

eSwatini

Roads and Outspans Act

Act 40 of 1931

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1931/40/eng@1998-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 17:19.

Collection last checked for updates: 1 December 1998.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Roads and Outspans Act Contents

1. Short title	1
2. Interpretation	1
Part I – Public roads	2
3. Classes of roads	2
4. Width of roads	2
5. Bridges and drifts	2
6. Control of roads	2
7. Establishment and closing of roads	3
8. Road boards	3
9. Duty of road boards	3
10. Quorum	3
Part II – Making, maintenance, opening, closing and deviation of public roads	4
11. Duty to make and maintain roads	4
12. Representation and reports	4
13. Right to take road material	4
14. Right to remove material	4
15. Selection of site of quarry	4
16. Restrictions on taking of material	4
17. Right to open fences and make roads	4
18. Accommodation, grazing, water and trees	5
19. Rights of contractors	5
20. Bridges and ponts	5
21. Closing and deviations	5
22. Restriction of access to main and trunk roads	6
23. Procedure	6
24. Costs of enquiry	7
25. Offence and penalty	7
Part III – Outspans	7
26. Servitudes and size of outspan	7
27. Beaconing of outspans	7
28. Building on outspans	7
29. Fencing of outspans	7
30. Change of site	8
31. Register of outspans	8

32. Registration	8
33. Subdivision of farms	8
34. Swazi areas	8
35. Outspans on concessions	8
36. Outspans on Swazi Areas	8
37. Rights of public on outspans	8
38. Time limit on outspans	9
39. Costs of establishment of outspans	9
Part IV – Trekking and grazing rights	9
40. Trekkers’ roads	9
41. Duty to trek	10
42. Rights to grazing and water	10
43. Application	10
44. Interpretation of this Part	10
Part V – Fencing of roads	10
45. Fencing	10
46. Gates	10
47. Locking, opening and closing of gates	11
48. Power to remove gates, etc.	11
49. Sites of gates, etc.	11
Part VI – Furrows and watercourses	11
50. Furrows	11
51. Rivers	11
Part VII – Provisions as to traffic by vehicles	11
52. Power to exhibit and control vehicles	11
53. Holes to be repaired	12
54. Name of owner to be shown on vehicles	12
Part VIII – Compensation	12
55. Compensation for injury	12
56. Relief in certain cases	12
57. Matters to be considered in assessing compensation	12
58. Work done in lieu of payment of compensation	13
59. Settlement of disputes	13
60. Advertising	13
Part IX – General	13

61. Reconstruction of road by mining companies	13
62. Camping on public roads	14
63. Dead animals	14
64. Trees	14
65. Bridges over private drains	14
66. Existing roads and fences	14
67. Penalties	14
68. Savings	14
69. Regulations	15

eSwatini

Roads and Outspans Act

Act 40 of 1931

Commenced on 2 October 1931

[This is the version of this document at 1 December 1998.]

An Act to make provision for the establishment of Public Roads and Outspans, and to provide for the establishment of Road Boards and for other matters incidental thereto.

1. Short title

This Act may be cited as the Roads and Outspans Act.

2. Interpretation

In this Act, unless inconsistent with the context—

“**branch road**” means any public road other than a main road, a trunk road or a bridle path;

“**bridle path**” means any public path existing or constructed for foot, horse and pack saddle traffic, and includes any foot path right-of-way established under the Concessions Act [No. 13 of 1909](#);

“**by-pass or grid**” means a device designed for and intended to permit the passage through an opening left in a fence, where such fence crosses a public road, of pedestrians and of any wagon so constructed as to cause a load not exceeding five tonnes to be transmitted to a transverse strip of the road and at the same time to prevent the passage of livestock through the said opening;

“**farm**” means any land or portion of land, other than a stand or erf in a township, registered in the office of the Registrar of Deeds under the Concessions Partition Act, [No. 28 of 1907](#), or the Crown Lands Disposal Act, [No. 13 of 1911](#), or registered as a confirmed concession of land or grazing rights, or any land held under an agreement of sale or lease with the Government;

“**fence**” means a fence of not fewer than four wires and not less than one metre high;

“**gate**” means a swinging gate of sufficient width to allow the unrestricted use of the road across which it is placed; having regard to the traffic thereon, but in any case of a width not less than four metres;

“**Government engineer**” means any engineer in the employ of the Government or any person appointed to act in that capacity;

“**improvement**” means any cultivated soil, road, dam, furrow, plantation, crop, buildings, drainage, fencing, clearing or other work or structure by which the value of the land is increased;

“**main road**” means a public road or highway over or along which the general road traffic of Swaziland passes and which has been declared to be a main road in terms of this Act;

“**mineral concession**” means a concession made by or on behalf of the Ngwenyama and confirmed either by the late Chief Court of Swaziland or by the High Commissioner or by the Minister for Home Affairs under the Concessions Act, [No. 3 of 1904](#), giving a right to precious or base metals, precious stones, minerals or mineral products on any piece of land, and where the area subject to any such concession has been subdivided includes the title to any subdivision thereof, and includes any mineral rights granted under the Constitution of the Kingdom of Swaziland, 1967 and under the present Constitution;

“**Minister**” means the Minister for Public Works and Transport;

“**owner**” means the person registered in the Deeds Office as the owner of any property, or his lawful representative, and includes the holder of a mineral concession in respect of land on which prospecting

or mineral rights or rights ancillary thereto are actually being exercised under such concession and also includes in the case of farms any lessee or occupier;

“**public road**” means any road declared to be such under this Act or which has been established or become a public road under this or any other law and includes any road which at the commencement of this Act has been in the undisturbed use of the public or which the public has had the right to use during a period of not less than thirty years;

“**Road Board**” means a board appointed by the Minister under [section 8](#);

“**trunk road**” means a public road used by through traffic from border to border passing to and from railhead or ports of entry and exit in adjoining territory.

[Amended P.58/1962]

Part I – Public roads

3. Classes of roads

For the purposes of this Act public roads shall be divided into the following classes—

- (a) main roads;
- (b) trunk roads;
- (c) branch roads;
- (d) bridle paths.

4. Width of roads

The width of public roads, including unmade portions thereof, shall have the following widths—

- (a) main roads and trunk roads, thirty-eight metres;
- (b) branch roads, sixteen metres;
- (c) bridle paths, not exceeding five metres:

Provided that the Minister may reduce such width when he is satisfied that it is necessary to do so; and

Provided further that the Minister may increase such width if additional land is needed for the construction of a traffic circle, overhead bridge, subway or similar structure, or in order to make proper provision for the slopes of any cutting or embankment or the construction or reconstruction of any public road, or for the purpose of providing free from obstruction such areas as are necessary for obtaining adequate sight distance.

[Amended P.63/1960]

5. Bridges and drifts

For the purposes of this Act bridges and drifts in the course of a public road shall be considered as portions of that public road.

6. Control of roads

All public roads shall be vested in and remain under the control and charge of the Minister.

7. Establishment and closing of roads

- (1) The Minister may from time to time by notice in the *Gazette*—
 - (a) declare any road to be a public road;
 - (b) declare that a public road shall exist on land where no road was previously in existence or where a road has previously been in existence but has been closed, and define the course of that road after investigation and report by a road board;
 - (c) declare any public road to be a main road, trunk road, branch road or bridle path as the case may be;
 - (d) close or deviate any public road after investigation and report by a road board.
- (2) The Minister may when he thinks necessary temporarily close wholly or partially any public road for the purpose of repairs or for any other reason and otherwise regulate traffic on any public road.
- (3) The Minister or any person acting under his authority in that behalf may after notice to the owner enter upon and take possession of so much of any land as may be required for the opening or construction of any public road or any other purpose subsidiary to the discharge of the duties or powers conferred and imposed by this Act in respect of such road.
- (4) Before issuing any notice under subsection 1(a), (b) or (d) the Minister shall cause notice of his intention in writing to do so to be given to all owners whose property may be affected by such declaration, deviation or closing, requiring any person who may object thereto to lodge such objection in writing with the Regional Administrator within thirty days after the date of the said notice:

Provided that when the address of an owner is not known the notice shall be published in the *Gazette* and sent to such owner by registered post to his last known place of residence and a copy shall be posted at all public offices in the district:

And provided further that where a road has been in existence for a period of twelve months before the commencement of this Act and has been in use as a public road, it shall not be necessary to give notification in writing to such owner.
- (5) The road board may inspect the locality affected and shall make full enquiry into the intended action and any objections made thereto and shall as soon as possible transmit their report thereon to the Minister.

8. Road boards

The Minister shall by notice in the *Gazette* constitute such road boards as he may think necessary to be presided over by himself or a district officer or other person appointed by him for that purpose and he may add to any such road board the Government engineer and one or more additional members as he may deem fit and may remove any member or additional member from any such board.

9. Duty of road boards

The road boards shall assist and advise the Minister on all matters relating to public roads (other than public roads which the Minister may declare to be trunk roads), and shall obtain and transmit to the Minister any information that may be required by him and generally carry out all functions which may from time to time be assigned to them by the Minister.

10. Quorum

Three members of a road board, including the chairman, shall form a quorum.

Part II – Making, maintenance, opening, closing and deviation of public roads

11. Duty to make and maintain roads

The Minister may and it shall be his duty to make and maintain, so far as the funds at his disposal for the purpose permit, all public roads, either departmentally or through contractors, as may appear best or most expedient.

12. Representation and reports

The Minister shall have the power and it shall be his duty to make and maintain, so far as funds at his disposal permit, all public roads, either departmentally or through contractors as may appear best or most expedient, except those roads vested in a council under section 67(3) of the Urban Government Act, [No. 8 of 1969](#).

[Amended A.13/1970]

13. Right to take road material

The Minister may take or cause to be taken and convey or cause to be conveyed from every farm and mineral concession through which any public road may pass any material necessary for making and maintaining the public roads within the limits of that farm or mineral concession.

14. Right to remove material

If a farm or mineral concession does not contain a sufficient or suitable supply of material for the purposes of [section 13](#), the Minister may take and convey such material from the adjoining land, or from any other farm or mineral concession, or from any urban area (other than from surveyed erven or township lots) on which the material is obtainable.

15. Selection of site of quarry

The Minister may select any place or places which he deems suitable on such farm or mineral concession or urban area, from which to take such material, but that the owner may point out any other place for the said purpose, and if such last-mentioned place is found by the Minister to be accessible as regards distance and as suitable as regards quantity and quality of materials as the place selected by him, the materials shall be taken from the place so selected by the owner.

16. Restrictions on taking of material

The Minister shall not take possession of any such material on which the owner has expended any labour, or take stones or other materials from any house, kraal or walls, without the consent of the owner.

17. Right to open fences and make roads

For the purpose of obtaining any material referred to in [section 16](#), the Minister may, where necessary, make openings in fences and make roads to quarries and other places:

Provided that such openings shall be effectively closed against trespass or straying of stock during the operations; and

Provided further that the fence shall be properly restored on the completion of the work and that any quarry or other excavation made in the course of the work which may be a source of danger shall on the completion of the work be securely fenced off, filled in, or otherwise made safe; and

Provided further that no damage shall be done to any improvements of the owner of such lands over which the material is being conveyed.

18. Accommodation, grazing, water and trees

The Minister may—

- (a) if other accommodation is not available, erect tents or other temporary dwellings or stores and equipment on any farm or mineral concession for the accommodation of servants or labourers engaged or employed on roads or any work appertaining thereto:

Provided that if the owner is in occupation of the farm, the area required for such accommodation shall be selected after consultation with him and as far as possible meeting his requirements;

- (b) if sufficient grazing is not available within the limits of the road or outspan, graze upon any farm or mineral concession at a locality to be selected in the case of an owner in occupation of the farm after consultation with the owner and as far as possible after meeting his requirements:

Provided that the animals shall be grazed at a reasonable distance from any camps or enclosures and so as not to interfere or intermingle with the stock of the owner of the property or do damage to his lands, crops, gardens or orchards;

- (c) take and otherwise make provision for water necessary for the proper execution of the work, but it shall not be taken from any artificial dam or well or borehole save with the consent of the owner;
- (d) cut down and remove trees or bush where necessary for the construction of public roads, but such trees when cut down shall remain the property of the owner.

19. Rights of contractors

- (1) The rights granted to the Minister under [sections 16 to 18](#) inclusive, may be exercised on his behalf by contractors engaged in the construction or repair of roads and any claim by an owner in respect of any damage done by a contractor shall be dealt with as provided in this section.
- (2) If any damage is sustained by an owner through the fault or negligence of any such contractor a claim for compensation may be made in the first instance to the Minister who shall forthwith furnish the contractor with particulars of the claim and any amount agreed upon between the parties to be paid in satisfaction of the claim shall be paid by the Minister.
- (3) If no agreement is arrived at between the parties on any such claim the aggrieved owner may institute action in any competent court against the Minister and the contractor may be joined with him as co-defendant.
- (4) Any amount paid by the Minister in pursuance of an agreement under subsection (2) or in satisfaction of a judgment under subsection (3) together with any costs incurred by him in respect thereof shall be a debt due from the contractor to the Government and be recoverable accordingly.

20. Bridges and ponds

- (1) The Minister may construct and maintain ponds, causeways and bridges across rivers and make the necessary landings and anchorages inside or outside the limits of the road, and the necessary approaches thereto.
- (2) He may also charge fees to be fixed by him for transport thereby of travellers and stock.
- (3) He may also accept contracts for the construction, maintenance, letting or hiring of ponds on such conditions as regards tariff as he thinks fit.

21. Closing and deviations

An owner who desires to close, deviate or otherwise disturb any public road, may send an application to the Minister through the Regional Administrator of the district in which it is desired to close, deviate or otherwise disturb the said public road.

22. Restriction of access to main and trunk roads

- (1) In this section—

“passage” means road, gate, bridge, stile or similar means of access to a main or trunk road.
- (2) Subject to this section, no person shall be entitled, outside an urban area, to gain access to a main or trunk road by means of a passage unless the making of the passage has been authorised in writing by the Minister.
- (3) Subsection (2) does not apply in respect of a lawfully made passage which was in existence and in use on 1st July, 1969, and which was at no time after that date closed or removed.
- (4) The Minister shall not withhold the authorisation for the making of a passage which is necessary to give access to a main or trunk road from a piece of land where no other reasonable access is available or can be made available at reasonable expense if—
 - (a) the access is necessary for *bona fide* farming purposes; or
 - (b) a land surveyor has surveyed that piece of land and lodged a diagram thereof with the Surveyor-General before 1st July, 1969, and before that date, a person other than the owner of any land of which the first mentioned piece of land may have formed a portion at the time when the survey and diagram were made, acquired or entered into an agreement to acquire the ownership of that piece of land or hired that piece of land on a registered lease for a period of not less than ten years.
- (5) In granting the authorisation mentioned in subsection (2) the Minister may prescribe the nature of the passage and the place where and the manner in which it shall be made.
- (6) If the Minister is of the opinion that a passage should be closed or removed he shall give notice to that effect and—
 - (a) the provisions of subsection (4) of [section 7](#) shall apply with the necessary modifications to the giving of that notice; and
 - (b) the Road Board may inspect the locality affected and shall make full inquiry into the intended action by the Minister and any objections made thereto and shall, with as little delay as possible, transmit its report thereon to the Minister.
- (7) After two months from the date of the notice referred to in subsection (6) and after considering any objections from persons entitled to notice under that subsection and any report made by the Road Board the Minister may by notice in the *Gazette* order that the passage be closed or removed.
- (8) A copy of the notice in the *Gazette* shall be sent by registered post to the last known place of residence of any owner whose property may be affected by the order.
- (9) Where any direct damage is caused by the closure or removal of a passage in terms of this section the provisions of Part IX shall apply with the necessary modifications to the payment of compensation.
- (10) A person who makes a passage without the authority required by subsection (2) or who fails to comply with a notice published under subsection (7) shall be guilty of an offence and liable on conviction to the penalties prescribed by [section 64](#).

[Added A.3/1970]

23. Procedure

The Regional Administrator shall transmit the application mentioned in [section 21](#) to the Minister and thereupon the procedure prescribed in [section 7](#) shall be followed in regard to such application.

24. Costs of enquiry

All costs and expenses incurred by a road board in any enquiry under this Act, shall in the first instance be borne by the Government, but on the conclusion of the enquiry the Minister may order that the whole or such portion of the costs and expenses as he deems reasonable shall be paid to the Government by any applicant or objector in such proportion as he deems equitable, having regard to the result of the enquiry, and on such order having been made, the amount so payable may be recovered in any court of competent jurisdiction.

25. Offence and penalty

Any person who, except as in this Act provided, closes, deviates, disturbs, obstructs or in any way encroaches upon any public road within the widths referred to in [section 4](#) shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 67](#).

Part III – Outspans

26. Servitudes and size of outspan

- (1) Every farm which is registered in the office of the Registrar of Deeds at the date of the commencement of this Act and every farm not heretofore surveyed as such which is granted by the Crown or the Government of Swaziland subsequent to that date (except any farms which are eighty-six hectares or less in extent) shall be subject to a servitude of outspan in favour of the public.
- (2) The said servitude of outspan shall extend over an area of one seventy-fifth part of the extent of every such farm:

Provided that in no case shall such area be less than 4,25 hectares. Where any such farm exceeds in area 3,25 hectares, a separate outspan may be established thereon for every 3,25 hectares or portion thereof over 3,25 hectares or any multiple thereof.

27. Beaconing of outspans

The Minister may, in consultation with the owners, determine and beacon off the outspans on farms over which public roads pass, with due regard to the interests and rights both of the owners of the farms and of travellers having regard to the presence of water and other requirements.

28. Building on outspans

No servitude of outspan shall be established over land on which any building exists, nor may any person build upon, plough, or otherwise interfere with the grazing rights of any outspan beacons off under this Act save in the case of the official overseer of a bridge or pont where such bridge or pont is connected with an outspan:

Provided that nothing in this section shall prohibit the owner from grazing stock upon the outspan.

29. Fencing of outspans

- (1) Any owner may fence an outspan on his land, provided he affords sufficient access to the outspan for the travelling public.
- (2) An owner who desires to fence off an outspan may make application to the Minister for a contribution towards the cost of the fence.
- (3) The Minister may thereupon agree with the owner as to the nature of the fence to be erected and the gates therein and the cost thereof, and if the fence and gates are erected in accordance with that agreement the Minister shall contribute one-half of the cost of the material of the fence and gates.

30. Change of site

- (1) The Minister may from time to time as circumstances require, after consultation with the owner, change the locality of an outspan on any farm and beacon off a new outspan:

Provided that where the outspan has been surveyed and registered, such survey and registration shall be cancelled and the new outspan shall be surveyed and registered in place thereof.

- (2) Any person who, except as aforesaid, changes the locality or alters the beacons of any outspan duly beacons off under this Act shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 67](#).

31. Register of outspans

The Registrar of Deeds shall keep a register of all outspans beacons off as aforesaid in which shall be indicated the farms on which such outspans are situated, the area of the outspans and such other particulars as may be prescribed.

32. Registration

- (1) If the Minister causes an outspan to be surveyed and beacons off, the owner of the land shall, when so required by the Minister, produce the title deed and diagram of the farm on which the outspan is to be established for the purpose of having such outspan registered in the Deeds Office and in the office of the Surveyor-General.
- (2) Any owner failing to produce the title deed and diagram when so required shall be guilty of an offence.

33. Subdivision of farms

- (1) Where outspans have been registered on any farm up to the maximum extent provided for in this Act, and the farm is subsequently subdivided, no further outspan shall be registered against any such subdivision.
- (2) Where the original outspans have not been registered up to the maximum amount of the servitude on the original farm, any subdivision may become subject to an outspan or outspans, not exceeding in the aggregate (inclusive of the original outspan) the total area to which such original farm was subject.

34. Swazi areas

[Sections 26 to 33](#) inclusive shall not apply to Swazi Areas.

35. Outspans on concessions

Where any right of outspan exists or is established under the Concessions Partition Act, or any other law, in respect of land demarcated for the use and occupation of Africans under that Act, the Minister may by notice in the *Gazette* define the boundaries of such outspan, and the land included within such boundaries shall be under his control.

36. Outspans on Swazi Areas

All Swazi Areas shall be subject to such rights-of-way and outspan as have been or may hereafter by law be established; and any outspan on a Swazi Area shall be subject to the provisions of [section 34](#).

37. Rights of public on outspans

- (1) Every person travelling over a public road may graze and water his stock on all outspans.

- (2) If an outspan has no proper water, the Minister shall take reasonable measures to provide sufficient water thereon, and until such water is supplied, such travellers may, in consultation with the owner, water their stock from any river, stream or other natural water supply situate nearest to such outspan.
- (3) Until an outspan has been beaconed off in terms of this Act the owner may point out a place for outspan.

38. Time limit on outspans

- (1) No traveller shall remain within the boundaries of any outspan for longer than twenty-four hours unless he is unable to proceed on account of accident, swollen rivers, or other unavoidable causes.
- (2) In addition to any penalty which may be imposed for a contravention of this section, the animals of any traveller so remaining for more than twenty-four hours may be impounded.

39. Costs of establishment of outspans

Save as otherwise provided in this Act all costs in connection with the establishment of outspans under this Act shall be borne by the Government.

Part IV – Trekking and grazing rights

40. Trekkers' roads

- (1) The provisions of this Part and the rights and obligations conferred and imposed thereby shall only apply to trekkers roads.
- (2) The roads described in the Schedule shall be trekkers roads for the purposes of this Part.
- (3) If the Minister after enquiry by a road board finds that any trekkers road is or has become unnecessary as such he may, by notice in the *Gazette*, declare that such road shall with effect from the date of the notice or from such date as may be prescribed therein cease to be a trekkers road, and he shall thereupon notify the owners affected by means of a letter addressed by registered post to them at their last known place of residence and a copy of such notice shall be exhibited at all public offices in every district concerned.
- (4) Whenever it appears to the Minister to be necessary for a road to be used as a trekkers road he shall publish a notice in the *Gazette* notifying his intention to declare such road to be a trekkers road and if no objection in writing is lodged within two months from the date of such publication he may by notice in the *Gazette* declare the road specified in such publication to be a trekkers road:

Provided that if any objection is lodged in respect of any such road before he makes a decision thereon the Minister shall refer the matter to a road board which shall make full enquiries into the matter and shall report thereon to him; and

Provided further that if he decides to declare a road to be a trekkers road he shall notify the owners affected by registered post at their last known place of residence and a copy of such notice shall be posted at all public offices in every district concerned.
- (5) A trekkers' road may be generally used for the purpose of driving stock from summer to winter grazing grounds and *vice versa* and their width, including any made portion thereof shall not exceed thirty-two metres.
- (6) Nothing contained in this Part shall, except as may be prescribed in any notice issued under this Act, derogate from any existing rights as regards trekking.

41. Duty to trek

- (1) Travelling stock shall proceed continuously in the direction of its ultimate destination, unless delayed by swollen rivers or other unavoidable cause, at a rate of not less than eight kilometres a day.
- (2) Any person travelling with loose stock who drives or depastures such stock outside the limits of the public road or in contravention of this section shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 67](#) and the owner of the land may cause such stock to be impounded.

42. Rights to grazing and water

In addition to grazing rights the owner or person in charge of loose stock travelling along any public road may water them at any river, stream, pool or other natural water supply lying within the grazing rights area:

Provided that no stock shall be watered except with the owner's consent at any dam, well or furrow or other artificial source, or at any natural spring or fountain on any farm used for the purpose of irrigating gardens, orchards or arable lands on the said farm.

43. Application

The provisions of Part IV shall not apply to any township or urban area established under any law in force in Swaziland.

44. Interpretation of this Part

In this Part unless the context otherwise requires, “**grazing rights**” means facilities for the grazing of loose stock travelling along a trekkers' road, within the area of that road.

Part V – Fencing of roads

45. Fencing

An owner may erect a fence on one side, or both sides, of the limits of a public road, with due regard to the provisions of the lawful outspan and grazing rights mentioned in Parts III and IV.

46. Gates

An owner may erect a boundary fence or wall across a main road:

Provided that—

- (a) a clear and unobstructed opening of not less than three metres protected against the passage of livestock by means of a by-pass or grid so designed and constructed as to allow uninterrupted passage for pedestrians and mechanically propelled vehicles of an axle weight not exceeding five tonnes, is left;
- (b) the owner of the land on which such by-pass or grid is placed or constructed shall be responsible for maintaining it in good order;
- (c) a gate opening of not less than four metres wide shall be provided and fitted with an approved type and make of farm gate which shall be kept unlocked for the passage of livestock and vehicles drawn by animals or mechanically propelled vehicles with an axle weight of five tonnes or more;

- (d) such gate shall at all times be kept unlocked and for the purpose of securing it in a closed position a balance catch or other free fastener shall be provided which shall be maintained in good order and swing clear of the road without drag;
- (e) the by-pass or grid to be provided under paragraph (a) shall be of the roller or round bar type or of a design approved by the Minister and of ample strength for the maximum load it is called upon to carry, properly supported on and secured to concrete, brick or stone walls of a strength sufficient for the purpose;
- (f) by-passes or grids of the spiked type shall not be permitted.

47. Locking, opening and closing of gates

- (1) No person shall lock or otherwise secure a gate across a public road against passage without the written consent of the Minister.
- (2) A person who opens a gate across, or in a fence at the side of a public road shall close and fasten it and a person who finds such a gate open shall, after passing through, close and fasten it.

[Amended A.13/1970]

48. Power to remove gates, etc.

The Minister may order the removal of fences, by-passes or grids, gates or other enclosures or obstructions across or alongside any public road, if constructed contrary to the provisions of this Act or any amendment thereof, or may cause them to be removed at the expense of the owner or person who caused such obstruction.

49. Sites of gates, etc.

No person shall place a by-pass, grid or gate at any spot on a public road which is not suitable for a halt.

Part VI – Furrows and watercourses

50. Furrows

Any person wishing to lead water over, under or across a public road shall do so at his own cost, after having obtained the approval of the Minister, who may decide on the class of culvert or other conduit to be used.

51. Rivers

No person shall by any means raise the level of the water of a river, stream or spruit so as to interfere with a public road or drift without the consent of the Minister.

Part VII – Provisions as to traffic by vehicles

52. Power to exhibit and control vehicles

- (1) The Minister may, by notice fixed in a conspicuous place at either end of any bridge or culvert—
 - (a) prohibit the passage over such bridge or culvert of any traction engine, locomotive or other vehicle described in the notice;
 - (b) prohibit the passage of all vehicles of such weight or so laden as to exceed the maximum laden weight therein set forth;

- (c) fix the speed at which any vehicle – not prohibited from being taken over – may be allowed to cross such bridge or culvert.
- (2) Any person contravening the terms of such notice shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 67](#).

53. Holes to be repaired

- (1) If any hole or excavation is made in any public road for the purpose of extricating any animal or vehicle therefrom or for other cause, the person in charge of that animal or vehicle shall forthwith repair the damage caused in the road and leave it in good order.
- (2) Any person contravening the provisions of subsection (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 67](#).

54. Name of owner to be shown on vehicles

The owner of every wagon or other vehicle shall paint or cause to be painted in legible letters upon a conspicuous place on the right or off side thereof or upon some board or plate affixed to such side his name and place of residence, together with the name of the district in which he resides, and every owner of any wagon or other vehicle who uses or allows it to be used on any public road without having his name, residence and district so painted thereon or after they have become illegible shall be guilty of an offence and liable on conviction to the penalties prescribed by [section 63](#).

Provided that this section shall not apply to any wagon or other vehicle on springs used solely for the conveyance of persons.

Part VIII – Compensation

55. Compensation for injury

Wherever in the course of the opening, construction or maintenance of any public road, bridge or pont, by or on behalf of the Minister, any direct damage is done to any improvement, the owner thereof shall be entitled to compensation as may be agreed upon by the parties, or failing such agreement as may be determined under [section 59](#).

56. Relief in certain cases

The Minister may authorize by way of equitable relief the payment of an amount to be determined by him in any case in respect of which no compensation is claimable, if he is of the opinion that serious damage has, or will be caused by the exercise of any of the powers in this Act:

Provided that equitable compensation shall be paid in terms of this section only in respect of work done after the first day of July, 1957.

57. Matters to be considered in assessing compensation

- (1) In assessing the quantum of compensation to be paid under the provisions of [section 56](#), the Minister shall take into consideration the following matters, namely—
 - (a) any appreciation in value of the remainder of the property of the owner due to road works;
 - (b) any damage sustained by an owner by reason of the severance of the land by a public road to be constructed;
 - (c) any works carried out, under [section 58](#) in lieu of compensation.

- (2) In assessing the quantum of compensation to be paid under the provisions of [section 56](#), the Minister shall not take into consideration any of the following matters, namely—
- (a) materials taken from any land in terms of sections [13](#), [14](#) or [15](#):

Provided that if any improvements are damaged as a direct result of the taking of those materials the owner shall be entitled to compensation for that damage:

Provided further that if materials are taken from any quarry, gravel pit or other like works in effective use by the owner, or if water is taken from a constructed water works, compensation shall be paid therefor;
 - (b) any improvements effected or anything done upon any land after service of notice upon the owner in terms of this Part or of Part I, or after he could reasonably have had knowledge of the intention to take possession of the land or to take and remove materials from the land;
 - (c) the special suitability or adaptability of the land for road purposes;
 - (d) any expense or loss incurred or suffered as a result of a reduction or increase of traffic over a road due to an alteration of the course of the road or the closure or change in status of the road.

58. Work done in lieu of payment of compensation

Notwithstanding anything hereinbefore contained, the Minister may, by agreement with the owner and in lieu of paying compensation, or with a view to reducing the amount of compensation to be paid cause to be carried out any repair, restoration, remedial or other work which he may deem suitable or sufficient, and he may treat for the purchase of any structure which it may be necessary to remove or damage.

59. Settlement of disputes

- (1) Unless the amount is not in dispute, the amount of compensation to be paid and any question as to interest or title shall be determined by the board of assessment constituted in terms of section 10 of the Acquisition of Property Act, [No. 10 of 1961](#), as though the amount or question were to be determined, under that section by such board.
- (2) Sections [11](#), [12](#), [13](#), [14](#), [16](#), [18](#) to 27, inclusive, 29, 30, 31 and 33 of the Acquisition of Property Act [No. 10 of 1961](#), shall, *mutatis mutandis*, apply where the Minister exercises his powers under this Act.

60. Advertising

- (1) No individual or company shall, except with the permission of the Minister, erect any trade advertisements within the limits of a public road.
- (2) Where such signs are erected, the advertiser or person erecting them may be called upon to remove them at his expense within a period of one month from the date of notification to do so; and if he fails to do so, they may be removed by the Minister.

Part IX – General

61. Reconstruction of road by mining companies

If it becomes necessary in the interests or the safety of the public to deviate or reconstruct any existing public road or river crossing owing to the fact that the ground has been undermined or the crossing silted up subsequent to the creation of a public road, the Minister may instruct the mining company or the owner of the mining property concerned or other person responsible for such undermining or silting up to provide for the reconstruction of the old road or river crossing or the construction of a new road or river crossing at such person's own expense, and, failing compliance with such instructions within a reasonable

time, the Minister may carry out any work necessary for such purposes at the expense of such mining company or owner or other person.

62. Camping on public roads

- (1) No person shall outspan, camp out, or make fires on the portions of public roads generally used for traffic.
- (2) Any person contravening subsection (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 67](#).

63. Dead animals

If any animal dies on a public road, or within two hundred meters of a public road the owner or person in charge of such animal shall remove and bury its carcass within six hours of its death, and in the event of his failure to do so the Regional Administrator of the district may cause the carcass to be removed or otherwise disposed of at the cost of its owner.

64. Trees

- (1) The Minister may authorise the owner to plant trees along or otherwise generally to improve the areas within the road.
- (2) Anyone wilfully damaging such trees or improvements shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 67](#).

65. Bridges over private drains

The Minister shall not be liable for the maintenance of bridges or crossings of any description over drains or watercourses constructed or made by private persons for carrying off flood water or for the protection of public roads.

66. Existing roads and fences

Notwithstanding the provisions of this Act all roads and fences heretofore constructed or erected in accordance with the laws in force before the commencement of this Act shall be considered to be lawfully constructed or erected.

67. Penalties

Any person convicted of contravening any of the provisions of this Act or the regulations framed thereunder shall be liable to a fine not exceeding one hundred emalangeni or in default of payment thereof to imprisonment for a period not exceeding three months.

68. Savings

Nothing in this Act shall affect—

- (a) the existing outspans and rights-of-way established by virtue of the provisions of the Concessions Partition Act save in so far as it may be deemed necessary from time to time to abolish, alter or amend any of the said outspans or rights-of-way in conformity with the provisions of this Act or any amendment thereof;
- (b) the provisions contained in the Cattle Routes Act, [No. 15 of 1918](#).

69. Regulations

- (1) The Minister may make regulations for—
 - (a) the regulation of traffic over public roads, including the limitation of speed of vehicles;
 - (b) the powers, duties and functions of road boards established under [section 8](#);
 - (c) the control, management, and working of ponts, bridges and other river crossings and tariffs of charges in respect thereof;
 - (d) the manner in which any notices required by this Act shall be given or served and the nature and duration of such notices;
 - (e) the apparatus to be used for the braking or scotching of wagons;
 - (f) the method of keeping a registry of outspans and the particulars to be inserted therein and the rights of the public as to inspection thereof;
 - (g) the maximum axle load or weight which may be carried on any vehicle;
 - (h) the control of heavy vehicular traffic of whatsoever description and the prohibition entirely, or at any particular season of year, of the use of vehicles of any specific kind or class which may be specially damaging or injurious to roads, bridges or culverts and similarly the restriction of the use of roads to any specific kind or class of vehicle;
 - (i) prohibiting the use of steel tyres on all or any vehicles other than animal drawn vehicles carrying an axle load of less than three tonnes;
 - (j) the better carrying out of this Act and providing penalties for the breach thereof.
- (2) All such regulations and any alteration or rescission thereof shall be published in the *Gazette*.