

**Chapter 13:12****PREVIOUS CHAPTER****ROADS ACT**

Acts 50/1953, 12/1954, 37/1954, 55/1954, 18/1955, 15/1956, 25/1956 (ss. 21, 22 and 23), 34/1958, 7/1959, 20/1959, 47/1959, 79/1959, 13/1960, 19/1961, 65/1961, 8/1962, 14/1962 (s. 2), 24/1962 (s. 2), 19/1963 (s. 12), 33/1963, 9/1964, 22/1964 (s. 54), 39/1964 (Part II), 72/1964, 90/1964, 25/1965, 9/1966, 22/1966, 32/1966, 6/1967 (s. 15), 29/1967, 11/1968 (s. 17), 30/1968 (s. 38), 63/1969, 23/1970 (s. 56), 18/1971, 42/1971 (s. 5), 67/1971, 1/1972 (s. 91), 12/1973 (s. 270), 21/1973 (s. 62), 39/1973 (ss. 25 and 52), 22/1976 (s. 87), 41/1976 (s. 139), 48/1976, 41/1978 (s. 24), 15/1979, 32/1979, 31/1983, 21/1985, 8/1988 (s. 164), 6/1989, 3/1992, 22/1992 (s. 11); R.G.N.s 210/1963, 801/1963, 214/1964 386/1964, 706/1964, 216/1970, 217/1970, 313/1970, 440/1972.

## ARRANGEMENT OF SECTIONS

## PART I

## PRELIMINARY

## Section

1. Short title.
2. Construction of Act.
3. Interpretation.

## PART II

## DECLARATION, CONSTRUCTION AND MAINTENANCE OF ROADS

4. Application of this Part.

## Declaration, Diversion and Closure of Roads

5. Declaration of main and district roads.
6. Declaration of branch roads and diversion of roads.
7. Closure of roads.
8. Closure or diversion of carriageway.

9. Minister may appoint board of inquiry in regard to any proposed declaration, diversion or closure.

10. Declaration of temporary branch roads and temporary closure of roads or limitation of traffic.

11. Width of roads.
12. Declaration that land forms part of road.

## Construction and Maintenance of Roads

13. What roads may be constructed and maintained by road authorities.

14. Main roads to be constructed and maintained by State, except in municipal areas.

15. Minister may order local authority to reconstruct its roads.

16. Bridges and culverts to be constructed in accordance with approved designs.

17. Gridiron tracks.
18. Fences intersecting roads; gates.
19. Storm-water from land adjoining roads.
20. Construction of road drains and compensation for damage caused.
21. Road authority may take land and materials.
22. Road authority may sink boreholes or wells.

23. Road authority may make entrances through fences.
24. Reservations in respect of road-making materials.
25. Temporary encampments.
26. Removal of obstacles erected before 15th October, 1936.
27. Removal of obstacles erected after 14th October, 1936.

Offences

28. General offences.

PART III

PLANNING OF ROADS IN ADVANCE

29. Preliminary reservation of land.
30. Final reservation.
31. Withdrawal or modification of reservation.
32. Minister's power in regard to unauthorized act.
33. Compensation.
34. Notice to owners and other persons.

PART IV

RESTRICTED ROADS

35. Interpretation in Part IV.
36. Declaration of restricted roads.
37. Authority of Minister.
38. Position in regard to structure or works encroaching upon restricted road.
39. Compensation.
40. Portion of road following new course deemed to be restricted road.
41. Notice to owners and other persons.

PART V

CONTROL OF ENTRY UPON ROADS

42. Control of entry upon roads.

PART VI

GENERAL

43. General offences.
44. General penalties.
45. Application of certain provisions of this Act.
46. Presumption in relation to roads.
47. Regulations.

AN ACT to consolidate certain laws relating to roads; to provide for the planning of roads in advance of construction; to regulate the erection of structures or carrying out of works near certain roads, and the entry upon roads from certain land.

[Date of commencement: 16th July, 1954.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Roads Act [Chapter 13:12].

\*2 Construction of Act

This Act shall not be held to operate as a new law but shall be construed and have effect as a consolidation and continuation without interruption of the laws repealed by this Act.

3 Interpretation

In this Act—

“branch road” means a road which at the 16th July, 1954, was lawfully constituted a branch road under any law in force on that date or which has been declared to be a

branch road under this Act;

“declared road” means a main, district or branch road;

“district road” means a road which at the 16th July, 1954, was lawfully constituted a district road under any law in force on that date or which has been declared to be a district road under this Act;

“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;

“heavy vehicle” means a motor vehicle exceeding two thousand three hundred kilograms net mass, but does not include a passenger motor vehicle having seating accommodation for not more than seven passengers;

“local authority” means—

- (a) a municipal council or town council; or
- (b) a rural district council, in relation to any—
  - (i) town ward; or
  - (ii) declared to be a specified area in terms of the Rural District Councils

Act [Chapter 29:13];

within the area of the rural district council;

“main road” means a road which at the 16th July, 1954, was lawfully constituted a main road under any law in force on that date or which has been declared to be a main road under this Act;

[\*The laws repealed by this Act were the Roads and Road Traffic Act [Chapter 257 of 1939] and its amendments.]

“Minister” means the Minister of Transport and Energy or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“road” means any road which is—

- (a) a declared road; or
- (b) a road or street which is vested in a local authority or the President by or in terms of any enactment relating to regional, town or country planning; or
- (c) a surveyed road on State land;

“road authority” means—

- (a) in respect of the whole of Zimbabwe, the Minister; and
- (b) in respect of the area for which it is constituted, a rural district

council.

## PART II

### DECLARATION, CONSTRUCTION AND MAINTENANCE OF ROADS

#### 4 Application of this Part

(1) In respect of any area which is under the jurisdiction of a municipal council, the powers conferred and the duties imposed upon the Minister by every section of this Part, except sections eight, twenty-one, twenty-three, twenty-five and twenty-six, shall be conferred and imposed upon such municipal council and, in respect of any road, other than a main road, within the area under the jurisdiction of a town council or a rural district council, the powers conferred and duties imposed upon the Minister by paragraph (b) of subsection (1) of section ten shall be conferred and imposed upon such town council or rural district council, as the case may be:

Provided that any person who is aggrieved by any decision of such council shall, in addition to any other legal means of recourse which may be available to him, have a right of appeal against such decision to the Minister who shall have power to confirm, vary or reverse such decision.

(2) Nothing in this Part contained shall affect the powers exercisable under any law relating to regional, town and country planning.

## Declaration, Diversion and Closure of Roads

### 5 Declaration of main and district roads

The Minister may, by notice in the Gazette, declare—

- (a) any road or portion of a road to be a main or a district road;
- (b) any main road or portion of such road to be a district road or a branch road;
- (c) any district road or portion of such road to be a branch road.

### 6 Declaration of branch roads and diversion of roads

(1) Any person who wishes—

- (a) to have reasonable access to any place; or
- (b) to have a road diverted;

may apply in writing to the Minister for the declaration of a branch road or for the diversion of a road, as the case may be.

(2) An applicant in terms of subsection (1) shall publish a notice approved by the Minister of the application in a newspaper circulating in the area concerned.

(3) On or after the date of publication of the notice referred to in subsection (2), the Minister shall cause a notice of the application to be published in the Gazette calling upon any person who wishes to object to the declaration of the proposed branch road or the diversion, as the case may be, to lodge his objection with the Minister on or before a date specified in the notice which shall not be less than one month from the date of publication of the notice in the Gazette.

(4) After considering any objections referred to in subsection (3) the Minister may, if he thinks fit, subject to subsection (5) and to such conditions, whether as to the payment by the applicant in terms of subsection (1) or any other person of all or any of the amount of any compensation or costs involved or otherwise, by notice in the Gazette—

- (a) declare the proposed branch road to be a branch road; or
- (b) declare the road to be diverted;

as the case may be.

(5) Parts III, V and VIII of the Land Acquisition Act [Chapter 20:10], shall apply, mutatis mutandis, to the exercise by the Minister of his powers in terms of subsection (4).

(6) Where the Minister, with the agreement of the person concerned, has in terms of subsection (4) fixed as a condition of exercising his powers that any person shall pay all or any of the amount of any compensation or costs involved in the exercise of his power, he may recover such amount from such person.

### 7 Closure of roads

(1) Any person who wishes to have any road closed may apply to the Minister in writing for a declaration for that purpose.

(2) The applicant shall publish a notice approved by the Minister of the application referred to in subsection (1) in a newspaper circulating in the area concerned.

(3) On or after the date of publication of the notice referred to in subsection (2) the Minister shall cause a notice of the application to be published in the Gazette calling upon any person who wishes to object to the proposed closure to lodge his objection with the Minister on or before a specified date which shall be not less than one month from the date of publication of the notice in the Gazette.

(4) After the date specified in the notice in terms of subsection (3) the Minister—

- (a) if no objections to the proposed closure have been lodged, may, by notice in the Gazette, declare the road to be closed; or
- (b) if any objections to the proposed closure have been lodged, shall submit the application, together with the objections thereto and his recommendation

and any report of a board appointed in terms of section nine thereon, to the President for decision.

(5) After considering the matters referred to in paragraph (b) of subsection (4) the President may, if he deems fit, by notice in the Gazette, declare the road to be closed.

8 Closure or diversion of carriageway

(1) Notwithstanding anything contained in section seven, the Minister may, if he considers it in the general public interest to do so, by notice in the Gazette, close or divert any carriageway which is situated on land forming part of any road, whether or not it gives access to or from a piece of land adjoining such road from or to any other carriageway of that road:

Provided that the Minister shall not close or divert any carriageway in terms of this subsection if the closure or diversion will prevent access to or from a piece of land referred to in this subsection from or to the other carriageway referred to in this subsection.

(2) In subsection (1)—

“carriageway” means that part of a road formed for the use of vehicles.

9 Minister may appoint board of inquiry in regard to any proposed declaration, diversion or closure

(1) The Minister may appoint a board, consisting of a chairman and not more than two members who shall be nominated by him, to inquire into and report to him in writing upon any proposed declaration, diversion or closure of any road.

(2) Any board appointed in terms of subsection (1) shall have power to take such evidence on oath as it may think necessary for the performance of its duties, and for that purpose the chairman shall have power to administer oaths.

(3) Any person who after having been duly sworn wilfully gives false evidence before any such board on any matter relevant to the inquiry, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of perjury.

10 Declaration of temporary branch roads and temporary closure of roads or limitation of traffic

(1) Notwithstanding anything contained in this Part, the Minister may—

(a) subject to subsection (2) and (3), by notice in the Gazette, summarily declare a temporary branch road for a period not exceeding six months; or

(b) by means of notice boards or signs suitably placed temporarily—

(i) close a road; or

(ii) limit the kind or mass of traffic over a road;

for the purpose of altering, improving, protecting or repairing the road.

(2) Before the Minister exercises his powers in terms of paragraph (a) of subsection (1), he shall serve on—

(a) the owner of the land affected; and

(b) any other person who is likely to suffer loss or deprivation of rights by such exercise whose whereabouts are ascertainable after diligent inquiry;

notice in writing of his intention to exercise such rights calling upon such owner or person who wishes to claim compensation in terms of Part V of the Land Acquisition Act [Chapter 20:10], for loss or deprivation of rights to submit a claim in terms of that Act.

(3) Parts III, V and VIII of the Land Acquisition Act [Chapter 20:10], shall apply, mutatis mutandis, to the exercise by the Minister of his powers in terms of paragraph (a) of subsection (1):

Provided that—

(i) it shall not be necessary for a preliminary notice to be published or served in terms of section 5 of that Act;

(ii) the order in terms of subsection (1) of section 8 of that Act may be issued at any reasonable time after notice is served in terms of paragraph (a) of subsection (2);

(iii) any reference in that Act to—

(a) a preliminary notice shall be construed as a reference to notice in terms of paragraph (a) of subsection (2);

(b) the publication in the Gazette or service of a preliminary notice shall be construed as a reference to the service of notice in terms of paragraph (a) of subsection (2).

(4) Any notice board or sign—

(a) referred to in paragraph (b) of subsection (1); and

(b) purporting to be placed by authority;

shall itself, unless the contrary is proved, be sufficient evidence that the closure or limitation set forth thereon has been made or imposed, as the case may be, by the authority of the Minister.

(5) A person who fails to comply with a closure or limitation referred to in paragraph (b) of subsection (1) shall be guilty of an offence.

11 Width of roads

(1) All roads shall be deemed, and are hereby declared, to be thirty-one comma five metres in width:

Provided that—

(i) the President may, by notice in the Gazette, declare any such road or any portion thereof to be of such lesser width as shall be specified in such notice;

(ii) nothing in this subsection contained shall be deemed to affect the width of any road which has been or may hereafter be declared to be of lesser width by any local authority or other competent authority under any other enactment.

(2) Notwithstanding subsection (1), horses, cattle, asses, mules, sheep, pigs and goats may be driven on either side of any unfenced road to a distance of not more than thirty metres from the centre of such road, and in such case no liability for trespass shall arise therefrom if no injury is done by them to any crops:

Provided that where such road lies within a railway strip, if any person drives any horse, cattle, ass, mule, sheep, pig or goat, or permits such animal to stray within twenty-five metres of the centre of the railway track except at a crossing, he shall be guilty of an offence.

12 Declaration that land forms part of road

(1) Notwithstanding anything to the contrary in any law contained, the President may, subject to subsection (2), if in his opinion it is necessary, or may become necessary, for road purposes, by notice in the Gazette, declare that the land adjoining a road or proposed road shall form part of such road or proposed road.

(2) Parts III, V and VIII of the Land Acquisition Act [Chapter 20:10], shall apply, mutatis mutandis, to the exercise by the President of his powers in terms of subsection (1).

Construction and Maintenance of Roads

13 What roads may be constructed and maintained by road authorities

(1) The Minister shall have power to construct and maintain any road.

(2) Every rural district council shall, within the area for which it is constituted, have power to construct and maintain every road which is not a main road:

Provided that a rural district council may, with the approval of the Minister, construct and maintain any such road outside such area.

(3) The Minister may direct a rural district council within its area to maintain, or construct and maintain, within such reasonable time as he may fix, any road not being

a main road.

(4) If a rural district council fails to comply with a direction under subsection (3), the Minister may undertake the construction and maintenance of such road and recover any costs incurred by him in this connection from the rural district council.

14 Main roads to be constructed and maintained by State, except in municipal areas

(1) Subject to subsection (2), all expenses incurred in the construction and maintenance of main roads shall be a charge against the public funds.

(2) Such portions of main roads as are situated within any area under the jurisdiction of a municipal council shall be constructed and maintained at the expense of the municipality concerned:

Provided that—

(i) nothing in this subsection contained shall be deemed to affect any arrangement which may be or has been arrived at by mutual agreement between the State on the one hand and any municipal council on the other hand in respect of the construction or reconstruction of main roads within the area under the jurisdiction of such municipal council;

(ii) the Minister may authorize the Treasury to pay to a municipality out of moneys appropriated by Act of Parliament for that purpose such sum of money as the Minister may fix as a contribution towards the cost of the maintenance of any portion of a main road within the area under the jurisdiction of the municipal council concerned.

15 Minister may order local authority to reconstruct its roads

(1) If the Minister is of opinion that any road within the area under the jurisdiction of a local authority constitutes a danger to the users thereof, he may direct such local authority to repair, alter or reconstruct such road within such reasonable time as he may fix.

(2) If a local authority fails to comply with a direction under subsection (1), the Minister may undertake the repair, alteration or reconstruction of the road in question.

(3) Any expenditure incurred by the Minister in the exercise of his powers under subsection (2) may be recovered by the Minister by action in any court of competent jurisdiction against the appropriate local authority and the Minister's certificate shall be prima facie evidence of the amount due by such local authority.

(4) The Minister may from moneys appropriated by Act of Parliament for the purpose pay a portion of the costs incurred by a local authority in giving effect to a direction by the Minister given under subsection (1).

16 Bridges and culverts to be constructed in accordance with approved designs

(1) A bridge or culvert with a clear span of one comma five metres or more shall be constructed by a town council or rural district council according to a design and specification approved by the Minister.

(2) If a bridge or culvert referred to in subsection (1) is not constructed in accordance with a design or specification approved by the Minister, the Minister may—

(a) demolish such bridge or culvert; or

(b) rebuild such bridge or culvert; or

(c) make such alterations thereto as he may deem necessary.

(3) Any expenditure incurred by the Minister in the exercise of his powers under subsection (2) may be recovered by the Minister by action in any court of competent jurisdiction against the appropriate town council or rural district council and the Minister's certificate shall be prima facie evidence of the amount due by the town council or rural district council, as the case may be.

(4) This section shall not apply to any bridge or culvert which was constructed or the

construction of which was started before the 1st October, 1949.

#### 17 Gridiron tracks

(1) The Minister shall have power to construct and maintain gridiron tracks on any main road.

(2) If any injury or damage to persons, animals or other property is caused by the use of any gridiron track on a main road, the State shall be liable for such injury or damage only if it was due to a failure to maintain such gridiron track in a proper state of repair.

(3) At any point where a fence intersects any road, other than a main road, the rural district council within whose area the road is situated may construct a gridiron track which shall be constructed according to a design and specification approved by the Minister.

(4) The obligation to maintain in a proper state of repair any gridiron track constructed by a rural district council is hereby imposed upon the rural district council within whose area the gridiron track is situated:

Provided that in the case of a gridiron track which is situated on the boundary between the areas of two councils, such obligation is hereby imposed on both those councils.

(5) If any injury or damage to persons, animals or other property is caused by the use of any gridiron track which has been constructed according to the design and specification approved by the Minister, the person who shall be liable for such injury or damage shall be the rural district council or councils which are liable for the maintenance in a proper state of repair of such gridiron track:

Provided that a rural district council shall not be liable for any injury or damage caused by the use of such gridiron track where such track has been maintained in a proper state of repair.

(6) If a rural district council which is responsible for the maintenance in a proper state of repair of any gridiron track fails or neglects to maintain such gridiron track in a proper state of repair, the Minister may cause such gridiron track to be repaired and may recover the cost of such repair from the rural district council concerned.

(7) The obligation to maintain in a proper state of repair any gridiron track which, before the 26th October, 1973, was constructed on a road other than a main road according to a design and specification approved by the Minister is hereby imposed on the rural district council within whose area such gridiron track is situated and the provisions of subsections (5) and (6) shall apply in relation thereto:

Provided that in the case of a gridiron track which is situated on the boundary between the areas of two councils, such obligation is hereby imposed on both those councils.

#### 18 Fences intersecting roads; gates

(1) In this section—

“gate in good order” means a swing gate of such width, which shall in no case be less than four comma two five metres, as is sufficient to allow the reasonable use of the road, having regard to the traffic thereon; such gate shall have a balanced catch or other free fastener, and shall swing clear of the road and be free from drag, and shall be fitted with a disc or other device easily visible at night, which disc or other device shall be as prescribed.

(2) No person shall, erect a fence which intersects a road unless he has obtained the permission of the road authority concerned, and such road authority may, when granting such permission, impose such conditions as it thinks fit.

(3) If any fence lawfully erected intersects a road the owner of such fence shall, at his own expense, erect a gate in such fence in such position within the road as the road

authority concerned may determine, and shall, at his own expense, at all times keep such gate in good order.

(4) If the road authority is of the opinion that a gate erected in terms of subsection (3) is not in good order, it may direct the owner to repair, alter or reconstruct such gate within such reasonable time as it may fix.

(5) Any person who is aggrieved by a decision of the road authority—

- (a) in refusing to grant permission in terms of subsection (2); or
- (b) in imposing any conditions in terms of subsection (2); or
- (c) in giving any directions in terms of subsection (4);

may appeal to the Minister within thirty days and on such appeal the Minister may confirm, vary or set aside the decision of the road authority concerned.

(6) If an owner fails to comply with a direction made under subsection (4), the road authority may undertake the repair, alteration or reconstruction of such gate.

(7) Any expenditure incurred by the road authority in the exercise of its powers under subsection (5) may be recovered by the road authority by action in any court of competent jurisdiction against the owner concerned and the certificate of the road authority shall be prima facie evidence of the amount due by such owner.

(8) Any person other than the owner or occupier of the land so fenced who, without the authority of such owner or occupier, on passing through any gate on any road, whether or not the public or any section of the public has access to such road, fails to close and fasten such gate or cause the same to be closed and fastened immediately after passing, shall be guilty of an offence:

Provided that, if such a gate is on a road to which the public or any section of the public has access, it shall be a sufficient defence to a prosecution under this subsection to prove that such gate was not kept in good order in accordance with subsection (3).

(9) Any person who wilfully closes up, fences across or otherwise obstructs a right of way shall be guilty of an offence.

#### 19 Storm-water from land adjoining roads

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

(2) In the event of any application for permission in terms of subsection (1), the road authority concerned shall grant permission if the applicant agrees to pay the expense of any enlargement or alteration of such road drains which is considered necessary by such road authority.

(3) In the event of permission being refused or any dispute as to the necessity for such enlargement or alteration of drains, the matter in dispute shall be referred for decision to the Administrative Court.

#### 20 Construction of road drains and compensation for damage caused

(1) Every road authority shall have power to construct such drains as may be necessary for the purpose of safely leading storm-water, which would otherwise naturally gather or impinge upon a road, to the nearest natural drainage.

(2) If as the result of the construction of any such drain such storm-water causes damage to any private property, the road authority concerned shall pay a reasonable compensation to the person aggrieved; in the event of any dispute as to the cause of such damage or the amount of any compensation, the matter in dispute shall be referred for decision to the Administrative Court.

#### 21 Road authority may take land and materials

(1) In this section—

“demarcated forest” shall have the meaning given to it by the Forest Act [Chapter 19:05];

“protected private forest” shall have the meaning given to it by the Forest Act [Chapter 19:05];

“spoil material” means material which has been produced or which results from repairing or making a road.

(2) In the exercise of the powers conferred by section fifteen every road authority and every person duly authorized thereto by a road authority shall, subject to subsections (9), (10) and (11), at all times have the power of making roads and temporary deviations across and of taking materials for making or repairing roads from and of depositing spoil material on any part of any land which is not included in any township which has been approved by the competent authority under any law relating to regional, town or country planning:

Provided that, except with the consent of the owner of such land, no material shall be taken and no spoil material shall be deposited within—

(a) five hundred metres of the site of the principal homestead on that land, whether the homestead is already erected or actually in the course of erection;

(b) one hundred metres of any other building or permanent improvement the value of which is two hundred dollars or more, or any cattle dip tank.

For the purposes of this paragraph—

“permanent improvement” includes any dam or reservoir which would be injuriously affected by the taking of such materials, but does not include any fence, aqueduct, pipeline, well or borehole;

(c) ten metres of any other permanent farm building.

(3) No power conferred by this section shall be exercised without reasonable notice on the owner and occupier, if any, of the land concerned calling upon them, if they wish to claim compensation in terms of Part V of the Land Acquisition Act [Chapter 20:10], for loss or deprivation of rights, to submit a claim in terms of section 22 of that Act.

(4) Parts III, V and VIII of the Land Acquisition Act [Chapter 20:10], shall apply, mutatis mutandis, to the exercise of any right in terms of subsection (2):

Provided that—

(i) it shall not be necessary for a preliminary notice to be published or served in terms of section 5 of that Act;

(ii) the order in terms of subsection (1) of section 8 of that Act may be issued at any reasonable time after notice is served in terms of subsection (1) or, where such notice is not served, after the publication of a notice in terms of proviso (ii) to subsection (1);

(iii) any reference in that Act to—

(a) a preliminary notice shall be construed as a reference to notice in terms of subsection (3) or (8);

(b) the publication in the Gazette or service of a preliminary notice shall be construed as a reference to the service of notice in terms of subsection (3) or, where such notice is not served, the publication of notice in terms of subsection (8).

(5) Nothing in this section contained shall give any rural district council the power to make roads and temporary deviations across or to take materials for making or repairing roads from or to deposit spoil material on any commonage to which a local authority has title.

(6) If the whereabouts of the owner to whom notice must be given in terms of subsection (3) cannot be ascertained after diligent inquiry, a notice stating the action purposed to be taken and calling upon the owner to claim compensation as referred to

in subsection (3) may be published in the Gazette, and any such notice shall be deemed to be sufficient notice for the purposes of that subsection.

(7) No road and no temporary deviation shall be made across and no materials shall be taken for making or repairing roads from and no spoil material shall be deposited on any demarcated forest without prior consultation between the Secretary of the Ministry for which the Minister is responsible or the chairman of the rural district council, as the case may be, and the Forestry Commission or their authorized representatives. Any dispute between these persons as to the making of such road or such temporary deviation or the taking of such materials or the depositing of spoil material shall be determined by the Minister whose decision shall be final.

(8) No road and no temporary deviation shall be made across and no materials shall be taken for making or repairing roads from and no spoil material shall be deposited on any protected private forest without prior consultation between the Secretary of the Ministry for which the Minister is responsible or the chairman of the rural district council, as the case may be, and the owner of such forest or their authorized representatives. Any dispute between these persons as to the making of such road or such temporary deviation or the taking of such materials or the depositing of spoil material shall be determined by the Minister whose decision shall be final.

(9) If the whereabouts of an owner of a protected private forest who has to be consulted in terms of subsection (10) are unknown, a notice shall be published in the Gazette stating the action proposed to be taken. If one month after the publication of such notice the whereabouts of such owner are still unknown, the proposed action may be taken without any consultation with such owner.

#### 22 Road authority may sink boreholes or wells

A road authority shall, unless the area has been declared a critical area under Part VIII of the Water Act [Chapter 20:22], have the right on a road to sink boreholes or wells for the purpose of acquiring such water as may be required for the construction or maintenance of the road and for the use of persons, vehicles and machinery employed in connection therewith.

#### 23 Road authority may make entrances through fences

For the purpose of taking materials for constructing or repairing any road, any road authority or any person duly authorized thereto by a road authority may make an entrance through any fence, subject to the following conditions—

(a) the road authority concerned shall cause to be erected in such entrance a gate fitted with a lock, of which one key shall be given to the occupier or owner of the land, and such gate when not in use shall be kept locked; and

(b) the road authority may at any time cause such gate to be removed, but in that case shall cause the fence to be re-erected across the entrance.

#### 24 Reservations in respect of road-making materials

(1) Any person who, on behalf of a road authority, enters upon land from which, in terms of this Act, materials for constructing or repairing roads may be taken may, if he has reason to believe that there is in or upon such land a deposit of any such materials, post a notice on the ground which he proposes to search for such materials and shall give notice to the owner of such land and to any other person having any rights over or in such land of his intention to search such ground.

(2) Such notice shall be attached to a post and the upper extremity of such notice shall be not less than one comma five metres above ground level. The notice shall state that such land is being examined, the purpose of the examination and the date and time of the posting of the notice.

(3) The posting of a notice in terms of subsection (1) shall have the effect of prohibiting, for a period of not more than fourteen days from the date and hour of the

posting of such notice, any activity whatsoever, other than an activity being carried on immediately before the posting of the notice, upon the land falling within such distance, not exceeding three hundred metres from the post carrying the notice, as shall be stated in such notice:

Provided that the road authority may permit such limited use of such land as it may determine, subject to such conditions as it may impose in granting such permission.

(4) If the person searching for the material discovers in or upon the land reserved under the provisions of subsection (3) any deposit of such materials, he shall erect upon the boundaries of the area of the deposit or that portion of such area which may be required, beacons in the manner prescribed, and shall post upon each such beacon a notice in the form prescribed.

(5) The erection of the beacons in terms of subsection (4) shall have the effect of reserving the area of land demarcated thereby and of prohibiting any activity whatsoever upon the land reserved, other than an activity being carried on in such area immediately before the erection of such beacons:

Provided that the road authority may permit such limited use of the land or the removal of such quantities of the materials thereon by the owner of the land or any other person having any rights over or in the land affected, as the road authority may determine, subject to such conditions as it may impose in granting such permission.

(6) Particulars of any area of land reserved in terms of subsection (5) shall be sent to the mining commissioner of the district in which such land is situated by the road authority making such reservation.

(7) The road authority making any such reservation shall notify the owner of and any other person having any rights over or in any land affected by such reservation of the particulars of such reservation, but if the whereabouts of such owner or the identity or whereabouts of such other person are unknown, the erection of the beacons and notices mentioned in subsection (4) shall be deemed to be a sufficient notification for the purposes of this subsection.

(8) Any person who, on land reserved in terms of this section, does any act which he has not been authorized by the road authority concerned to do on such land shall be guilty of an offence and liable to a fine not exceeding one hundred dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(9) When the materials on the land so reserved are no longer required, the road authority by whom or on whose behalf the beacons and notices mentioned in subsection (4) were erected shall notify the owner of such land and any other person who may have been affected thereby and shall cause the beacons and notices to be removed, and the reservation of such land shall thereupon be deemed to have been withdrawn.

(10) Notwithstanding anything contained in this Act or any other law, no compensation shall be paid to any person in respect only of the reservation of land in terms of this section unless the road authority concerned has refused to permit, in terms of the proviso to subsection (5), the limited use of such land or has permitted such use only subject to conditions and the person concerned shows that he has suffered loss or damage by reason of such refusal or by reason of the conditions imposed.

(11) Any person who, without the permission of the road authority responsible for the erection of any beacon or the posting of any notice under this section, removes or interferes with any such beacon or notice shall be guilty of an offence and liable to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

## 25 Temporary encampments

(1) Subject to subsections (2) and (3), every road authority and every person duly authorized thereto by a road authority shall, in the exercise of the powers conferred upon the road authority in terms of this Act, have the right on any site which the road authority or such duly authorized person considers convenient, to establish temporary encampments for the purposes of—

- (a) the accommodation of persons and animals; and
- (b) the parking, maintenance, installation and storage of vehicles, equipment, machinery, materials and stores, as the case may be; and
- (c) the construction or erection and maintenance of buildings, huts, tents, stores, structures, camps and enclosures.

(2) A temporary encampment may be established in terms of subsection (1) on any site for such period as the road authority considers to be necessary or expedient in the circumstances.

(3) Subsections (3) to (8) of section twenty-one shall apply, mutatis mutandis, in relation to the exercise of powers in terms of subsection (1) as they apply in relation to the power to use land or make roads in terms of subsection (2) of section twenty-one.

## 26 Removal of obstacles erected before 15th October, 1936

(1) A road authority may, by notice in writing, order the owner of any building, fence, ditch, tree or other obstacle, which encroaches upon any road and which was erected, constructed or planted before the 15th October, 1936, to remove the same within a reasonable time to be stated in such notice and if such owner fails or neglects to comply with such order within the time stated in the notice, the road authority may cause such obstacle to be removed.

(2) The owner of the obstacle removed in terms of subsection (1) shall, subject to of subsection (3), be entitled to compensation for the removal:

Provided that no compensation shall be payable in respect of any such obstacle on a declared road if the obstacle was erected, constructed or planted subsequent to the date of the declaration of the road under any of the laws repealed by the Roads and Road Traffic Act [Chapter 257 of 1939].

(3) Parts V and VIII of the Land Acquisition Act [Chapter 20:10] shall apply, mutatis mutandis, to the payment of compensation in terms of subsection (2):

Provided that any reference in Part V of that Act to the date of the service of a preliminary notice shall be construed as a reference to the date of the service of the notice referred to in subsection (1).

(4) The powers conferred by this section shall not be exercised by any road authority within any area which is under the jurisdiction of a municipal council.

## 27 Removal of obstacles erected after 14th October, 1936

If any person after the 14th October, 1936, and without the written authority of the Minister given in terms of section twenty-eight erects, constructs or plants any building, fence, ditch, tree or other obstacle, which encroaches upon any road, the road authority concerned may, by notice in writing, order the owner thereof to remove the same within a reasonable time to be stated in such notice. If he fails or neglects to comply with such order within the time stated in the notice, the road authority may cause such obstacle to be removed, and the cost of removal may be recovered from such owner by the road authority in any court of competent jurisdiction.

## Offences

### 28 General offences

(1) Any person who diverts or closes any road except in accordance with the

procedure provided under this Act for such diversion or closure shall be guilty of an offence.

(2) Subject to subsection (3), any person who—

(a) leaves or places on or over any road any timber, stones or other material so as to obstruct such road or endanger persons using it; or

(b) encroaches on any road by making or erecting any building, fence, ditch or other obstacle or by planting trees or by placing, leaving or keeping thereon any structure resting on wheels or in any other manner whatsoever; or

(c) marks without reasonable cause, digs up, removes or alters in any way the soil, surface or scarping of any road; or

(d) fills up, alters or obstructs any ditch or drain which is constructed for the purpose of safely leading storm-water from such road; or

(e) causes or allows any timber, sledge or other heavy thing or material which is not wholly raised above the ground on wheels to be dragged on any road; or

(f) uses on a wheeled vehicle any locking or other device, not being a skid-pan, calculated to cause the wheels to drag; or

(g) cuts down, burns, damages or interferes with any tree, shrub or other plant growing on any road; or

(h) without reasonable cause, uses any vehicle or moves any vehicle which is in such a condition that it causes or is likely to cause damage to a road; shall be guilty of an offence.

(3) The Minister may authorize in writing under such conditions as he may determine the doing of any act prohibited under subsection (2) if he is satisfied that no material damage to the road or prejudice to the public can result therefrom.

(4) In respect of any road within the area under the jurisdiction of a town council or within a town ward of a rural district council or an area that has been declared in terms of the Rural District Councils Act [Chapter 29:13], to be a specified area, other than a main road, the powers conferred and duties imposed upon the Minister by subsection (3) shall be conferred and imposed upon such town council or rural district council, as the case may be, and any person who is aggrieved by any decision of such town council or rural district council, as the case may be, shall, in addition to any other legal means of recourse which may be available to him, have a right of appeal against such decision to the Minister who shall have the power to confirm, vary or reverse such decision.

### PART III

#### PLANNING OF ROADS IN ADVANCE

##### 29 Preliminary reservation of land

(1) If, during any investigation which is being made for the purpose of determining the course of any proposed road, the Minister 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 metres on either side of the approximate centre line of such proposed road, doing any act or intending to do any act which is calculated to interfere with any such proposed road, he may, in writing, request such owner or person to cease doing such act within such period as the Minister shall stipulate or not to do such act.

(2) If any such owner or person fails or refuses to comply with a request made in terms of subsection (1), the Minister may, by notice in the Gazette, reserve a strip of land to a width of ninety metres on either side of the approximate centre line of the proposed road, against all use thereof. Such notice shall specify each property affected by the reservation and shall specify the manner in which the area or areas reserved shall be demarcated.

(3) Publication of a notice of reservation in terms of subsection (2) shall have the effect of prohibiting any activity whatsoever upon the land reserved for a period of twelve months from the publication of such notice:

Provided that the Minister may permit such limited use of the land concerned as he may determine, subject to such conditions as he may impose.

(4) If no final reservation has, within the period of twelve months mentioned in subsection (3), been made in accordance with section thirty, no further reservation of any portion of the strip of land reserved by the earlier notice of reservation may, within a period of two years from the date of expiry of such first-mentioned period, be made under this section in respect of the same proposed road.

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

### 30 Final reservation

(1) As soon as the course of any proposed road has been determined, the Minister may, by notice in the Gazette and in a newspaper circulating in the district concerned, reserve a strip of land thirty-one comma five metres wide along such course. Every such notice 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.

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

(a) reserving the strip of land described in such 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 Minister may permit such limited use of the land as he may determine, subject to such conditions as he may impose in granting that permission;

(c) cancelling any reservation made in terms of subsection (2) of section twenty-nine in respect of land affected by a reservation made in terms of this section.

(3) As soon as possible after any land has been reserved in terms of this section, the Secretary for Roads and Road Traffic shall lodge with the Registrar of Deeds two copies of the engineering survey plans showing the course of the proposed road and with the Director of Physical Planning one copy of such plans.

(4) The Registrar of Deeds shall thereupon cause a note of the reservation to be made in his register against the land affected. and an endorsement on the office copy of the title deed, and if at any time the original of the title deed is lodged in his registry for any purpose he shall cause a similar endorsement to be made thereon and a copy of the relative portion of the plan shall be annexed thereto.

(5) The existence of such an endorsement shall not debar the registered owner from transferring or otherwise dealing with the land on the title deed whereof the endorsement appears.

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

### 31 Withdrawal or modification of reservation

(1) The Minister may at any time withdraw or modify any reservation made under section twenty-nine or thirty by giving notice of the fact in the Gazette and by notifying the Registrar of Deeds and the Director of Physical Planning of such withdrawal or modification.

(2) The Registrar of Deeds shall thereupon cause any note of such reservation made in his register, and any endorsement thereof on the office copy of the title deed and on the original of the title deed, to be cancelled or modified, as the case may be, in accordance with such notice.

### 32 Minister's power in regard to unauthorized

Where on any land reserved in terms of section twenty-nine or thirty any person does any act which he has not been authorized by the Minister to do, the Minister may, by notice in writing, direct such person, at his own expense and within such period as shall be specified in such notice, to restore such land to the condition in which it was immediately before such unauthorized act, and if such person fails to comply with such direction within the period specified, he shall be guilty of an offence and liable to a fine not exceeding one hundred dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment, and the Minister may cause to be carried out such work as may be necessary to restore the land and may recover from such person any expense incurred in such work.

### 33 Compensation

(1) Any person who suffers loss or deprivation of rights by the exercise of any of the powers conferred upon the Minister by section thirty or thirty-one may, subject to the provisions of subsection (2), claim compensation.

(2) Parts V and VIII of the Land Acquisition Act [Chapter 20:10] shall apply, mutatis mutandis, to the payment of compensation in terms of subsection (1):

Provided that any reference in Part V of that Act to the date of the publication of a preliminary notice in the Gazette shall be construed as a reference to the date on which the notice referred to in subsection (1) of section thirty or subsection (1) of section thirty-one, as the case may be, is published in the Gazette.

### 34 Notice to owners and other persons

Where any notice is published in terms of subsection (2) of section twenty-nine, subsection (1) of section thirty or section thirty-one, the Minister shall cause a copy of such notice to be sent by registered post to the owner of and any other person having any rights over or in any land affected by such notice, but if the whereabouts of any such owner or the identity or whereabouts of any such other person are unknown, the publication of the notice in terms of those provisions shall be deemed to be a sufficient notice to such owner or other person for the purposes of this section.

## PART IV

### RESTRICTED ROADS

#### 35 Interpretation in Part IV

In this Part—

“restricted road” means a road or proposed road or a portion of a road or proposed road which the Minister has declared as a restricted road under section thirty-eight and in respect of which he has not withdrawn his declaration as such;

“structure” includes—

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

(b) any wall, plantation or hedge if it exceeds one metre in height and is—

(i) within a distance of twenty metres from the centre of the road; or

(ii) within a distance of thirty metres, measured in any direction, from any corner formed by the junction of two roads or a road crossing a strip of land owned or reserved for the purposes of a railway line or from the outer edges of an entrance to or exit from land adjoining a road;

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

“works” includes—

(a) any pipe, tube, tunnel, permanent excavation, quarry, irrigation works, borehole and well;

(b) any addition or alteration to any works.

### 36 Declaration of restricted roads

(1) If, in the opinion of the Minister, it is necessary or desirable in the public interest to restrict the erection of any structure or the carrying out of any works on any land adjoining a road, he may, by notice in the Gazette, declare that road to be a restricted road:

Provided that before the Minister makes any declaration in terms of this subsection in respect of any portion of a road situated within the area under the jurisdiction of a town council or within a town ward of a rural district council or an area that has been declared in terms of the Rural District Councils Act [Chapter 29:13], to be a specified area, he shall notify the town council or rural district council concerned of his intention to make such declaration.

(2) Upon the publication in terms of subsection (1) of a notice declaring a road to be a restricted road so much of the land specified in the notice and adjoining such road on one or each side shall form part of such restricted road, and the publication of such notice shall have the effect of prohibiting the erection of any structure and the carrying out of any works any part of which will fall within the limits of such restricted road:

Provided that—

(i) in no case shall—

(a) any land at a greater distance than seventy metres measured from the centre of the road form part of such restricted road;

(b) any restricted road be less than seventy-five metres in width;

(ii) the Minister may, in writing, of his own motion or on the application of the person desiring to erect such structure or carry out such works, grant authority for the erection of such structure or the carrying out of such works, subject to such conditions as he may impose in granting such authority.

(3) When the Minister has declared a road to be a restricted road, he shall cause so many notices of such declaration as he may deem necessary to be erected at conspicuous points along the road to which it relates, and upon the withdrawal of the declaration shall cause those notices to be removed.

(4) Any person who, without the authority of the Minister, removes any such notice shall be guilty of an offence and liable to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(5) The Minister may at any time, by notice in the Gazette, declare that, with reference to any restricted road defined in the notice or with reference to any defined portion of any such restricted road, any land forming part thereof by virtue of the provisions of subsection (2) shall cease to form part thereof, so, however, that in no case shall the width of the restricted road or any portion thereof be less than seventy-five metres.

(6) In this section—

“road” includes a proposed road or a portion of a road or proposed road.

### 37 Authority of Minister

Application for the authority of the Minister in terms of subsection (2) of section thirty-six shall be made in the prescribed form and if the restricted road to which that application relates is situated within an area for which there is an approved scheme, operative master plan or operative local plan as defined in the Regional, Town and Country Planning Act [Chapter 29:12], regard shall be had to that scheme or plan, as the case may be.

### 38 Position in regard to structure or works encroaching upon restricted road

(1) Where a structure or works or any part thereof is situated upon any land forming

part of a restricted road, and such structure or works was erected or carried out before such road was declared a restricted road or the erection or carrying out thereof was commenced before such declaration and is still proceeding, the Minister may—

(a) take over such structure or works or remove it;

(b) permit such structure or works to remain or to be completed, as the case may be, on such terms and conditions as he may determine and shall communicate to the owner thereof or to any other person having any rights thereto, and such permission may be granted by the Minister either of his own motion or on the application of such owner or other person.

(2) The Minister shall, subject to subsection (3), pay compensation to any person who suffers loss or deprivation of rights by the exercise of the powers of the Minister in terms of paragraph (a) of subsection (1):

Provided that no compensation shall be paid in respect of any structure or works referred to in that paragraph if the structure or works were erected or carried out in contravention of any condition imposed under the provisions of any other law.

(3) Parts V and VIII of the Land Acquisition Act [Chapter 20:10] shall apply, mutatis mutandis, to the payment of compensation in terms of subsection (2):

Provided that any reference in Part V of that Act to the date of the publication of a preliminary notice in the Gazette shall be construed as a reference to the date of the exercise by the Minister of his powers in terms of paragraph (a) of subsection (1).

(4) Where any structure or works for which no authority has been granted under section thirty-six is erected or carried out or any structure or works is erected or carried out in contravention of any condition imposed under any other enactment, the Minister may by notice in writing direct the owner or person having control or possession thereof to remove it or to make such alterations thereto as may be specified in such notice and to carry out such removal or alterations within such period, which shall not be less than thirty days as from the date of such notice, as shall be specified in such notice.

(5) If a person to whom a notice has been given in terms of subsection (4) fails to comply with a direction contained in that notice within the period specified therein, the Minister may at any time after the expiration of that period, through the agency of any person authorized thereto by him, enter upon the land upon which the structure or works to which the notice relates is situated and remove the structure or works or make the alterations specified in the notice.

(6) The Minister may recover the expenses incurred by reason of any action taken in terms of subsection (5) from the person to whom that notice was given.

### 39 Compensation

(1) Where the Minister has, in terms of subsection (1) of section thirty-eight, declared a road or proposed road or portion of a road or proposed road to be a restricted road, any person who suffers loss or deprivation of rights thereby may, subject to subsection (2), claim compensation in addition to any amount claimed under section forty.

(2) Parts V and VIII of the Land Acquisition Act [Chapter 20:10] shall apply, mutatis mutandis, to the payment of compensation in terms of subsection (1):

Provided that—

(i) any reference in Part V of that Act to the date of the publication of a preliminary notice in the Gazette shall be construed as a reference to the date of the publication in the Gazette of the notice referred to in subsection (1) of section thirty-six:

(ii) the compensation assessed in terms of Part IV of that Act shall not exceed the estimated loss incurred by him, based upon the use to which the land was

being put at the time of the publication in the Gazette of the notice referred to in subsection (1) of section thirty-six.

#### 40 Portion of road following new course deemed to be restricted road

Upon the alteration of the course of any portion of a restricted road, that portion which follows the new course shall be deemed to be a restricted road and that portion which is replaced thereby and which follows the old course shall cease to be a restricted road:

Provided that if the centre line of that portion which follows the new course is for a distance of more than eight hundred metres continuously more than sixty metres from the centre line of that portion which is replaced thereby and which follows the old course, such first-mentioned portion shall not be deemed to be a restricted road.

#### 41 Notice to owners and other persons

Where any notice is published in terms of subsection (1) or (5) of section thirty-six, the Minister shall cause a copy of such notice to be sent by registered post to the owner of and any other person having any rights over or in any land affected by such notice, but if the whereabouts of any such owner or the identity or whereabouts of any such other person are unknown, the publication of the notice in terms of those provisions shall be deemed to be a sufficient notice to such owner or other person for the purposes of this section.

### PART V

#### CONTROL OF ENTRY UPON ROADS

#### 42 Control of entry upon roads

(1) No person shall cause or permit any road, including a private road, to enter upon—

(a) any road outside the area under the jurisdiction of a municipal council;

or

(b) any road outside an area for which there is an approved scheme, operative master plan or operative local plan as defined in the Regional, Town and Country Planning Act [Chapter 29:12]; or

(c) any existing main road; or

(d) any road not referred to in paragraph (a), (b) or (c), the responsibility for the construction or maintenance of which has been assumed by the Minister; or

(e) any proposed or restricted road referred to in Part III or IV;

except in accordance with the permission in writing of the Minister and subject to such conditions as he may impose in granting such permission.

(2) The Minister may grant any permission mentioned in subsection (1) for which application has been made, and in granting it may stipulate the manner and place in or at which and the conditions subject to which the road may be entered, or he may refuse such permission:

Provided that he shall not refuse such permission when such entry upon the road is necessary to give access to or exit from a piece of land to which or from which no other reasonable access or exit is available or can be made available at reasonable expense to the applicant.

(3) If any person fails to comply with any of the conditions stipulated by the Minister in terms of subsection (2), the Minister or any person authorized by him may cause to be carried out such work as may be necessary by reason of the failure of such person to comply with any such conditions and may recover from such person the expense incurred thereby.

(4) The Minister may, by notice in writing addressed to the owner or occupier of any land from which any road, including a private road, enters any road, prohibit such entry—

(a) if, in his opinion, entry upon such road is undesirable at the point at which such entry is made; or

(b) if by reason of the regrading or any change in the course of the road entry upon such road is unsuitable at the point at which such entry is made:

Provided that the Minister shall not make any prohibition in terms of this subsection in respect of any entry upon a road which is necessary to give access to or exit from a piece of land to which or from which no other reasonable access or exit is or can be made available.

(5) Any person who suffers any damage by reason of anything done in terms of this section may, subject to subsection (6), claim compensation therefor.

(6) Parts V and VIII of the Land Acquisition Act [Chapter 20:10] shall apply, mutatis mutandis, to the payment of compensation in terms of subsection (5):

Provided that any reference in Part V of that Act to the date of the publication of a preliminary notice in the Gazette shall be construed as a reference to the date of the exercise by the Minister of his powers in terms of subsection (4).

(7) The Minister may, in respect of the whole or any portion of a road, other than a main road, falling within the area under the jurisdiction of a town council or a rural district council, delegate all or any of the powers conferred upon him by this section to such town council or rural district council, as the case may be.

(8) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding one hundred dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

## PART VI

### GENERAL

#### 43 General offences

A person who contravenes any provision of this Act with which it is his duty to comply shall be guilty of an offence.

#### 44 General penalties

A person who is guilty of an offence in terms of this Act shall, if no penalty is specially provided therefor, be liable to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

#### 45 Application of certain provisions of this Act

(1) Any regulations made in terms of this Act for the purpose of the prevention of damage to roads shall, subject to subsections (2) and (3), apply to persons and vehicles in the service of the State in their capacity as such.

(2) If the alteration or construction of any works is being carried out by or on behalf of the State or by any body incorporated directly by law and the President considers that the application of all or any provisions of Part II and any regulations made in terms of this Act to—

(a) the area in which such construction or alteration is being carried out;

or

(b) any roads in or giving access to the area referred to in paragraph (a);

or

(c) any vehicles used in the area referred to in paragraph (a) exclusively in connection with such alteration or construction;

will seriously interfere with the efficient carrying out thereof, the President may, by statutory instrument, declare that all or any of those provisions shall not apply—

(i) within such area as may be specified in such notice or to such roads in such area or giving access thereto as may be so specified; or

(ii) to any vehicles used in the area referred to in subparagraph (i) or on

the roads referred to in that subparagraph exclusively in connection with such alteration or construction.

(3) The President may, by statutory instrument, amend or revoke a notice made in terms of subsection (2).

#### 46 Presumption in relation to roads

In any prosecution under this Act, the road on which the offence concerned is alleged to have occurred shall be presumed to be a road as defined in section three, unless the contrary is proved.

#### 47 Regulations

(1) The Minister may by regulation provide for all matters which—

(a) by this Act are required or permitted to be prescribed; or  
(b) in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) In the exercise of the powers conferred upon him by subsection (1), the Minister may provide for the prevention of damage to roads.

(3) Regulations made in terms of subsection (1) may provide for—

(a) fines for any offences; or  
(b) different fines in respect of successive or continuing offences;

in terms of such regulations:

Provided that no such fines shall exceed one hundred dollars or, in the case of fines imposed in respect of continuing offences, one hundred dollars for each day or part thereof during the continuance of the continuing offence.

(4) If a fine is provided for in terms of subsection (3) in any regulations for an offence in terms thereof, the penalty provided for by section forty-six shall not apply in respect of such offence.

(5) In subsection (3)—

“continuing offence” means the offence committed by a person who—

(a) has been convicted of an offence in terms of regulations made in terms of subsection (1); and

(b) persists, after a conviction referred to in paragraph (a), in the course of conduct which constituted the offence referred to in that paragraph.

[Go To Top Page](#)

[NEXT CHAPTER](#)