads
12. Branch roads
13. Urban roads
14. Rural roads
15. Estate roads
16. Park roads
17. Exemption of roads from certain provisions of this Act
18. Public roads dedicated to public use
19. Service of notice in reserves
20. Appointment of road authorities
21. Width of roads
22. Control points of access, structures, etc.
23. Designation of branch roads
24. Report and recommendations to be submitted to Agency
25. Branch roads may be designated district roads
26. Consideration and determination of application
27. Reclassification, closure or diversion of road
28. Notice to be given

29. Disposal of storm water
30. Storm water from land adjoining
31. Control of roads and traffic
32. Powers of road authority to control traffic
33. Traffic signs
34. Temporary traffic signs
35. Control of advertisements
36. Removal or alteration of advertisements
37. Exceptions
38. Experimental schemes of traffic control

PART IV

CARE, MAINTENANCE AND CONSTRUCTION OF ROADS

39. Care, maintenance and construction of roads
40. Immunity from liability of road authorities and their staff
41. Power of road authority to enter upon land
42. Power to construct and maintain deviations
43. Power to reserve land for proposed roads
44. Reservation of road reserve
45. Withdrawal or modification of reservation
46. Unauthorised acts on reserved land
47. Compensation
48. Power to take materials for road works
49. Road authorities' employees may park vehicles, erect huts, etc.,
on private land
50. Contractors may exercise rights granted to road authority
51. Power to undertake ancillary works
52. Provision of footpaths, cycle tracks, etc.
53. Ferries and pontoons
54. Power to make rules controlling the construction of cattle grids
55. Prevention of damage, etc.
56. Regulation of undertakers' works
57. Execution of undertakers' works
58. Undertakers to provide warning and safety precautions
59. Works at railway crossing
60. Removal of apparatus
61. Powers enjoyed by electricity undertakings
62. Limitation of time in which works may be executed

PART V
AXLE WEIGHT CONTROL

63. Minister to prescribe maximum laden and axle weight
64. Prohibition of overloading
65. Impounding of vehicles
66. Prohibition of driving away impounded vehicle
67. Weighing of certain vehicles
68. Certificate of weight

PART VI
MISCELLANEOUS

69. Power of local authority to collect parking fees
70. References to Director of roads
71. Liability of owner and driver for damage
72. Liability of Agency for failure to sustain vehicle
73. Delegated authority
74. Closing of roads
75. Construction of bridge over open water or sewer
76. Excavation in roads
77. General penalty
78. Regulations
79. Amendment of Cap. 464 and transitional provisions

FIRST SCHEDULE
PART I

ADMINISTRATION

1. Seal of Agency
2. Tenure of office of member
3. Filling of casual vacancy
4. Proceedings of Agency
5. Committees of Agency
6. Allowances of members
7. Disclosure of interest
8. Prohibition of publication of or disclosure of information to unauthorised persons

PART II
FINANCIAL PROVISIONS

9. Funds of Agency
10. Financial year
11. Accounts
12. Annual report

SECOND SCHEDULE
Transitional provisions in relation to the Roads Department

THIRD SCHEDULE
Inter-territorial main roads

GOVERNMENT OF ZAMBIA

ACT

No. 12 of 2002

Date of Assent: 31st December, 2002

An Act to establish the Road Development Agency and to define its functions; to provide for the care, maintenance and construction of public roads in Zambia; to regulate maximum weights permissible for transmission on roads; and to provide for matters connected with and incidental to the foregoing.

[31st December, 2002

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Public Roads Act, 2002 and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title
and
commencement

2. In this Act, unless the context otherwise requires—

Interpretation

“advertisement” includes any structure or apparatus erected, or intended, for the display of advertisements, but shall not include a traffic sign prescribed or authorised under the provisions of section *thirty-three*;

“Agency” means the Road Development Agency established by section *three*;

“animal” means a horse, cattle, ass, mule, sheep, pig, goat or dog;

“appointed date” means the date appointed under section *one*;

“Authority” means the Zambia Wildlife Authority established by section *four* of the Zambia Wildlife Act;

Act No. 12 of
1998

“ auto cycle ” means a bicycle which has pedals and a motor attached and can be propelled by means of pedals and by mechanical or electrical power from the motor;

“ axle ” in relation to a vehicle, means a device or set of devices, whether continuous across the width of the vehicle or not, about which the wheels of the vehicle rotate and which is so placed that, when the vehicle is travelling straight ahead, the vertical centrelines of the wheels would be in one vertical plane at right angles to the longitudinal centre-line of the vehicle;

“ axle load ” means weight transmitted on the road by an axle bearing two tyres or more;

“ axle weight ” means, in relation to an axle of a vehicle the aggregate weight transmitted to the surface of the road or other base where on the vehicle moves or rests by the several wheels attached to that axle;

“ bicycle ” shall include a tricycle;

“ carriageway ” means that part of a road designed and constructed to be used for vehicular traffic or used or reasonably usable for the time being for that purpose, but shall not include a cycle track or a shoulder;

“ Chairperson ” means the person appointed as chairperson of the Agency under section *five*;

“ Committee ” means a committee of the Agency established under paragraph 5 of the First Schedule;

“ cycle track ” means a portion of a road exclusive of a carriage way set aside for use solely by persons riding bicycles;

“ centre-line of an axle unit ” means a line mid-way between the centre-lines of the extreme axles of an axle unit;

“ Council Secretary ” means the person appointed as council Secretary of a district council under the Local Government Act;

Cap. 281

“ Director ” means the person appointed as Director under section *seven*;

“ Environmental Officer ” means an Environmental Officer or any other person, declared by the Minister, by *Gazette* notice, to be an Environmental Officer under the Environmental Protection and Pollution Control Act;

Cap. 204

“ footpath ” means a portion of a road exclusive of the carriageway set aside for use solely by pedestrians;

“ Fund ” means the Road Fund established under the National Road Fund Act;

Act No. 13
of 2002

“gate” means a gate of sufficient width to allow the reasonable free use of the road, having regard to the traffic on the road, and of not less than five metres, having a balance or catch or other free fastener so fixed as to enable the gate to move clear of the road free from drag;

“gridiron track” means a track constructed through an opening in a fence intersecting a road, with the object of allowing the passage of vehicles and preventing the passage of livestock;

“inter-section” means the crossing of two or more roads;

“laden weight” means the net weight of a motor vehicle or trailer, together with the actual weight of goods or passengers or both carried by the vehicle or trailer;

“local authority” means a city council, municipal council or district council established under the Local Government Act;

Cap. 281

“local authority area” means the area over which a local authority exercises jurisdiction;

“National Park” shall have the meaning assigned to it in section two of the Zambia Wildlife Act;

Act No. 12 of 1998

“park” means to keep a vehicle, whether occupied or not, stationary for a period of time greater than is reasonably necessary for the actual loading or unloading of persons or goods, except if the vehicle is stationary for a reason beyond the control of the person in charge of the vehicle, and “parking” shall have a corresponding meaning;

“public place” includes any public way or place, other than a building, to which for the time being the public are entitled or permitted to have access either with or without condition;

“public road” means any road of a class described in section nine;

“road authority” means the authority responsible for the construction, care and maintenance of any road or class of road in accordance with the provisions of this Act;

“road” means any highway, and any other road to which the public have access and any public place to which vehicles have access and any road in any residential area, whether access to it is restricted or not, which is part of a local authority area and includes any bridge, causeway, dam, ditch, drain, embarkment, fence, ferry pontoon, ford, culvert or other work in the line of the road;

“Road Fund Agency” means the Road Fund Agency established under the National Road Fund Act;

Act No. 13 of 2002

“road reserve” means any part of the road other than the carriageway, footpath or cycle track;

Act No. 11 of
2002

“Road Transport and Safety Agency” means the Road Transport and Safety Agency established under the Road Traffic Act;

“structure” includes—

(a) any building, pole, power line, petrol pump, machinery, wall, plantation or hedge and any other object which could in like manner cause an obstruction; and

(b) any external alteration or addition to a structure;

“traffic sign” means any object or device, whether fixed or portable, for conveying warning, information, requirements, restrictions, or prohibitions of any description prescribed or authorised under this Act to traffic on any road and includes any line or mark on a road for conveying the warnings, information, requirements, restrictions or prohibitions;

“traffic signal” means a road sign which by means of automatic signals alternately directs traffic to stop and permits it to proceed;

“undertaker” means the authority, body or person by whom a statutory power to execute undertakers’ works is exercisable in the capacity in which that power is vested in them;

“undertakers’ works” means works, including works executed or to be executed on behalf of the Government, for any purposes, other than road purposes, being works of any of the following kinds:

(a) placing apparatus, inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, or changing the position of apparatus or removing it;

(b) breaking up or opening a road for the purposes of work mentioned in paragraph (a) and tunnelling or boring under a road for those purposes, breaking up or opening a sewer, drain or tunnel for those purposes, and other works requisite for or incidental to those purposes, and shall include laying any pipeline, wire or cable on or over any road;

“weighing device” means a weighbridge or any other apparatus, whether installed in a fixed position or mobile, which is intended for use for determining the weight of vehicles, laden or unladen;

“weigh station” means an establishment at which vehicles are weighed by a weighing device to determine the weight of vehicles laden or unladen; and

“works” includes any pipe, tube, tunnel, permanent evacuation, quarry, irrigation works, borehole or well, and any addition or alteration to the works.

PART II

THE ROAD DEVELOPMENT AGENCY

3. (1) There is hereby established the Road Development Agency which shall be a body corporate with perpetual succession and a common seal; capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

Establishment
of Agency

(2) The provisions of the First Schedule shall apply to the Agency.

4. (1) The functions of the Agency shall be to plan, manage and coordinate the road network in the country.

Functions of
Agency

(2) Without prejudice to the generality of subsection (1) the Agency shall—

- (a) carry out routine and emergency maintenance of public roads through its employees or independent contractors;
- (b) conduct such studies as it may consider necessary for the development, maintenance and improvement of the road network in Zambia;
- (c) advise road authorities regarding the construction, rehabilitation and maintenance of roads under their jurisdiction;
- (d) provide guidance and technical assistance to road authorities;
- (e) receive and consider reports from road authorities on their activities and prepare quarterly and consolidated annual reports;
- (f) recommend to the Minister the appointment of any person or institution as a road authority;
- (g) prepare and review terms of reference and guidelines for road authorities including budget guidelines;
- (h) review from time to time the status of road authorities and recommend appropriate action to the Minister;
- (i) make recommendations in relation to the siting of buildings on road-sides;
- (j) in consultation with the Road Fund Agency, recommend to the Minister funding for development of new roads;
- (k) in consultation with the owners of property served by an estate road and the Road Fund Agency, determine the proportion of the cost of constructing and maintaining an estate road to be borne by such owners;
- (l) prepare and award contracts and certify works for public roads;
- (m) review design standards and classification of roads and traffic signs;

- (n) plan and co-ordinate the road network in the country;
- (o) enforce axle load control; and
- (p) carry out any other activities relating to roads which are necessary or conducive to the performance of its functions under this Act.

(3) Notwithstanding subsection (1), the Agency may, by direction in writing and subject to such conditions as it thinks fit, delegate to any member, Committee or the Director any of its functions under this Act.

(4) The minister may give to the Agency such general or specific directions with respect to the carrying out of the functions of the Agency under this Act as the Minister may consider necessary and the Agency shall give effect to such directions.

Powers of Agency

5. For the purpose of performing its functions the Agency shall have power to—

- (a) classify, reclassify, close or divert any road;
- (b) control traffic in the country during maintenance and construction of roads;
- (c) after consultation with the Road Transport and Safety Agency, place temporary and permanent traffic signs;
- (d) park vehicles, erect huts on private land during construction and maintenance of public roads;
- (e) provide footpaths, cycle tracks and similar passageways;
- (f) undertake ancillary work;
- (g) construct, maintain and control storm-water drains;
- (h) remove and alter road advertisements;
- (i) enter upon land to carry out investigations connected with siting, diverting, maintenance and construction of roads;
- (j) recommend the reservation of land for proposed roads;
- (k) regulate undertakers' work across, on and within road reserves; and
- (l) prevent damage to roads.

Composition of Agency

6. (1) The Agency shall consist of part time members appointed by the Minister as follows:

- (a) a representative of the National Council for Construction;
- (b) a representative of the Zambia National Farmers Union;
- (c) a representative of the National Science and Technology Council;
- (d) a representative of the Engineering Institute of Zambia;
- (e) a representative of the Chartered Institute of Transport;
- (f) a representative of—

- (i) the ministry responsible for works and supply;
- (ii) the ministry responsible for communications and transport;
- (iii) the ministry responsible for local government and housing;
- (iv) the ministry responsible for finance;
- (v) the ministry responsible for tourism;
- (vi) the ministry responsible for agriculture; and
- (vii) the Attorney-General;
- (g) the Director of the Road Transport and Safety Agency;
- (h) the Director of the National Road Fund Agency; and
- (i) one other person.

(2) The Director of the Road Traffic and Safety Agency and the Director of the Road Fund Agency referred to in paragraphs (g) and (h) of subsection (1) shall be *ex-officio* members of the Agency and shall have no vote.

(3) The Chairperson shall be appointed by the Minister.

(4) The Vice-Chairperson shall be elected by the members of the Agency from among their number.

(5) The Agency shall report to the Committee of Ministers on Road Maintenance Initiative at such times and at such places as the Minister may determine.

(6) The Committee of Ministers referred to in subsection (5) shall comprise the Minister responsible for communications and transport who shall be the Chairperson, the Minister responsible for works and supply who shall be the Vice-Chairperson, and the Ministers responsible for finance and national planning, local government and housing, energy and water development, agriculture and co-operatives, tourism, environment and natural resources and legal affairs.

(7) A person shall not be appointed as a member of the Agency if the person—

- (a) is an undischarged bankrupt;
- (b) has been convicted of an offence under this Act;
- (c) has been convicted of an offence involving fraud or dishonesty; or
- (d) has been convicted of an offence against any other written law and sentenced to a term of imprisonment of not less than six months without the option of fine.

(8) For the purposes of this section “Committee of Ministers on Road Maintenance Initiative” means a Committee responsible for the institution of sustainable road maintenance.

- Director
7. (1) The Agency shall, with the approval of the Minister, appoint a Director who shall be the chief executive officer of the Agency and, subject to the control of the Agency, be responsible for the day to day administration of the Agency.
- (2) The Agency shall, with the approval of the Minister, determine the terms and conditions of service of the Director.
- (3) The Director shall attend meetings of the Agency and may attend meetings of any committee of the Agency and may address the meetings, but shall have no vote.
- Secretary and other staff
8. (1) The Director shall be the Secretary to the Agency.
- (2) The Agency may appoint such other staff of the Agency as it considers necessary for the performance of its functions under this Act.
- (3) The Agency shall with the approval of the Minister, determine the terms and conditions of service of the staff of the Agency.

PART III

ROADS AND ROAD RESERVES

- Classification and vesting of public roads
9. (1) The public roads of Zambia shall be classified as follows;
- (a) primary roads being—
- (i) the inter-territorial main roads specified in the Third Schedule; and
- (ii) the territorial main roads, as defined in section *ten*;
- (b) secondary roads, as defined in section *eleven*;
- (c) tertiary roads being—
- (i) branch roads, as defined in section *twelve*;
- (ii) urban roads, as defined in section *thirteen*;
- (iii) rural roads, as defined in section *fourteen*;
- (iv) estate roads, as defined in section *fifteen*;
- (v) park roads, as defined in section *sixteen*; and
- (vi) any other category of roads that the Minister may, on the recommendation of the Agency, by statutory instrument, prescribe.
- (2) The Minister may, on the recommendation of the Agency, by statutory order, designate any road to be a public road in accordance with the provisions and classifications of this Act.
- (3) Upon designation as a public road, the road shall vest in the President as public land.
- (4) All public roads shall be subject to such restrictions of use as the Minister may, on the recommendation of the Agency, prescribe.

10. (1) Inter-territorial main roads shall be the public roads so designated by the Minister, on the recommendation of the Agency, by statutory order and connecting Zambia to neighbouring countries.

Inter-territorial main roads and territorial main roads

(2) Territorial main roads shall be the public roads, other than inter-territorial main roads so designated by the Minister on the recommendation of the Agency, by statutory order.

(3) The Director shall be the road authority responsible for the construction, care and maintenance of inter-territorial main roads and territorial main roads in any area including in a local authority area.

(4) All expenses incurred in the construction, care and maintenance of the inter-territorial main roads and territorial main roads referred to in subsection (3) shall be paid for from the Fund.

11. (1) District roads shall be the public roads so designated as district roads by the Minister, on the recommendation of the Agency, by statutory order.

District roads

(2) The Minister may, on the recommendation of the Agency, appoint, by statutory order, a road authority in respect of all or any district roads in any area including a local authority area.

(3) The road authority appointed under subsection (2) shall, subject to the direction of the Agency, be responsible for the construction, care and maintenance of district roads.

(4) All expenses incurred by the road authority in the construction, care and maintenance of district roads shall be paid for from the Fund.

12. (1) The Minister may, on the recommendation of the Agency, designate branch roads after application under section *twenty-three*.

Branch roads

(2) The Minister may designate branch roads on the Agency's motion that the roads be designated as branch roads.

(3) The Minister may, on the recommendation of the Agency, appoint a road authority in respect of all or any branch roads in any area including a local authority area.

(4) The road authority appointed under subsection (2) shall, subject to the direction of the Agency, be responsible for the construction, care and maintenance of the branch roads.

(5) The cost of the construction, care and maintenance of branch roads shall be paid for from the Fund.

13. (1) Urban roads shall be the public roads within a local authority area which may be designated urban roads by the Minister on the recommendation of the Agency, by statutory order.

Urban Roads

(2) The road authority in respect of any urban road shall be the local authority administering the area in which the road is situated and

the local authority shall, subject to the direction of the Agency, be responsible for the construction, care and maintenance of the urban roads within its own area:

Provided that the Agency may, with the approval of the Minister, appoint any other person or institution to be responsible for the construction, care and maintenance of the urban roads within any such area.

(3) The cost of construction, care and maintenance of urban roads shall be paid for from the Fund.

Rural roads

14. (1) Rural roads shall be the public roads within a local authority area which may be designated as rural roads by the Minister on the recommendation of the Agency, by statutory order, on the application of the Permanent Secretary of the province in which they are situated.

(2) The road authority in respect of any rural road shall be the district council administering the area in which the road is situated and the district council shall, subject to the direction of the Agency, be responsible for the construction, care and maintenance of rural roads within its own area:

Provided that the Agency may, with the approval of the Minister, appoint any other person or institution to be responsible for the construction, care and maintenance of the rural roads within any such area.

(3) The cost of construction, care and maintenance of rural roads shall be paid for from the Fund.

Estate roads

15. (1) Estate roads shall be the public roads within a local authority area provided for purposes of internal access in any area being developed whether by Government or otherwise, for residential plots or farms.

(2) The estate roads referred to in subsection (1) shall be designated as estate roads by the Minister, on the recommendation of the Agency.

(3) The Minister may, on the recommendation of the Agency, make rules for the designation, provision, construction, care and maintenance of estate roads in any area being developed for residential plots or farms in terms of subsection (1), other than an area which is subject to development scheme approved under the Town and Country Planning Act.

Cap. 283

(4) The road authority in respect of any estate road shall be any person or institution appointed by the Agency, with the approval of the Minister, in respect of that estate road and the road authority concerned shall, subject to the direction of the Agency, be responsible for the construction, care and maintenance of the estate road.

(5) The cost of the construction, care and maintenance of estate roads shall be paid for from the Fund.

16. (1) ~~Park roads shall be the public roads outside a local authority area provided for purposes of internal access into a National Park.~~ Park roads

(2) Park roads may be designated as park roads, by the Minister, on the recommendation of the Agency, by statutory order, on the application of the Authority.

(3) The road authority in respect of any park road shall be the road authority appointed by the Agency, with the approval of the Minister, in respect of that park road and the road authority concerned shall, subject to the direction of the Agency, be responsible for the construction, care and maintenance of the park roads within its own area.

(4) The cost of construction, care and maintenance of park roads shall be paid for from the Fund.

17. The Minister may, on the recommendation of the Agency, declare, by statutory order, that the provisions of sections *thirty-five, thirty-six, thirty-seven, forty-eight, fifty-one, fifty-six, to sixty-two* shall not apply to branch roads, rural roads or estate roads in any area or areas which may be designated in the order. Exemption of roads from certain provisions of this Act

18. (1) All public roads shall, upon designation as such in accordance with the provision of this Act, be deemed to be dedicated to public use, subject to such restriction of use as may be prescribed. Public roads dedicated to public use

(2) The road authority concerned shall at all times have the right to enter and, subject to the provisions of this Act and to the direction of the Agency, to carry out any works and exercise any powers in relation to any public road and proposed public road.

(3) After the commencement of this Act, no work in relation to the construction of a public road or a proposed public road shall be carried out on any land without prior notice in writing to the owner or occupier of the land concerned, or in any case where the owner or occupier cannot be traced within a reasonable time, without prior notice sent by registered post to the last known address within Zambia of the owner or occupier.

(4) In the case of any public road or proposed public road which is constructed after the commencement of this Act, compensation may be paid to the owner or occupier of any land referred to in subsection (3) other than a squatter, trespasser or any other person who has no title to the land over which the road is constructed.

(5) Any claim for compensation referred to in subsection (4) shall be submitted in writing and shall set out the nature of the interest of

the claim of compensation and give details of any expense or loss which may reasonably be incurred directly as a result of the taking or dedication to public use of the land.

Act No. 19 of
2000

(6) In the event of failure to agree upon the amount of compensation the matter shall be decided by arbitration in accordance with the Arbitration Act.

(7) In the case of any arbitration referred to in subsection (6) the arbitrator, in making an award shall, unless the Agency shall otherwise direct—

(a) assess compensation in respect of improvements existing before the date of the notice given in terms of subsection (3) and damaged or destroyed or lost to the use of the owner or occupier by virtue of the construction and designation of the road;

(b) assess compensation for land taken on the basis of its market value at the date of the notice given in terms of subsection (3) having regard to the nature of the land taken and the period for which it will be lost to the owner or occupier;

Provided that—

(i) where only part of the holding is taken, compensation for the part shall be calculated on the basis of its value as an integral part of the whole;

(ii) no enhancement in the market value of the land due to the proposed construction or extension of the road shall be taken into account.

(c) not take into account the special suitability or the adaptability of the land for road purposes;

(d) not take into account any loss incurred or suffered as a result of a reduction in the traffic over a public road due to realignment, closure or change in status of the road; and

(e) take into consideration any compensation already agreed or otherwise determined in accordance with the provisions of section *forty-seven*.

Service of
notice in
reserves, etc.

19. Whenever under any of the provision of this Act any notice is required to be served upon the owner or occupier of land, in respect of reserves, the requirement shall be deemed to have been satisfied by the service of the notice upon the Council Secretary in whose District the land concerned is situated.

20. (1) The Minister may, on the recommendation of the Agency, by statutory order, appoint any person or institution as a road authority in respect of any public road.

Appointment
of road
authorities

(2) The road authority appointed under subsection (1) shall be responsible for the construction, care and maintenance of the roads specified in the statutory order.

(3) All expenses incurred in the construction, care and maintenance of roads, for which the road authority appointed under subsection (1) is responsible, shall be paid for from the Fund.

21. (1) The Agency may, declare by *Gazette* notice, the width of any road or class of roads.

Width of
roads

(2) Except as otherwise provided the width referred to in subsection (1) shall be—

- (a) for a trunk road, one hundred metres;
- (b) for a main road, sixty metres;
- (c) for a district road, thirty-six metres;
- (d) for a branch road, thirty-six metres;
- (e) for an urban road, thirty-six metres;
- (f) for a park road, eighteen metres; or
- (g) for any other class of road, eighteen metres.

(3) The width prescribed in subsection (2) shall not apply to any main, district, branch, urban or other road within any local authority area.

(4) The centre-line of a road shall lie down the centre line of a carriageway, unless the Minister, on the recommendation of the Agency, shall otherwise prescribe by statutory notice.

22. (1) The Minister may, on the recommendation of the Agency, make rules to control the number, location and design of points of access of public or private roads to all main and district roads.

Control
points of
access,
structures, etc

(2) The road authority shall have power to request the owners of buildings and property to provide service roads to give access to buildings or property and to prohibit erection of any buildings with a direct frontage on main or district road:

Provided that nothing in this section shall apply to roads within a local authority area.

(3) The Minister may, on the recommendation of the Agency, make rules providing for the removal, or controlling, the erection or modification, of any structure, or controlling the carrying out of any

works, on or under land within ninety-one metres of the centre-line of any trunk, main or district road outside a local authority area, and any such rules may provide for the payment of compensation in respect of any such matter and the manner in which the compensation shall be assessed.

Designation
of branch
roads

23. (1) Occupiers of land adjoining any road may apply to the Agency through a road authority to have the road designated a branch road.

(2) An application for the designation of a road under subsection (1) shall be made in writing and shall state—

(a) the point on the main or district road from which the branch road is required;

(b) the farms or land through or over which it is proposed that the road shall be designated and the names of the owners or occupiers of those farms and land; and

(c) the terminal point to which it is proposed that the road should be designated.

(3) The applicants shall give notice that the application has been or will be made, in one newspaper published or circulating in the district through which it is proposed to make the road.

(4) The notice referred to in subsection (3) shall call upon any person objecting to the application to lodge objections to the application in writing at the office of the road authority within three months after the date of the publication of the notice.

Report and
recommendations
to be submitted
to Agency

24. (1) The road authority, on receiving any application under subsection (1) of section *twenty-three*, may require the applicants to deposit such sum of money as may appear to be necessary for the purpose of defraying the expense of causing the proposed route to be inspected by a competent person.

(2) A person who conducts an inspection of the proposed route under subsection (1) shall submit a report on the proposed route to the road authority.

(3) After considering any application and any objection to the application made under section *twenty-three* and after making such inquiries as it may consider fit, the road authority shall make a report and recommendations on the matter to the Agency.

(4) If upon considering any report and recommendations made under subsection (3) the Agency approves the application, the Agency shall make a recommendation thereon to the Minister.

(5) The Minister shall, on the recommendation of the Agency made under subsection (4), by statutory order, designate the road to be a branch road and may determine whether the whole or any part of the

expense incurred in obtaining a report on, and causing, the road to be designated shall be paid and borne by the parties for whose use or at whose instance the road is designated.

25. (1) The occupiers of any land which abuts upon a branch road may apply in writing to the Agency through the road authority concerned to have the branch road designated a district road.

Branch roads
may be
designated
district roads

(2) The applicants shall give notice that the application has been or will be made, in one newspaper published or circulating in the district through which the road runs.

(3) The notice referred to in subsection (2) shall call upon any person objecting to the application to lodge objections to the application in writing at the office of the road authority concerned, within three months after the date of the publication of the notice.

26. (1) The road authority on receiving any application under section *twenty-five* may require the applicants to deposit such sum of money as may appear to be necessary for the purpose of defraying the expense of causing the proposed road to be inspected by a competent person.

Consideration
and
determination
of application

(2) A person who conducts an inspection of the proposed route under subsection (1) shall submit a report on the proposed road to the road authority.

(3) After considering any application and any objection to the application made under section *twenty-five* and after making such inquiries as it may consider necessary, the road authority shall make a report and recommendations on the matter to the Agency.

(4) If upon consideration of any report and recommendations made under subsection (3) the Agency approves the application, the Agency shall make a recommendation thereon to the Minister.

(5) The Minister shall, on the recommendation of the Agency referred to in subsection (4), by statutory order, designate the road a district road and may determine whether the whole or any part of the expenses incurred in obtaining the report on, or in causing, the road to be designated should be borne by the parties for whose use or at whose instance the road was so designated.

27. The Agency may, with the approval of the Minister, by *Gazette* notice and advertisement in one newspaper published or commonly circulating in the district concerned, declare that any road or part of the road designated or classified as an inter-territorial main road or a territorial main road, district road, branch road or a rural road shall, as from the date to be stated in the notice, cease to be so designated or shall be reclassified or shall be diverted:

Reclassification,
closure or
diversion of
road

Provided that in the case of any road or portion of the road situated in a local authority area, the powers conferred upon the Agency by this section in respect of diversions shall be exercised by the local

authority, subject to the provisions of any law in force in the local authority area and subject to the right of appeal by any persons to the Agency.

Notice to be given

28. (1) Before any *Gazette* notice under section *twenty-seven* is published relating to the closing, reclassification or diversion of any road, the Agency or road authority shall cause a notice of the intention to close, reclassify or divert the road to be—

- (a) posted for general information at some conspicuous place outside the office of the Council Secretary of the District within which the road is situated and if the Council Secretary considers it necessary at such other offices or places as the Council Secretary shall direct;
- (b) advertised in the *Gazette* and in one newspaper published or commonly circulated in the District.

(2) The notice referred in subsection (1) shall clearly describe the road sought to be affected and the situation of the road and shall call upon any person objecting to lodge at the office of the road authority concerned or the Agency within one month after the date of the publication of the notice in the *Gazette* the objections in writing.

(3) The Agency shall consider any objection made under this section.

(4) Where the notice referred to in subsection (1) is issued by a road authority, the road authority shall consider any objection and shall make a recommendation to the Agency.

Disposal of storm water

29. (1) A road authority in consultation with the owners or occupiers concerned may construct in or any road for which it is responsible, culverts, ditches or other works for the diversion of storm water from or under any road ~~into~~ adjoining land.

(2) The road authority shall ~~pay~~ the owner or occupier of the land concerned for any loss or damage caused by water ~~diverted~~ under subsection (1).

(3) The amount of compensation payable for any loss or damage caused under subsection (1) may be agreed at the time of the construction of the culvert, ditch or other work, and in default of agreement the amount shall be determined by arbitration in accordance with the Arbitration Act

Act No. 19 of 2000

(4) In assessing the amount of any loss or damage for the purposes of this section, regard shall be given to any increased benefit of the road to the owner or occupier of the land concerned and to any diminution in the value of the land occasioned by the diversion of storm water.

30. (1) If any owner or occupier of land adjoining any public road has constructed drains or contour ridges for the purposes of improving or protecting the property, the owner or occupier shall not cause or permit storm water to discharge from the drains or contour ridges on to the road or into any existing road drain on the road without the permission of the road authority concerned.

Storm water
from land
adjoining

(2) Where an application for permission in terms of subsection (1) is made, the road authority concerned may grant permission if the applicant agrees to pay the expenses of any enlargement or alteration of the road drains which is considered necessary by the road authority.

(3) If permission is refused or any dispute as to the necessity for the enlargement or alteration of drains arises, the matter shall be referred for decision to the Director who, prior to making a decision, shall consult the Environmental Council.

(4) Any person who fails to comply with the provisions of this section commits an offence.

(5) For purposes of subsection (3) "Environmental Council" means the Environmental Council established under the Environmental Protection and Pollution Act.

Cap. 204

31. (1) The Agency may, by *Gazette* notice—

Control of
roads and
traffic

- (a) prohibit any specified description of traffic from using any public road or portion of it;
- (b) restrict the volume or speed of any specified description of traffic on any public road or portion of it;
- (c) prohibit any specified description of traffic from travelling on any public road or portion of it otherwise than in a specified direction;
- (d) prohibit or restrict the waiting of any description of traffic or the loading or unloading of vehicles on any public road or portion of it;
- (e) prohibit the use of any public road or portion of it by through traffic;
- (f) prohibit or restrict the overtaking of traffic by vehicles or any class of vehicles on any public road or portion of it;
- (g) restrict the use of any public road or portion of it to traffic of a specified description or to vehicles being used for a specified purpose or by or under the directions of any specified person; or
- (h) prohibit the use of any public road by animals or by vehicular traffic of a kind which is unsuitable having regard to the existing character of the road or adjoining property.

(2) Before the publication of any notice under subsection (1) the Agency shall cause a notice of its intention to make the prohibition or restriction to—

(a) be posted for general information at some conspicuous place outside the office of the Council Secretary of the District within which the notice is intended to operate, and, if the Council Secretary considers it necessary, at such other offices or places as the Council Secretary shall indicate; and

(b) be published once in the *Gazette* and in a newspaper circulating within the District.

(3) The notice under subsection (1) shall clearly describe the road or portion of the road to be affected and shall contain full particulars of the proposed prohibition or restriction and shall call upon any person objecting to the prohibition or restriction to lodge at the office of the Director within one month after the date of the publication of the notice in the *Gazette* objection to the prohibition in writing:

Provided that whenever the Director considers it expedient in the circumstances of any particular case, the Director may issue a notice under subsection (1) without the preliminary notice otherwise required under that subsection.

(4) The Agency may revoke, vary or amend any notice published under subsection (1).

(5) Any person who fails to comply with the terms of any notice issued under subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding one thousand five hundred penalty units.

Powers of road
authority to
control traffic

32. (1) Subject to the provisions of this section, if a road authority is satisfied that traffic on any road for the maintenance of which it is responsible should, by reason of works of repair or construction being required or being in progress on or near the road, be diverted wholly or in part on to any other existing road or roads, it may by order prohibit or restrict the use of that road or any part of it in such manner as may be specified, and direct that such traffic as may be affected by the prohibition or restriction shall use such other existing road or roads.

(2) A road authority shall, not less than *fourteen* days before making an order under subsection (1), cause notice of its intention to make such order to be published in the *Gazette* and shall also, at least fourteen days before the date upon which the order comes into force, cause it to be published in like manner.

(3) A notice under subsection (2) shall contain a statement of the effects of the order and a description of the alternative route or routes available for traffic:

Provided that where the road authority concerned is satisfied that owing to the likelihood of danger to the public or serious damage to the road it is necessary to prohibit or restrict the use of the road immediately, it may make any order under subsection (1) without publication of any notice under subsection (2).

(4) Where an order made under this section is in force, a notice stating the effect of the order and describing the alternative route or routes available for traffic shall be kept posted in a conspicuous manner at each end of the part of the road to which the order relates and at the points at which it is necessary for vehicles to diverge from the road, and the diversion route shall at all times be clearly indicated to traffic using it by means of suitable signs.

(5) In addition to the powers conferred upon it by subsection (1) and (3), a road authority may at any time by means of suitable barriers close or restrict the use of all or any part of any road within its jurisdiction for the purposes of repair or reconstruction:

Provided that—

- (i) subject to the provisions of section *forty-two* wherever possible a deviation for the passage of traffic shall be provided within or adjacent to the road reserve concerned;
- (ii) all reasonable steps shall be taken to display adequate traffic signs in accordance with subsection (2) of section *thirty-four* giving reasonable warning to traffic using the road or any closure or restriction.

(5) Any person who uses or permits the use of any animal or vehicle in contravention of any order issued by a road authority under this section commits an offence and shall be liable on conviction to a fine not exceeding six hundred penalty units.

33. (1) Subject to and in conformity with such general or other directions as may be given by the Agency, a road authority may cause or permit traffic signs to be placed on or near any road in its area:

Traffic signs

Provided that a railway administration, subject to the provisions of this Act and any regulations made under it, may place traffic signs at any level crossing without obtaining the permission of a road authority.

(2) Traffic signs shall be of the prescribed size, colour and design except where the Agency authorises the erection or retention of a sign of another character.

(3) The road authority may, by notice in writing, require the owner or occupier of any land on which there is any object or device, whether fixed or portable, for the guidance or direction of persons using roads

to modify or remove it, and if any person fails to comply with such a notice the road authority may itself effect the removal and may recover summarily as a civil debt from the person in default the expenses incurred by it in effecting the removal.

(4) A road authority shall, if so directed by the Agency remove or cause to be removed any traffic sign or any object as is mentioned in subsection (3).

(5) The Agency may give directions to a road authority for the placing on any road of a traffic sign of any prescribed type or authorised character specified in the directions or for replacing such signs may be specified, or for converting a sign into a sign as may be specified, or for converting a sign into a sign of another prescribed type.

(6) If a road authority fails to comply with any direction given under subsection (4) and (5), the Agency may order the work to be carried out by the Director and the expenses incurred in so doing may be recovered summarily as a civil debt from the road authority concerned.

(7) Notwithstanding any other provision of this Act, any traffic sign which was, before the commencement of this Act, lawfully erected under any written law, and which is a traffic sign which may be specified by the Minister, on the recommendation of the Agency, by statutory notice, shall continue to have effect for such period as may be specified in the notice and shall during the period be deemed to be a traffic sign lawfully erected under this Act.

(8) Any person who fails to comply with any direction conveyed by a road traffic sign displayed in the prescribed manner, unless otherwise directed by a police officer or road traffic inspector appointed under the Road Traffic Act, commits an offence and is liable, on conviction, to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a period not exceeding three months, or to both.

(9) In any prosecution of a contravention of an instruction conveyed by a traffic sign, the sign shall be deemed to have been lawfully placed and displayed and to comply with the requirements prescribed for the traffic signs unless and until requirements prescribed for the traffic signs unless and until contrary is proved.

(10) Any person who removes, mutilates, obscures or in any way damages or interferes with, or, without the permission of the road authority concerned, attaches any notice or other things to any traffic sign commits an offence and shall be liable, on conviction, to fine not exceeding seven thousand five hundred penalty units or to imprisonment for a period not exceeding three months, or to both.

34. (1) A police officer or any person acting under the instructions, whether general or specific, of the Inspector-General of Police may place on any road, or on any structure on any road, traffic signs of any

Act No. 11
of 2002

Temporary
traffic signs

size, colour or type prescribed or authorised under subsection (2) of section *thirty-three*, being signs indicating such prohibitions, restrictions or requirements relating to vehicular traffic as may be necessary or expedient to prevent traffic in consequence of an accident or other unforeseen or extraordinary circumstances.

(2) The powers conferred by subsection (1) may also be exercised by a road authority when engaged upon works of maintenance or reconstruction in respect of the length of road being so maintained or reconstructed.

(3) Any traffic sign placed in accordance with the provisions of this section shall be removed as soon as the circumstances or works on account of which it was placed have ceased to exist or have been completed.

35. (1) Subject to the provisions of section *thirty-six*, no person shall erect or display an advertisement which is visible from any road without the written permission of the road authority.

Control of
advertisements

(2) The road authority may grant or refuse the permission and if it grants the permission it shall state in the permission—

(a) the specifications to which the advertisement shall conform;

(b) the period during which the advertisement may be displayed;
and

(c) the manner, place and circumstances in which and the conditions on which, the advertisement may be displayed.

(3) The road authority may at any time alter or revoke any permission granted under this section.

36. (1) If an advertisement, which is visible from the road—

(a) is being displayed without the written permission of the road authority or after the expiration or revocation of the permission; or

(b) does not conform to the specification prescribed in the written permission to display the advertisement or is being displayed in a manner or place or in circumstances or under conditions other than those specified in the permission;

the road authority, after consulting the Agency may, by notice in writing, direct the person displaying the advertisement to remove it or to effect such alterations in the nature of the advertisement or in the manner, place or circumstances in which it is being displayed as may be specified in the notice within the period specified in the notice.

(2) If the person displaying the advertisement fails within the period specified to comply with the direction given in the notice the person

Removal or
alteration of
advertisements

36
36
36

36
36
36

commits an offence and is liable, on conviction, to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a period not exceeding three months, or to both.

(3) If the person displaying an advertisement fails to comply with the directions given under subsection (1), the road authority may cause the advertisement to which the direction relates to be removed.

(4) The cost of removing any advertisement under subsection (3) may be recovered by the road authority as a civil debt from the person who failed to comply with the direction.

(5) Notwithstanding any other provision of this section, a person to whom a direction is given under this section may, before the expiration of the period specified in the notice containing such direction, appeal to the minister against the direction.

(6) Where the Minister dismisses an appeal under subsection (5), the person appealing against a direction shall comply with the direction within such period as the minister shall specify when dismissing the appeal.

(7) Where a person who has appealed against a direction fails to comply with the direction within the time specified under subsection (6), the provisions of subsections (3) and (4) shall apply.

Exceptions

37. (1) The provisions of sections *thirty-five* and *thirty-six* shall not apply to—

(a) the display of an advertisement on a vehicle which is being used on a road if it is proved that the main purpose for which the vehicle is being so used is not to display the advertisement;

(b) the display on a building, or site, or within ninety-one metres of a building or site, of an advertisement which otherwise than on a road—

(i) merely discloses the name or nature of any business or undertaking carried on in the building or on the site or the name of the proprietor or manager of the business or undertaking; or

(ii) relates solely to any article or service supplied in connection with any business or undertaking carried on in the building or on the site;

(c) the display otherwise than on a road or an advertisement which relates solely to—

(i) a form of recreation which is or will be available upon the land;

(ii) an entertainment, meeting or sale which is being or is to be held upon the land; or

- (iii) the sale or lease of the land upon which the advertisement is so displayed if the advertisement is displayed at an entrance to the land and not more than one advertisement is displayed in respect of any one of such matters;
- (d) the display, otherwise than on a road, of an advertisement which merely indicates—
 - (i) the name of a farm;
 - (ii) that a particular road or path is a private road or path or leads to a particular place; or
 - (iii) that a particular act is prohibited or permitted;
- (e) the display, otherwise than on a road and on or at a gate, of an advertisement which merely conveys—
 - (i) the name of a property or locality to which the gate gives access; or
 - (ii) a request or direction to close the gate; or
- (f) the display of any advertisement if the advertisement conforms to the specifications and is displayed in accordance with such conditions as may be prescribed.

(2) If in the opinion of the Agency any advertisement displayed in accordance with the provisions of subsection (1) is likely to prove a danger to the travelling public, the Agency may call upon the person displaying the advertisement, or, on the road authority concerned, to alter the advertisement or have it removed, and in such case the provisions of subsections (2), (3) and (4) of section *thirty-six* shall apply.

38. (1) Where it appears to the Inspector-General of Police expedient for the purpose of carrying out within any specified area an experimental scheme of traffic control, the Inspector-General may, with the consent of the Agency and after giving such notice as the Agency may direct, by *Gazette* notice, make regulations for regulating vehicular traffic in any manner specified by regulations:

Experimental
schemes of
traffic control

Provided that in no case shall the Agency give consent to any scheme without prior consultation with the road authority.

PART IV

CARE, MAINTENANCE AND CONSTRUCTION OF ROADS

Care,
maintenance
and
construction
of roads

39. Every road authority shall, subject to the directions of the Agency, undertake the construction, care and maintenance of the roads or classes of roads within such area as may be included in the jurisdiction conferred upon it in accordance with the provisions of this Act:

Provided that if any road authority fails to maintain any road or a part of it lying within its jurisdiction the Agency may, after giving notice to the road authority, arrange for the works to be executed in such manner as the Agency shall direct.

Immunity
from liability
of road
authorities
and their
staff

40. (1) No matter or thing done or omitted to be done and no contract entered into by a road authority and no matter or thing done or omitted to be done by an officer or servant or other person acting under the direction of the road authority shall, if the matter or thing done was done or omitted to be done or the contract was entered into *bona fide* in pursuance of the duties of the road authority, subject any servant or agent of the road authority to any action, liability, claim or demand.

(2) Any expense incurred by any servant or agent shall, in connection with any action, claim or demand referred to in subsection (1), be paid by the road authority out of its funds.

(3) Nothing in subsection (1) shall be deemed to debar a suit where any act or omission has been occasioned by negligence on the part of the road authority, its officer, or servants as would create liability under any other law:

Provided that the liability of a road authority under any other law in respect of any injury, damage or loss which may accrue to any person or property through the failure of any road, ferry or pontoon to sustain any vehicle shall be limited to liability for physical damage to the person or property caused by the failure.

Power of road
authority to
enter upon land

41. (1) A road authority shall, within the area of its jurisdiction have the power to enter upon any land for the purpose of carrying out investigations in connection with, or surveying or setting out the line of, any proposed road and compensation shall be payable in respect of damage or destruction caused by the road authority in respect of improvements on the land concerned.

(2) The road authority and the owner or occupier of the land shall agree upon the compensation referred to in subsection (1):

Provided that where the road authority and the owner or occupier of the land concerned fail to agree upon the compensation to be paid under this section the matter shall be determined by arbitration in accordance with the Arbitration Act.

Act No. 19 of
2000

(3) No entry shall be made upon any land in accordance with subsection (1) unless prior notice has been given to the owner or occupier of the land concerned.

42. (1) For the purpose of constructing, repairing or maintaining any public road within its jurisdiction, any road authority may on giving prior notice to the owner or occupier concerned construct and maintain temporary deviations over any land adjacent to the road not being land occupied by buildings, orchards, gardens or other improvements, or land under cultivation, or land within a local authority area, and no compensation shall be payable.

Power to
construct and
maintain
deviations

(2) The powers conferred upon a road authority by subsection (1) may be exercised over land under cultivation with the concurrence of the owner or occupier concerned and on payment to the owner or occupier of such compensation as may be agreed, or failing agreement, as may be determined by arbitration in accordance with the Arbitration Act.

Act No. 19 of
2000

(3) Where any deviation has been constructed by a road authority within a road reserve or otherwise, the road authority shall, when the deviation has ceased to be required for the purpose for which it was constructed, restore and make good to the satisfaction of an Environmental Officer the land over which the deviation was constructed, for the purpose of preventing soil erosion.

43. (1) If during any investigation which is being made for the purpose of determining the course of any proposed public road, the Agency has reason to believe that the owner of or any person having any rights over or in land over which the proposed road may run is, within a distance of ninety-one metres on either side of the centre-line of the proposed course of the road, doing any act or intending to do any act which is calculated to interfere with any proposed road, the Agency may, in writing, request the owner or person to cease doing the act within such period as the Agency shall stipulate or not to do the act.

Power to
reserve land
for proposed
roads

(2) If any owner or person fails or refuses to comply with a request made in terms of subsection (1), the Agency may, by *Gazette* notice, reserve a strip of land to a width of ninety-one metres on either side of the centre-line against all use of it.

(3) The notice referred to in subsection (2) shall specify each property affected by the reservation and shall prescribe the manner in which the area or area reserved shall be demarcated.

(4) Publication of a notice of reservation in terms of subsection (2) shall have the effect of prohibiting any activity whatsoever upon the land reserved other than work in connection with the determination of the course of the proposed road:

Provided that—

- (i) the Agency may permit such limited use of the land concerned as the Agency may determine, subject to such conditions as the Agency may impose; and
- (ii) if no action is taken in terms of section *forty-four* within twelve months of the publication of the notice, the reservation shall be deemed to lapse.

(5) No person shall be entitled to claim as a right compensation in respect of any loss or damage suffered by reason of the exercise by the Agency of any of the powers conferred upon the Agency by this section.

(6) As soon as possible after the publication of a notice of reservation in terms of this section the Agency shall lodge with registrar of Lands and Deeds two copies of the engineering survey plans showing the approximate centre-line of the proposed road and the boundaries of the properties affected.

Reservation
of road
reserve

44. (1) As soon as the course of any proposed road has been demarcated, the Agency, may, by advertisement in a newspaper commonly circulating in the District concerned, reserve a strip of land sixty metres wide along the course and shall notify the reservation in writing by registered post to the individual landowners concerned.

(2) A notice referred to in subsection (1) shall include a list of the properties affected by the reservation and shall specify the office at which plans showing the reserved strip of land may be inspected.

(3) Publication of a notice in terms of this section shall have the effect of—

- (a) reserving the strip of land described in the notice for road purposes;
- (b) prohibiting any activity whatsoever not connected with the construction of the road upon the land so reserved:

Provided that the Agency may permit such limited use of the land as the Agency may determine, subject to such conditions as the Agency may impose in granting that permission;

(c) cancelling any reservation made in terms of subsection (2) of section *forty-three* in respect of land affected by a reservation made in terms of this section, and any other land immediately adjacent to the land.

(4) As soon as possible after any land has been reserved in terms of this section, the road authority shall lodge with the Registrar of Lands and Deeds two copies of the engineering survey plans showing the course of the proposed road.

(5) The Registrar of Lands and Deeds shall upon lodging of the plans under subsection (4) register the details of the reservation in such form and manner as may be prescribed.

(6) The Registration of the reservation under subsection (5) shall not debar the registered owner of any land affected from transferring or otherwise dealing with the land.

(6) Any land reserved under this section shall be demarcated in such manner as may be prescribed.

45. (1) The Agency may at any time withdraw or modify any reservation made under the provisions of section *forty-three* or *forty-four* by *Gazette* notice and by notifying the Registrar of Lands and Deeds of the withdrawal or modification.

Withdrawal
or
modification
of reservation

46. (1) Where on any land reserved in terms of section *forty-three* or *forty-four* any person does any act calculated to impede the purposes for which the land has been reserved or which the person has not been authorised by the Director to do, the Director may, by notice in writing, direct the person, at the person's own expense and within such period as shall be specified in the notice, to restore the land to the condition in which it was immediately before the unauthorised act.

Unauthorised
acts on
reserved land

(2) If the person fails to comply with the direction within the period specified under subsection (1), the person commits an offence and is liable, on conviction, to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a period not exceeding three months, or to both.

(3) The Director may cause to be carried out such work as may be necessary to restore the land and may recover from the person any expense incurred in the work.

47. (1) Any person affected by the exercise of any of the powers conferred upon the Agency by sections *forty-four* or *forty-five* who wishes to claim compensation in respect of the exercise of powers shall submit in writing, within thirty days of the date of the publication

Compensation

of any notice in terms of sections *forty-four* or *forty-five* as the case may be, a statement setting out the nature of the person's interest, details of the compensation claimed in respect of land to be taken, improvements likely to be removed or damaged and any expense or loss which may reasonably be incurred or suffered directly as a result of the exercise of those powers:

Provided that the Agency shall not reject any claim only on account of the statement not having been submitted within the period of thirty days if, in the Director's opinion, the statement could not reasonably have been submitted within that period.

(2) The amount of compensation payable under this section shall be such amount as may be agreed upon between the parties or, failing such agreement, as may be settled by arbitration in accordance with the Arbitration Act.

Act No. 19 of
2000

Power to
take
materials for
road works

48. (1) A road authority, or any person duly authorised by it, shall at all times have the power to enter upon any land, except within the boundaries of a local authority area, and to take from there any material, including water, other than water from an artificial dam, well or borehole except with the consent of the owner, necessary for the construction, maintenance or repair of roads or proposed roads and for providing in connection therewith labour camps, access roads and space for stockpiling and no compensation shall be payable except as provided in this section.

(2) Whenever a road authority considers it necessary to exercise the powers conferred by subsection (1), it shall, after prior consultation with the owner, select any place or places which it may consider suitable from which to take material:

Provided that the owner or occupier of the land shall if the owner or occupier so desires be entitled to select another place or places on the land for the purpose, and if the other place or places shall be found by the road authority to be reasonably accessible and suitable as regards quantity and quality of materials, the materials shall be taken from the place or places selected by the owner.

(3) A road authority shall not be entitled to take possession of material on which any person other than its servants has expended any labour, take the stones or other materials from any house, wall or other structure.

(4) If, in exercise of the powers conferred upon it by this section, a road authority considers it desirable for the purpose of obtaining any materials, to open any quarry or quarries extending in aggregate over

more than one –hundredth part of any holding, or over an area of more than one quarter of a Hectare on any holding or which ever is the less, the road authority shall pay to the owner of the land, compensation for surface disturbances in respect of the total area of any quarries which exceeds one-hundredth part of any holding or one quarter of a hectare of the holding, which ever is the less.

(5) The compensation payable under subsection (4) shall be mutually agreed between the road authority and the owner of the land.

(6) Where the road authority and the owner of the land fail to agree as provided by sub-section (5), the amount of compensation shall be decided by arbitration in accordance with the Arbitration Act:

Act No. 19 of
2000

Provided that where a quarry is in a road reserve no compensation shall be payable.

(7) In addition to any compensation which may be payable under subsection (4) whenever land is entered for any purpose in accordance with the powers conferred by this section, compensation shall be paid by the road authority to the owner of the land in respect of improvements physically damaged or destroyed.

(8) Where the road authority and the owner fail to agree, the amount of compensation referred to in subsection (7) shall be decided by arbitration in accordance with the Arbitration Act:

Act No. 19 of
2000

Provided that compensation shall only be payable for buildings, fences, trees, crops, constructions or improvements constructed or planted inside a road reserve when the construction or planting has taken place before the road has been designated by statutory order.

(9) A road authority shall have the right, when constructing access roads to the sites of quarries or other places from which material is to be obtained, of making openings in fences where necessary:

Provided that the openings shall be effectively closed by the road authority against the straying of live stock during the operations and the fences properly restored on completion of the work.

(10) Any quarry or other excavation made in exercise of the powers conferred by this section which may be a source of danger shall, on the completion of the work be securely fenced off, filled in or otherwise made safe against danger to life and limb of persons or animals.

(11) A road authority making quarries or borrow pits in accordance with the powers conferred by this section shall ensure that in any case where the quarry or borrow pit if left unfilled is likely to be a source of danger to health by becoming a breeding ground for mosquitoes or other water-borne parasites, the quarry or borrow pit is filled in to the extent necessary to prevent the danger.

(12) Any owner aggrieved by the decision of a road authority under this section may within thirty days appeal to the Agency:

Provided that, if the circumstances are such that in the opinion of the road authority any delay in exercising any right under this section would be unreasonable, the road authority concerned may take the materials forthwith, and the Agency may within thirty days make the subsequent order in the matter as the Agency considers fit.

(13) For the purpose of this section, "owner" shall include the actual occupier of any land, but nothing in this section contained shall prejudice the right of any other person having an interest in the land in respect of any compensation payable under this section.

Road
authorities'
employees
may park
vehicles,
erect huts,
etc., on
private land

49. Persons employed by any road authority under this Act in the construction or repair of any road or proposed road shall have the right, provided that before exercising the right under this section they shall give reasonable notice to and in consultation with the owner or occupier of any land which will be affected—

(a) to park their vehicles and to erect tents, huts or other temporary buildings on any site convenient to them on condition that—

(i) no tents, huts or other temporary buildings shall be erected within four hundred and sixty metres of any dwelling-house; and

(ii) if the owner or occupier of the land objects to any site chosen for the erection of tents, huts or other temporary buildings, the matter shall be referred to the Council Secretary who may make such order on the matter as the Council Secretary may consider just and reasonable;

(b) to place and store plant and equipment on private land where there is sufficient room on the road reserve;

(c) to take and otherwise make provision for water necessary for the proper execution of the work and for animals and workers, provided it shall not be taken from any artificial dam, furrow or well or borehole except with the consent of the owner; and

(d) to cut down and remove trees or bush where necessary in the construction of public roads, provided that the trees when cut down shall belong to the owner of the land upon which the trees were cut:

Provided that nothing in this section shall apply to any local authority area.

50. The rights granted to and the obligations of a road authority under the provisions of sections *twenty-nine, forty-two, forty-eight* and *forty-nine* may be exercised by a contractor under the supervision or direction of the road authority engaged in the construction or repair of roads and on behalf of any road authority.

Contractors may exercise rights granted to road authority

Provided that in the case of any damage done by a contractor, any compensation payable under this Act shall be paid by the road authority concerned.

51. (1) A road authority may, for the purpose of protecting traffic along any road from danger or of making the crossing of any road less dangerous to pedestrians, erect, light, maintain, alter, and remove places of refuge in the road, and construct, light, maintain, alter, remove and close subways or overbridges for the use of pedestrians.

Power to undertake ancillary works

(2) A road authority shall have power to construct and maintain works in the carriageway—

- (a) along any length of road for separating a part of the road which is to be used by traffic moving in one direction from a part of the road which is to be used, whether at all times or at particular times, by traffic moving in another direction;
- (b) at cross roads or other junctions for regulating the movement of traffic; or
- (c) for providing places of refuge for the protection of pedestrians crossing the road.

(3) The powers conferred by subsection (2) shall include power to light any works as referred to in that subsection, to pave, grass or otherwise cover them or any part of them, to erect pillars, walls, rails or other fences on, around or across them or any part of them and to plant on them trees, shrubs, and other vegetation either for ornament or in the interests of safety.

(4) The power conferred by this section to construct any works shall include power to alter or remove them.

52. A road authority shall provide where it shall consider it necessary or desirable, for the safety or accommodation of pedestrians and pedal cyclists, proper and sufficient footpaths by the side of roads under its control and to provide where it shall consider it necessary or desirable, for the safety or accommodation of ridden horses, driven livestock, agricultural machinery, grass or other margins or tracks by the side of roads under its control.

Provisions of footpaths, cycle tracks, etc

53. (1) A road authority shall have power to construct and operate any ferry or pontoon to facilitate the crossing of any river or stream.

Ferries and pontoons

(2) Any ferry or pontoon operated under subsection (1) shall be operated in accordance with the provisions of any law in force relating to inland water transport.

(3) A road authority shall have power to construct bridges over rivers and streams and over or under any railway line or inland waterways:

Provided that nothing in this subsection shall detract from the rights, powers, duties and responsibilities conferred upon the railway authorities by the Railways Act.

Cap. 453

Power to
make rules
controlling
the
construction
of cattle
grids

54. The Minister, on the recommendation of the Agency, may, by statutory instrument, make rules regulating and controlling the construction of cattle grids and providing for the recovery by a road authority of the cost incurred by it in constructing any cattle grid.

Prevention
of damage,
etc.,

55. (1) Except as may be necessary in any emergency in order to enable a person to use the road in a lawful manner, no person shall otherwise than in accordance with the provisions of this Act—

(a) encroach on any road or road reserve by making or erecting any building, fence, ditch or other obstacle or by planting trees or otherwise:

Provided that nothing in this paragraph shall be construed to apply to a barrier of a pattern and in a position approved by the road authority and duly erected in accordance with any law in Force for the control of traffic for the purposes of examination in connection with immigration or customs or for the control of tsetse fly;

(b) leave or place or negligently allow to fall on or over any road any timber, stones or other material so as to obstruct the road or endanger person using the road, or deposit rubbish, debris or other material on any road;

(c) intentionally or negligently damage in any way any part of any road;

(d) fill in or obstruct any ditch or drain made to carry water off a road, whether on the road or elsewhere, or by making dams, ditches, drains or other works, cause the flooding of any road, or

(e) cause or allow any timber, sledge, plough or other heavy material or thing, not being wholly raised above the ground on wheels, to be moved along or across a road:

Provide that in this paragraph the word "wheels" shall be construed as meaning wheels to which pneumatic or solid rubber tyres have been fitted.

(2) The road authority may authorise under such conditions as it may impose the doing of an act otherwise prohibited under subsection(1).

(3) Any person who contravenes subsection (1) commits an offence.

(4) Any cost of repair incurred by a road authority as a result of any act done in contravention of the provisions of subsection (1) may be recovered by the road authority as a civil debt from the person who did the act or caused it to be done.

(5) A road authority may, by notice in writing, direct any person who encroaches on any road or road reserve by making, erecting or planting any building, fence, ditch, tree or other obstacle contrary to subsection (1) to remove the same within the time to be stated in the notice.

(6) If any person fails to comply with a direction given under subsection (4), the road authority may cause the obstacle specified in the notice to be removed.

(7) The cost of removing any obstacle under subsection (6) may be recovered by the road authority as a civil debt from the person failing to comply with the notice.

56. (1) In respect of any road specified by the Agency, an undertaker shall not execute any undertakers' works except in accordance with the regulations as may be made in terms of subsection(2).

Regulation of
undertakers'
works

(2) The Minister, on the recommendation of the Agency, may, by statutory instrument, make regulations—

(a) requiring the prior submission of sufficient details of proposed undertakers' works to the road authorities concerned for consideration;

(b) requiring a road authority to signify to the undertakers its approval or disapproval of the proposals within a specified time and to give reasons for any disapproval:

Provided that in any case where the undertakers and the road authority are unable to agree the details of the proposed works the undertakers may refer the matter to arbitration in accordance with the Arbitration Act;

(c) requiring undertakers to give notice of the intention to commence works approved or the subject of an arbitration

Act No. 19
of 2000

- (a) so long as the road, street, road reserve or street margin is open or broken up, except in a place to which the public have no right of access and are not permitted to have access, the works are adequately fenced and guarded and lighted in such a manner as to give adequate warning to the public during the hours of darkness;
- (b) that traffic signs, within the meaning of section fifty-six are so placed, and where so directed, operated and lighted in accordance with any directions in that behalf that may be given by the Agency;
- (c) that no greater width or length of road than is reasonably necessary is open or broken up at any time;
- (d) that there is no greater obstruction to traffic of any road or interference with the normal use of the road than is reasonably necessary;
- (e) that any spoil or other material not required for the execution of the works or of any consequent restoration or repair to the road is carried away as soon as it is reasonably practicable; and
- (f) that any other requirement imposed in accordance with any regulation made by the Agency is complied with.

(2) An undertaker or contractor employed by an undertaker who fails to satisfy an obligation to which the undertaker is subject by virtue of subsection (1), commits an offence and shall be liable upon conviction to a fine not exceeding seven thousand five hundred penalty units for each day during which the failure continues.

(3) If an undertaker fails to satisfy an obligation to which the undertaker is subject under subsection (1) as regards any requirements mentioned in paragraph (a), (b) or (e) of that subsection, the road authority may do anything necessary for securing observance of that requirement and the undertaker shall pay the authority an amount equal to any cost reasonably incurred by them for so doing.

59. (1) An undertaker executing works on a road at any railway level crossing shall comply with any reasonable requirements as to the arrangements for executing the works, as to hours of work, or as to any other matters which are imposed upon the undertaker by the authority having the management of the railway, for securing the safety of persons employed in connection with the works and for ensuring that interference with traffic on the railway caused by the execution of the works is reduced so far as is practicable.

Works at
railway
crossing

(2) If any undertaker fails to comply with an obligation to which the undertaker is subject by virtue of subsection (1), the undertaker commits an offence and shall be liable, upon conviction, to a fine not exceeding seven thousand five hundred penalty units for each day during which the failure continues.

Removal of
apparatus

60. Where there is placed in a road apparatus required only in connection with building operations or any other work on land adjacent to the road, if the apparatus is not removed on completion of the building or other work, the road authority may give the undertaker notice requiring the undertaker to remove it and if it is not removed within eight days from the giving of the notice, the authority may remove it and the undertaker shall pay to the authority an amount equal to the cost reasonably incurred in the removal and in any restoration or repair to the road occasioned by the presence or removal of the apparatus concerned.

Powers
enjoyed by
electricity
undertakings
Cap.433

61. The Powers conferred upon authorised undertakings in terms of section *twenty-six* of the Electricity Act shall, in so far as they relate to the doing of work in or over any road, street, road reserve or street margin, be exercised in accordance with the preceding sections of this Act.

Limitation of
time in
which works
may be
executed

62. (1) Subject to the provisions of this section, a statutory power of undertakers to break up or open a road, being a power conferred for any purposes other than road purposes or purposes of a railway undertaking, shall not be exercisable on or under any road during twelve months following—

- (a) the end of any period during which the use by vehicles of the carriageway of the road has been prohibited or the width thereof available for vehicular traffic has been reduced to less than two-thirds of its normal width for the purposes of execution of works for road purposes; or
- (b) the completion of a resurfacing extending to one-third or more of the width of the carriage of the road.

(2) The provisions of subsection (1) shall not apply unless—

- (a) the road authority has given to the undertaker concerned at least three months before the date on which the works for road purposes or resurfacing, as the case may be, were substantially begun, a notice stating that the works for such purposes were intended to be carried out and specifying the date of their commencement; and
- (b) the works for road purposes or resurfacing, as the case may be, were substantially begun on, or within one month from

the date so specified or, if any undertakers' works were in progress in the road on that date, within one month from the completion of the undertakers' works or in either case within the extended period as may have been agreed between the road authority and the undertaker concerned.

(3) Nothing in this section shall apply to any breaking up or opening of a road—

- (a) for the carrying out of any emergency works;
- (b) in relation to any part of a road other than a carriageway, the case of works relating only to the installation, maintenance, repair or removal of a service pipe or service line or overhead telegraph line or overhead electric cable;
- (c) in the case of any works carried out by an undertaker, where the execution of the works is in fulfilment of an obligation imposed upon the undertaker by the provisions of this Act and could not reasonably be effected without breaking up or opening the road, as the case may be; or
- (d) in the case of any breaking up or opening of a road executed with the consent of the road authority concerned.

(4) If any undertaker or any contractor employed by an undertaker breaks up or opens a road in contravention of this section—

- (a) the undertaker or contractor shall pay to the road authority an amount equal to any cost reasonably incurred by the road authority in restoring or repairing the road concerned;
- (b) without prejudice to the undertaker or contractor's liability under paragraph (a), the undertaker or contractor commits an offence and shall be liable, upon conviction, to a fine not exceeding seven thousand five hundred penalty units for each day during which the contravention continues.

PART V

AXLE WEIGHT CONTROL

63. (1) The Minister, on the recommendation of the Agency, may by regulations, prescribe the maximum laden weight and maximum laden axle weight of any vehicle that may be used on any road.

Minister to
prescribe
maximum
laden and
axle weight

(2) Regulations made under this section may provide that persons offending against the regulations shall be liable, upon conviction, to a fine—

- (a) equivalent to the cost of repairing the damage to the road; or
 - (b) not exceeding two hundred thousand penalty units;
- whichever is less.

(3) In the exercise of the powers conferred by this section, the minister may provide for different regulations to apply to different vehicles or different classes of vehicles.

Prohibition of overloading

64. (1) Any person who drives any vehicle on a public road whose maximum laden weight or maximum axle weight is in excess of the maximum laden weight or maximum axle weight prescribed in regulations made under section *sixty-three* commits an offence and is liable upon conviction to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(2) In passing sentence for an offence under subsection (1) a convicting court shall have regard to the extent of damage caused to the road by the overloading.

Impounding of vehicles

65. A road traffic officer in uniform or any police officer or any officer authorised by the Director may impound any vehicle on a public road whose axle load exceeds the maximum permitted axle load weight.

Prohibition of driving away impounded vehicle

66. Any person who drives away a vehicle which has been impounded under section *sixty-five* without lawful authority commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding four years, or to both.

Weighing of certain vehicles

67. (1) All vehicles on any road with a minimum gross weight of six and half tonnes shall stop at all designated weigh station for the purposes of having their gross weight ascertained.

(2) The Minister shall, for the purposes of this Act on the recommendation of the Agency, by statutory order, designate weigh stations.

Certificate of weight

68. Any heavy vehicle plying a public road shall carry a certificate of weight issued by an authorised weigh station.

PART VI MISCELLANEOUS

Power of local authority to collect parking fees

69. (1) A local authority may charge fees in respect of parking of vehicles on any public road within the area of its jurisdiction.

(2) The fees referred to in section (1) may differ in respect of different public roads or different sections of the same public road.

(3) If a parking meter is installed for the purpose of collecting fees referred to in subsection (1), it shall be installed in conjunction with a demarcated parking bay and shall bear on it a label indicating the days and hours when payment shall be made for parking and the amount payable for a specific period of parking.

(4) If any method other than a parking meter is used to collect the fees referred to in subsection (1), it shall be installed in conjunction with a demarcated parking bay or bays and shall bear thereon a legend indicating the days and hours when payment shall be made for parking, the amount payable for a specified period of parking and the manner of payment.

(5) The period of time for which a vehicle may be lawfully parked in a parking bay referred to in subsection (3), shall, unless the contrary is proved, be as measured by the parking meter for the bay.

(6) If any method other than a parking meter is used to collect the fees referred to in subsection (1), the period of time for which a vehicle may be lawfully parked in a parking area referred to in subsection (3), shall, unless the contrary is proved, be as measured by means of the method concerned in respect of the vehicle concerned.

(7) Any local authority may establish upon a public road within the area of its jurisdiction ranks or stands, to be known as special parking places, for the parking of passenger-carrying motor vehicles or any class of vehicles and may make bye-laws—

- (a) for the regulation and control of the use of those special parking places;
- (b) providing for the issue of permits allocating particular special parking places or subdivisions of parking places to particular person's for their exclusive use;
- (c) providing for the prohibition of the use of any special parking places or subdivision so allocated by any other person or vehicle;
- (d) providing for charging of fees in respect of the use of special parking places; and
- (e) providing for matters incidental to it:

Provided that provision may be made in any permit or in any renewal of a permit for the limitation of the hours during which the holder shall have the exclusive use of a particular special parking place and during which the use of it by any other person or vehicle is prohibited.

(8) Bye-laws made under subsection (7) shall provide for the annual renewal, subject to the good conduct of the applicant, of the right to use any special parking place or subdivision of it.

(9) All fees collected by a local authority by means of a parking meter, or in respect of any parking area or special parking places as contemplated in this section, shall, as far as possible, be used to defray the cost of, and incidental to, any scheme, work or undertaking for the

improvement or regulation of traffic conditions within the area of the local authority, including the costs of installation and maintaining any parking meter, parking area or special parking place.

(10) The exercise by a local authority of its powers under this section shall not render the local authority subject to any liability in respect of the loss of or damage to any vehicle or the contents or fittings of any vehicle while the vehicle is in a parking area or special parking place.

References
to Director of
Roads

70. On the appointed date, reference in any written law or any other legal document to the Director of Roads shall be read and construed as reference to the Director appointed under section *seven* of this Act.

Liability of
owner and
driver for
damage

71. (1) Where any bridge or ferry is damaged—
(a) by reason of any vehicle passing over it in contravention of the provisions of this Act;
(b) by reason of any vehicle passing over the bridge and coming into contact with any portion of it other than the surface of the road;

the owner of the vehicle and any person driving or propelling it shall jointly and severally be liable to the Agency for any damage so caused.

(2) A certificate under the hand of any person authorised in that behalf by the Agency, stating the amount of the cost of making good the damage, shall be *prima facie* evidence of the cost.

Liability of
Agency for
failure to
sustain
vehicle

72. The Agency, a road authority or any other person, responsible for the maintenance of any road or ferry under this Act, shall incur liability in respect of any injury, damage or loss which may be caused to any person or property through the failure of any road or ferry to sustain any vehicle.

Delegated
authority

73. Notwithstanding the provisions of any other law, no local authority or other body of persons, shall exercise any power relating to the construction, maintenance or care of any road or ferry except where the power has been delegated by the Agency under this Act.

Closing of
roads
Act No. 11
of 2002

74. (1) Subject to the provisions of the Road Traffic Act, the Agency or any person authorised by it may at any time, by notice displayed on or over or adjacent to any road or ferry or part of it, restrict or prohibit movement of any vehicle, class of vehicle or vehicle of a specified construction where owing to likelihood of serious damage to the road or ferry or injury or danger to the public, the Agency or the person authorised by the Agency considers it necessary.

(2) Any notice referred to in subsection (1) shall contain such information as may be necessary relating to an alternative route, if any, available for traffic.

(3) A person who uses any road or ferry in contravention of this sector commits an offence and is liable, upon conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or both.

75. (1) No person shall without written consent of the Agency construct any bridge or other means of crossing over any open water or sewer contiguous to any road.

Construction
of bridge
over open
water or
sewer

(2) The Agency may, if requested to do so by any person and upon payment of such amount of money as may be estimated for the construction of a bridge, construct any bridge, and may execute all works necessary for that purpose.

(3) Any person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

(4) The Agency may remove any bridge constructed in contravention of subsection (1) and may repair any damage done by its construction or removal and shall recover the expenses from the person who has committed the offence under subsection (3) as if it were a debt due from the person to the Agency.

76. (1) No person shall, without the written consent of the Agency, make any excavation in any road.

Excavation
in roads

(2) Where with the consent of the Agency, any person makes any excavation in any road, the person shall—

- (a) at the person's own expense, cause the excavation to be sufficiently fenced;
- (b) maintain sufficient light in a proper place or near the excavation every night from sunset to sunrise, and
- (c) fill the excavation up and restore the road to satisfaction of the Agency as soon as possible after completing any work for which the excavation was required or within such time as the Agency may specify.

(3) Any person who contravenes the provisions of subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

General
penalty

77. Any person who commits an offence under this Act for which no special penalty is provided shall be liable, upon conviction, in the case of a first offence, to a fine not exceeding one thousand five hundred penalty units and, in case of a second or subsequent offence, to a fine not exceeding three thousand penalty units or to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding three months, or both.

Regulations

78. (1) The Minister may, by statutory instrument, make regulations for the proper carrying into effect of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing, the regulations under subsection (1) may make provisions for—

- (i) the gross weight, laden or unladen, of any vehicles, the height and width of any load which may be carried by any vehicle, the manner of loading any vehicle, the extent to which any load may project in any direction and the maximum mass that may be transmitted to a public road or any specified area of it by a vehicle or any part of it when the vehicle is operated on a public road;
- (ii) the protection of any public road, the weight, tyres and load of any vehicle in relation to any specified bridge or ferry, the time when and speed at which any vehicle of a specified weight may be allowed to cross any bridge or ferry, and furnishing of security by any person against damage to any public road by reason of heavy traffic, and making good the cost of repairing the damage;
- (iii) the parking of vehicle on public roads, the levy of any charges therefor, the leaving of vehicles at rest in dangerous positions, the abandoning of vehicles, their removal from a public road, the disposal of vehicles and the recovery of expenses in the connection with the removal or disposal;
- (iv) trading on or alongside public roads; and
- (v) the doing of all such things as may be necessary for the proper carrying out of the purpose of this Act.

Repeal of
Parts I, II, III
and IV of the
Roads and
Road Traffic
Act Cap. 464
and
transitional
provisions

79. (1) Parts I, II, III, and IV of the Roads and Road Traffic Act, 1958 are hereby repealed.

(2) Notwithstanding the repeal of the parts of the Roads and Road Traffic Act referred to in subsection (1), any subsidiary legislation made under the Act in force immediately before the commencement of this Act—

- (a) shall remain in force unless inconsistent with this Act and be deemed to be subsidiary legislation under this Act;
- (b) may be replaced, amended or repealed by subsidiary legislation made under this Act;
- (c) any regulation, order, notice or direction made or given and in force, immediately before the commencement of this Act, shall under that Act, unless contrary to this Act, continue in force until revoked, as if made or given under this Act.

(3) The Second Schedule shall have effect in relation to transitional provisions in respect of the Roads Department.

FIRST SCHEDULE

(Section 3)

PART I

ADMINISTRATION OF AGENCY

1. (1) The seal of the Agency shall be such device as may be determined by the Agency and shall be kept by the Secretary.

Seal of
Agency

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Agency.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Agency by the Secretary or any other person generally or specifically authorised by the Agency in that behalf.

(4) Any document purporting to be a document under the seal of the Agency or issued on behalf of the Agency shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

2. (1) Subject to the other provisions of this Act, a member of the Agency shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment for one further term of three years:

Tenure of
office and
vacancy

Provided that the first members shall be appointed for periods ranging from two to three years in order to facilitate retirement by rotation.

(2) A member other than the *ex officio* members may resign upon giving one month's notice, in writing, to the organisation which nominated the member and to the Minister.

(3) The office of the member shall become vacant—

- (a) upon the member's death;
- (b) if the member is absent without reasonable excuse from three consecutive meetings of the Agency of which the member has had notice;
- (c) on ceasing to be a representative of the organisation which nominated the member;
- (d) if the member becomes mentally or physically incapable of performing the duties of a member of the Agency; or
- (e) if the member is declared bankrupt.

(5) On the expiration of the period for which a member is appointed the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed four months.

Filling of
casual
vacancy

3. Whenever the office of a member becomes vacant before the expiry of the term of office the Minister may appoint another member in place of the member who vacates office but such member shall hold office only for the unexpired part of the term.

Proceedings
of Agency

4. (1) Subject to the other provisions of this Act, the Agency may regulate its own procedure.

(2) The Agency shall meet for the transaction of business at least once every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Agency and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least five members of the Agency.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under subparagraph (3) a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Seven members of the Agency, other than the *ex-officio* members, shall form a quorum at any meeting of the Agency.

(6) There shall preside at any meeting of the Agency—

- (a) the Chairperson; and
- (b) in the absence of the Chairperson the Vice-Chairperson, and in the absence of the Chairperson and the Vice-Chairperson such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Agency on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(8) The Agency may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Agency but such person shall have no vote.

(9) The validity of any proceedings, act or decision of the Agency shall not be affected by any vacancy in the membership of the Agency or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

5. (1) The Agency may, for the purpose of performing its functions under this Act, constitute any committees as it considers necessary and may delegate to any committees such of its functions as it considers fit.

Committees
of Agency

(2) The Agency may appoint as members of a committee, persons who are, or are not, members of the Agency, except that at least one member of a committee shall be a member of the Agency.

(3) A person serving as a member of a committee shall hold office for such period as the Agency may determine.

(4) Subject to any specific or general direction of the Agency, a committee may regulate its own procedure.

6. The members of the Agency or any committee shall be paid such allowances as the Agency may, with the approval of the Minister, determine.

Allowances
for members

7. (1) If a member or person is present at a meeting of the Agency or any committee of Agency at which any matter is the subject of consideration in which matter the member or person or the member or person's spouse is directly or indirectly interested in a private capacity is the subject of consideration the member or person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Agency or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

Disclosure of
interest

(2) A declaration of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

8. (1) A person shall not, without the consent in writing given by, or on behalf of, the Agency, publish or disclose to any person otherwise than in the course of duties, the contents of any documents, communication, or information which relates to, and which has come to that person's knowledge in the course of duties under this Act.

Prohibition
of disclosure
of
information.

(2) Any person who knowingly contravenes the provisions of subsection (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for period not exceeding three months, or to both.

PART II

FINANCIAL PROVISIONS

Funds of
Agency

9. (1) The funds of the Agency shall consist of such moneys as may—

- (a) be appropriated to the Agency by Parliament for purpose of the Agency;
- (b) be allocated to the Agency from the Fund;
- (c) be paid to the Agency by way of grants or donations; and
- (d) vest in or accrue to the Agency.

(2) The Agency may—

- (a) accept moneys by way of grants or donations from any source in Zambia and subject to the approval of the Minister, from any source outside Zambia;
- (b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; and
- (c) in accordance with the regulations made under this Act, charge fees for services provided by the Agency.

(3) There shall be paid from the funds of the Agency—

- (a) salaries, allowances, loans, gratuities and pensions of staff of the Agency and other payments for the recruitment and retention of staff;
- (b) such reasonable travelling and subsistence allowance for members and members of any committee of the Agency when engaged on the business of the Agency and at such rates as the Agency may, with the approval of the Minister, determine; and
- (c) any other expenses incurred by the Agency in the performance of its functions.

(4) The Agency may after the approval of the Minister invest in such manner as it thinks fit such of its funds as it does not immediately require for the discharge of its functions.

Financial
year

10. The financial year of the Agency shall be the period of twelve months ending on 31st December of each year.

Accounts

11. (1) The Agency shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Agency shall be audited annually by independent auditors appointed by the Agency, subject to the approval of the Minister.

(3) The auditor's fees shall be paid by the Agency.

12. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Agency shall submit to the Minister a report concerning its activities during the financial year. Annual report

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Agency and there shall be appended to the report—

- (a) an audited balance sheet;
- (b) an audited statement of the income and expenditure; and
- (c) such other information as the Minister may require.

(3) The Ministers shall not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in sub-paragraph (1), lay the report before the National Assembly.

SECOND SCHEDULE

(Section 78)

SAVING AND TRANSITIONAL PROVISIONS IN RELATION TO THE ROADS DEPARTMENT

1. (1) On or after the appointed date, there shall be transferred to, and vest in, or subsist against, the Agency by virtue of this Act and without further assurance— Vesting of assets of Roads Department

- (a) the affairs of the Roads Department; and
- (b) the affairs of the Department of Infrastructures and Support Services in relation to urban and feeder roads;
- (c) subject to this Act, all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the Roads Department.

(2) Except as provided in this Act, every deed, bond and agreement (other than an agreement for personal service) to which the Government was a party immediately before the commencement of this Act in respect of the Roads Department, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment thereof, as if—

- (a) the Agency had been a party thereto;
- (b) for any reference to the Government there were substituted, as respects anything falling to be done on or after the appointed date, a reference to the Agency; and
- (c) for any reference to any officer of the Roads Department not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done

on or after the appointed date, or reference to the officer of the Agency as the Agency shall designate.

(3) Subject to the provisions of subsection (2), documents, other than those referred to therein, which refer specifically or generally to the Roads Department shall be construed in accordance with subsection (2) as far as applicable.

Registration
of property to
be
transferred
by
Government

2. (1) Whenever in pursuance of this Act, any property, rights, liabilities and obligations of the Government through the Roads Department are deemed transferred to the Agency in respect of which transfer a written law provides for registration, the Agency shall make an application in writing to the appropriate authority for registration of the transfer.

(2) The registration authority referred to in subparagraph (1) shall make the entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register, as the case may be, and shall make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable in respect thereof.

Legal
proceedings

3. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Agency by virtue of this Act, the Agency and all other persons shall, as from the appointed date, have the same right, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Agency.

(2) Any legal proceedings or application of any authority pending immediately before the appointed date, by or against the Government in respect of the Roads Department may be continued by or against the Agency.

(3) After the appointed date, proceedings in respect of any right, liability or obligation which were vested in, held, enjoyed, incurred or suffered by the Government in respect of the Roads Department may be instituted by or against the Agency.

Terms of
service of
employee of
Roads
Department

4. (1) On or after the appointed date, the Agency shall on the terms and conditions as it may with the approval of the Minister, determine appoint as officers of the Agency public officers from the Public Service as may be necessary for the performance of the functions of the Agency.

(2) Where an officer from the Public Service is appointed to the service of the Agency—

(a) the terms and conditions of service with the Agency shall not be less favourable than those the officer enjoyed in the Public Service; and

(b) the officer shall be deemed to have retired under section *thirty-nine* of the Public Service Pensions Act.

(3) On or after the appointed date employees of the Roads Department who are not engaged by the Agency under subsection (2) shall be retained by the Government and shall—

Act No. 35
of 1996

(a) be redeployed in the service of the Government; or

(b) be retired under section *thirty-nine* of the Public Service Pensions Act.

Act No. 35
of 1996

THIRD SCHEDULE

(Section 9)

INTER-TERRITORIAL MAIN ROADS

Country	Road From	To	Route
Zambia	1. Zimbabwe	Kafue River Bridge (joins 2)	Victoria Falls-Livingstone-Kafue River Bridge
	2. Zimbabwe	Tanzania	Chirundu-Kafue Bridge-Lusaka-Tunduma
	3. Kapiri Mposhi	Lubumbashi (Congo D. R.)	Via Ndola, Kitwe and Chingola
	4. Lusaka	Malawi	Via Chipata
	5. Chingola	Angola	North-Western via Solwezi-Mwinilunga