

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976**

**ROADS ORDINANCE  
NO. 19 OF 1976**

[PROMULGATED ON THE 3 NOVEMBER, 1976 –  
English text signed by the State President.]

[DATE OF COMMENCEMENT: 1 JANUARY, 1977]

**as amended by**

Roads Amendment Ordinance, No. 18 of 1977

Roads Amendment Ordinance, No. 11 of 1978

Proclamation No. 87 of 1978

Roads Amendment Ordinance, No. 6 of 1980

Roads Second Amendment Ordinance, No. 28 of 1980

Roads Amendment Ordinance, No. 5 of 1982

Roads Amendment Ordinance, No. 4 of 1983

Roads Amendment Ordinance, No. 20 of 1983

Roads Amendment Ordinance, No. 13 of 1985

Roads Amendment Ordinance, No. 16 of 1986

**GENERAL NOTE**

**In terms of Proclamation No. 115 of 17 June, 1994, the administration of Ordinance No. 19 of 1976 has been assigned to this Province.**

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**ORDINANCE**

**To consolidate and amend the law relating to public roads and public paths and to provide for matters incidental thereto.**

BE IT ORDAINED by the Provincial Council of the Province of the Cape of Good Hope as follows:—

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 1. Division of Ordinance.—This ordinance is divided as follows:—**

**1. Division of Ordinance.—This ordinance is divided as follows:—**

Chapter I     Definitions  
(section 2.).

Chapter II    Public Roads and Public Paths  
(sections 3.–26.).

Chapter III   Expropriation

	(sections 27.–42.).
Chapter IV	Roads Subsidy (sections 43.–58.).
Chapter V	General and Supplementary (sections 59.–68.).

CHAPTER I  
DEFINITIONS

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context—**

**2. Definitions.—**In this ordinance, unless inconsistent with the context—

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “approved estimates” means estimates approved in terms of section 43 and includes any amendment thereof which has been authorised in terms of such section;**

“approved estimates” means estimates approved in terms of section 43 and includes any amendment thereof which has been authorised in terms of such section;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “close” in relation to a public road, means to close for all purposes or to vehicular or pedestrian traffic only;**

“close” in relation to a public road, means to close for all purposes or to vehicular or pedestrian traffic only;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “construction” includes reconstruction;**

“construction” includes reconstruction;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “council” means a municipal or divisional council;**

“council” means a municipal or divisional council;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “date of expropriation” means the date contemplated by section 29 (2) (b);**

**“date of expropriation”** means the date contemplated by section 29 (2) (b);

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “date of notice” means the date on which a notice of expropriation is, in terms of section 62 (1), served on the owner;**

**“date of notice”** means the date on which a notice of expropriation is, in terms of section 62 (1), served on the owner;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “divisional council” means a council as defined in section 2 of the Divisional Councils Ordinance, 1976;**

**“divisional council”** means a council as defined in section 2 of the Divisional Councils Ordinance, 1976;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “divisional road” means a public road which has, in terms of section 4, been classified as a divisional road;**

**“divisional road”** means a public road which has, in terms of section 4, been classified as a divisional road;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “erect” in relation to a fence includes the re-erection of a fence, the entire replacement of the material of a fence and the addition to a fence of any material not required for the purpose of repairs and maintenance;**

**“erect”** in relation to a fence includes the re-erection of a fence, the entire replacement of the material of a fence and the addition to a fence of any material not required for the purpose of repairs and maintenance;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “expropriation” includes the taking of the right temporarily to use property and the raising and removal of materials and “expropriate” has a corresponding meaning;**

**“expropriation”** includes the taking of the right temporarily to use property and the raising and removal of materials and “expropriate” has a corresponding meaning;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “fence” means any structure or device which serves the purpose of a fence, irrespective of the materials used in or the manner of its construction and includes a wall and a hedge;**

“fence” means any structure or device which serves the purpose of a fence, irrespective of the materials used in or the manner of its construction and includes a wall and a hedge;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “group” . . . . .**

“group” . . . . .

[Definition of “group” deleted by s. 1 of Ord. 6 of 1980.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “immovable property” includes a real right in or over immovable property;**

“immovable property” includes a real right in or over immovable property;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “inner municipal area” means, subject to the provisions of section 24, that portion of a municipal area under the jurisdiction and control of a municipal council other than a village council which has by actual survey been subdivided into erven, lots or plots but excluding any area subdivided into agricultural erven, lots or plots any of which is 2 hectares or more in extent;**

“inner municipal area” means, subject to the provisions of section 24, that portion of a municipal area under the jurisdiction and control of a municipal council other than a village council which has by actual survey been subdivided into erven, lots or plots but excluding any area subdivided into agricultural erven, lots or plots any of which is 2 hectares or more in extent;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “land” means land with or without improvements;**

“land” means land with or without improvements;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “large stock” means cattle, horses, mules, donkeys and ostriches;**

“large stock” means cattle, horses, mules, donkeys and ostriches;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “main road” means a public road which has, in terms of section 4, been classified as a main road but, for the purposes of Chapter IV, does not include any such main road of which the municipality is the road authority and which is situated within a metropolitan transport area contemplated by section 3 of the Urban Transport Act, 1977 (Act 78 of 1977);**

“main road” means a public road which has, in terms of section 4, been classified as a main road

but, for the purposes of Chapter IV, does not include any such main road of which the municipality is the road authority and which is situated within a metropolitan transport area contemplated by section 3 of the Urban Transport Act, 1977 (Act 78 of 1977);

[Definition of “main road” substituted by s. 1 of Ord. 5 of 1982.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “Master” in relation to property, means the Master of the Supreme Court appointed in respect of the area in which such property is or is situate;**

“Master” in relation to property, means the Master of the Supreme Court appointed in respect of the area in which such property is or is situate;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “minor road” means a public road which has, in terms of section 4, been classified as a minor road;**

“minor road” means a public road which has, in terms of section 4, been classified as a minor road;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “municipal area” has the meaning assigned thereto in section 2 of the Municipal Ordinance, 1974 (Ordinance 20 of 1974);**

“municipal area” has the meaning assigned thereto in section 2 of the Municipal Ordinance, 1974 (Ordinance 20 of 1974);

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “municipal council” means a council as defined in section 2 of the Municipal Ordinance, 1974 (Ordinance 20 of 1974);**

“municipal council” means a council as defined in section 2 of the Municipal Ordinance, 1974 (Ordinance 20 of 1974);

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “notice of expropriation” means a notice contemplated by section 29;**

“notice of expropriation” means a notice contemplated by section 29;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “outer municipal area” means, subject to the provisions of section 24, that portion of a municipal area under the jurisdiction and control of a municipal council other than a village council which does not form part of an inner municipal area;**

“outer municipal area” means, subject to the provisions of section 24, that portion of a

municipal area under the jurisdiction and control of a municipal council other than a village council which does not form part of an inner municipal area;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “owner” has the meaning assigned thereto in paragraph (b) of the definition of “owner” in section 2 of the Divisional Councils Ordinance, 1976;**

“owner” has the meaning assigned thereto in paragraph (b) of the definition of “owner” in section 2 of the Divisional Councils Ordinance, 1976;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “permanently surfaced road” means a road designated by the Provincial Roads Engineer as a permanently surfaced road;**

“permanently surfaced road” means a road designated by the Provincial Roads Engineer as a permanently surfaced road;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “property” means both movable and immovable property;**

“property” means both movable and immovable property;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “public path” means a public path proclaimed as such in terms of section 3;**

“public path” means a public path proclaimed as such in terms of section 3;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “public road” means a public road proclaimed as such in terms of section 3;**

“public road” means a public road proclaimed as such in terms of section 3;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “purchaser” in relation to expropriated property means the person who has purchased such property from the expropriated owner and has paid the purchase price in whole or in part but has not yet become owner of such property;**

“purchaser” in relation to expropriated property means the person who has purchased such property from the expropriated owner and has paid the purchase price in whole or in part but has not yet become owner of such property;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “purposes” in relation to public roads and public paths includes any matter**

**ancillary to or connected with such roads or paths;**

“purposes” in relation to public roads and public paths includes any matter ancillary to or connected with such roads or paths;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “road” includes all works or things of whatsoever nature forming part of, connected with or belonging to a road, the roadway, motor by-passes, sidewalks, traffic circles, traffic islands, kerbing, embankments, cuttings, subways, culverts, sluits, drains, dams, fences, parapets, guards, bridges, ferries, causeways, fords, approaches, direction signposts, distance indicators, signposts, directions, warnings and any portion or diversion of a road;**

“road” includes all works or things of whatsoever nature forming part of, connected with or belonging to a road, the roadway, motor by-passes, sidewalks, traffic circles, traffic islands, kerbing, embankments, cuttings, subways, culverts, sluits, drains, dams, fences, parapets, guards, bridges, ferries, causeways, fords, approaches, direction signposts, distance indicators, signposts, directions, warnings and any portion or diversion of a road;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “road authority” means, subject to any determination made in terms of section 26—**

“road authority” means, subject to any determination made in terms of section 26—

- (a) in the case of a public road or public path proclaimed in terms of section 3 (1) (a), the Administrator, and
- (b) to the extent to which—
  - (i) a main road, divisional road, minor road or public path proclaimed in terms of section 3 (1) (b) (i) is situate within a rural area, the divisional council having jurisdiction and control in such rural area;
  - (ii) a main road, divisional road, minor road or public path proclaimed in terms of section 3 (1) (b) (ii) is situate within an outer municipal area under the jurisdiction and control of a municipal council other than a village council, the divisional council having jurisdiction and control in the divisional area of which such outer municipal area forms part;
  - (iii) a main road, divisional road, minor road or public path proclaimed in terms of section 3 (1) (b) (iii) is situate within a municipal area under the jurisdiction and control of a village council, the divisional council having jurisdiction and control in the divisional area of which such municipal area forms part, and
  - (iv) a main road proclaimed in terms of section 3 (1) (c) is situate within—
    - (aa) the municipal area of the municipal council of the Municipality of Walvis Bay, such council, and
    - (bb) the inner municipal area of any other municipal council (other than a village council), such other municipal council;

[Sub-para. (iv) substituted by Proc. 87 of 1978.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “roadway” means that part of a public road which has been constructed for the use of or is normally used by vehicular traffic;**

“roadway” means that part of a public road which has been constructed for the use of or is normally used by vehicular traffic;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “small stock” means sheep, goats and pigs;**

“small stock” means sheep, goats and pigs;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “stock” means large or small stock or both;**

“stock” means large or small stock or both;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “structure” means any structure, erection or thing whatsoever, aboveground or underground, whether permanent or temporary, and irrespective of its nature or size;**

“structure” means any structure, erection or thing whatsoever, aboveground or underground, whether permanent or temporary, and irrespective of its nature or size;

[Definition of “structure” substituted by s. 1 of Ord. 13 of 1985.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “this ordinance” includes any regulation or by-law made under this ordinance;**

“this ordinance” includes any regulation or by-law made under this ordinance;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “trunk road” means a public road which has, in terms of section 4, been classified as a trunk road;**

“trunk road” means a public road which has, in terms of section 4, been classified as a trunk road;

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “village council” means a village council contemplated by section 8 (1) (h) of the Municipal Ordinance, 1974 (Ordinance 20 of 1974);**

“village council” means a village council contemplated by section 8 (1) (h) of the Municipal

Ordinance, 1974 (Ordinance 20 of 1974);

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**2. Definitions.—In this ordinance, unless inconsistent with the context— / “water work” has the meaning assigned thereto in section 1 of the Water Act, 1956 (Act 54 of 1956), and**

“water work” has the meaning assigned thereto in section 1 of the Water Act, 1956 (Act 54 of 1956), and

any word or expression defined in the Divisional Councils Ordinance, 1976, shall, when used in this ordinance, have the meaning assigned thereto in such Ordinance.

CHAPTER II  
PUBLIC ROADS AND PUBLIC PATHS

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 3. Power of Administrator to declare, close or divert public roads and public paths.—(1) The Administrator may, subject to the provisions of subsection (3), and either—**

**3. Power of Administrator to declare, close or divert public roads and public paths.—(1) The Administrator may, subject to the provisions of subsection (3), and either—**

- (a) of his own accord;
- (b) on the application of a divisional council in the case of—
  - (i) a proposed or existing main road, divisional road, minor road or public path in the rural area of such divisional council;
  - (ii) a proposed or existing main road, divisional road, minor road or public path in an outer municipal area which falls under the jurisdiction and control of a municipal council other than a village council and which is situate in the divisional area of such divisional council, or
  - (iii) a proposed or existing main road, divisional road, minor road or public path in a municipal area which falls under the jurisdiction and control of a village council and which is situate in the divisional area of such divisional council, or
- (c) on the application of—
  - (i) the municipal council of the Municipality of Walvis Bay in the case of a proposed or existing main road in the municipal area of such municipal council, or
  - (ii) any other municipal council (other than a village council) in the case of a proposed or existing main road in the inner municipal area of such other municipal council,

[Para. (c) substituted by Proc. 87 of 1978.]

by proclamation in the *Provincial Gazette* declare that—

- (i) there shall be a public road or public path along a line where no public road or public path exists;
- (ii) an existing public road shall be a public path or that an existing public path shall be a public road;

- (iii) an existing public road or public path or portion thereof shall be closed or diverted to the extent specified in such proclamation;
- (iv) the former route of a public road or public path or portion thereof which has been diverted as contemplated by paragraph (iii) shall remain in existence as a public road or public path, or
- (v) an existing public street shall be a public road or public path.

(2) The Administrator may, either of his own accord or on the application of the road authority concerned but in either case subject to the provisions of subsection (3), by proclamation in the *Provincial Gazette* withdraw any proclamation issued in terms of subsection (1).

(3) No proclamation contemplated by subsection (1) or (2) shall be issued unless—

- (a) the Administrator or the council concerned, as the case may be, has advertised, in the case of the Administrator, his intention to issue such proclamation or, in the case of such council, its intention to apply to the Administrator for the issue of such proclamation and has, in the case contemplated by subsection (1) (i), specified the proposed classification of the proposed public road in the advertisement hereinbefore contemplated;
- (b) copies of the advertisement contemplated by paragraph (a) have been served—
  - (i) on the owners of all land abutting on the proposed or existing public road or public path or over which the proposed or existing public road or public path will pass or passes;
  - (ii) in the case of the closing or diversion of a public road or public path which would injuriously affect the continued existence of such public road or public path in the area of jurisdiction of any other road authority, on such other road authority, and
  - (iii) in the case of a proclamation contemplated by subsection (1) (a), on council or road authority concerned, as the case may be, not later than twenty-one days before the date by which objections are required to be lodged in accordance with the said advertisement together with, in the case of a proclamation contemplated by paragraph (i) or, in the case of a diversion, paragraph (iii) of subsection (1), a sketch map showing the approximate location and route of the proposed public road or public path or of the public road or public path or portion thereof which is proposed to be diverted, as the case may be;

[Sub-para. (iii) amended by s. 1 (a) of Ord. 18 of 1977.]

- (c) in any case contemplated by subsection (1) (b) or (c) and in every case in which a council has applied in terms of subsection (2) for the withdrawal of a proclamation issued in terms of subsection (1), the council concerned has transmitted the objections (if any) lodged in accordance with the said advertisement to the Administrator together with its comments thereon and a copy of such advertisement; and

[Para. (c) amended by s. 1 (b) of Ord. 18 of 1977.]

- (d) in the case of a public road or public path contemplated by subsection (1) (i) or of a diversion contemplated by subsection (1) (iii) where the route of such public road, public path or diversion will pass over land—
  - (i) which has been or is deemed to have been proclaimed under the Mining Rights Act, 1967 (Act 20 of 1967), but which has not been reserved for the purposes of such public road, public path or diversion in terms of the said Act;
  - (ii) which is held by any person under mining title as defined in the said Act but

which has not been reserved for the purposes of such public road, public path or diversion in terms of the said Act, or

(iii) which has been proclaimed an alluvial digging under the Precious Stones Act, 1964 (Act 73 of 1964), or under any prior law relating to precious stones,

the Minister of Mines has approved the issue of such proclamation;

[Para. (d) inserted by s. 1 (c) of Ord. 18 of 1977.]

provided that the preceding provisions of this subsection shall not apply in respect of the first proclamation issued in terms of subsection (1) on or after the first day of April 1978, in relation to the public roads which were, immediately prior to such first day, in existence in the municipal area of the Municipality of Walvis Bay.

[Proviso to sub-s. (3) inserted by Proc. 87 of 1978.]

(3A) All expenditure incurred by a road authority in consequence of or in connection with an application for the proclamation of a minor road, including the expenditure incurred in publishing the advertisement contemplated by subsection (3) (a) and (b) (i), may be recovered by such road authority, in such proportions as such road authority may determine, from the owners of properties who, in the opinion of such road authority, will benefit by the construction of such minor road.

[Sub-s. (3A) inserted by s. 1 of Ord. 11 of 1978.]

(4) In any proclamation issued under subsection (1) the Administrator may determine the location and route of any public road or public path or any portion or diversion thereof by declaring that such location and route shall be as indicated on a plan filed in a specified office or by describing such location and route in such proclamation.

(5) Subject to the terms of any proclamation contemplated by subsection (1) (iv), the former route of every public road or public path which has been closed or diverted shall cease to be a public road or public path or portion thereof; provided that if a public road or public path or portion thereof which is also a public street is closed or diverted, the former route of such public road or public path shall not thereby cease to be a public street.

(6) Every diversion of a public road or public path or portion thereof shall, subject to the terms of any proclamation in terms of subsection (1) or any notice issued in terms of section 4—

(a) in the case of a public road or portion thereof which has been diverted, be deemed to be a public road or portion of a public road of the same classification as that which applied to the diverted public road or portion thereof immediately prior to the issue of the relevant proclamation in terms of subsection (1) (iii), and

(b) in the case of a public path which has been diverted, be deemed to be a public path.

(7) (a) The owner of land which abuts on any existing minor road or public path or portion thereof or over which such minor road or public path or portion passes and who desires to have such minor road or public path closed or diverted shall apply in writing for the closing or diversion thereof to the road authority concerned which shall, on receipt of such application, comply *mutatis mutandis* with the provisions of subsection (3) (a) and (b) (i) and (ii) in respect thereof and thereafter transmit such application together with the objections (if any) lodged in accordance with the advertisement contemplated by subsection (3), its comments on such application and such objections and a copy of such advertisement to the Administrator who may—

(i) refuse such application, or

(ii) grant such application and issue the necessary proclamation in terms of subsection (1).

(b) All expenditure incurred by the road authority in consequence of or in connection with an application contemplated by paragraph (a), including the expenditure incurred in publishing the

advertisement contemplated by subsection (3), shall be recoverable from the applicant by such road authority.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**4. Classification of specific roads.—The Administrator shall, in every proclamation issued in terms of section 3 (1), classify the public road declared in such proclamation to be or remain a public road as—**

**4. Classification of specific roads.—**The Administrator shall, in every proclamation issued in terms of section 3 (1), classify the public road declared in such proclamation to be or remain a public road as—

- (a) a trunk road;
- (b) a main road;
- (c) a divisional road, or
- (d) a minor road,

and may from time to time, after compliance by the road authority *mutatis mutandis* with the provisions of section 3 (3) (a) and (c), by proclamation in the *Provincial Gazette* alter the classification of any public road.

[S. 4 substituted by s. 2 of Ord. 18 of 1977.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 5. Statutory width of public roads and public paths.—(1) Unless altered in terms of subsection (2), the statutory width of—**

**5. Statutory width of public roads and public paths.—**(1) Unless altered in terms of subsection (2), the statutory width of—

- (a) trunk roads shall be thirty metres;
- (b) main roads shall be twenty-five metres;
- (c) divisional roads and minor roads shall, except in the case of a minor road contemplated by section 6, be twenty metres, and
- (d) public paths shall be two metres,

provided that where a public road or public path has an actual width which has been provided by the division or subdivision of land or which has been obtained in any other manner whatever and which is greater than the statutory width hereinbefore contemplated, the statutory width of such public road or public path shall be deemed to have been altered in terms of subsection (2) in accordance with such actual width.

[Proviso to sub-s. (1) substituted by s. 1 of Ord. 20 of 1983.]

(2) The Administrator may—

- (a) in respect of any public road or public path of which he is the road author or of some or all of such public roads or public paths, and
- (b) on the application of or after consultation with a road authority which is a council, in respect of any public road or public path of which such court is the road authority or of some or all of such public roads or public paths,

by notice in the *Provincial Gazette*, alter the statutory width of any such public road or public path or

of some or all of such public roads or public paths; provided that where such statutory width is altered contemporaneously with the issue of any proclamation contemplated by section 3 (1) or (2) or 4, such alteration may be notified in such proclamation.

[Proviso to sub-s. (2) inserted by s. 1 (1) (a) of Ord. 28 of 1980.]

(3) The Administrator may, by notice in the *Provincial Gazette*, define the boundaries of the statutory width of any public road or public path by reference to the existing boundaries or beacons of land or by declaring that the boundaries of such statutory width are as indicated in accordance with a co-ordinate system on a plan filed in a specified office; provided that where such statutory width is defined contemporaneously with the issue of any proclamation contemplated by section 3 (1) or (2) or 4, such definition may be effected in such proclamation.

[Proviso to sub-s. (3) inserted by s. 1 (1) (b) of Ord. 28 of 1980.]

(4) For the purpose of increasing the width of a public road or public path to its statutory width, a road authority—

- (a) shall, where the boundaries of such statutory width have been defined in terms of subsection (3), expropriate the additional land required in terms of Chapter III in accordance with the boundaries as so defined, and
- (b) may, where the boundaries of such statutory width have not been so defined, expropriate the additional land required in terms of Chapter III on either side of the public road or public path concerned or on both sides thereof in equal or varying widths; provided that until such land is so expropriated, such statutory width shall be deemed to extend for half of such width on each side of the centre line of the public road or public path concerned if the existing width thereof is demarcated or of the roadway if the existing width of such public road or public path is not demarcated.

(5) Notwithstanding anything to the contrary in any other law contained, a road authority may, where a vineyard, an orchard, a plantation or irrigated land abuts on a public road or public path, provisionally expropriate only so much land (hereinafter referred to as the “provisional width”) as the Administrator may approve and in such event the provisions of this ordinance relating to the expropriation of property for the construction or widening of and the erection of fences along public roads and public paths shall, until the Administrator otherwise directs, *mutatis mutandis* apply in respect of such provisional width.

(6) Where the statutory width of some or all public roads of a particular classification or of some or all public paths in a municipal or divisional area has, in terms of this section, been altered generally without specifying the public roads or public paths affected, such statutory width as so altered shall apply to any public road of the same classification or to any public path thereafter coming into existence in such area unless the statutory width of such lastmentioned public road or public path is specially altered.

(7) The statutory width of a public road or public path as fixed or altered by or under this section shall apply to any subsequent diversion of such public road or public path unless the statutory width of such diversion is specially altered aforesaid.

(8) The statutory width of all public roads and public paths as lawfully fixed or altered by or under any law repealed by this ordinance or the Divisional Councils Ordinance, 1976 (Ordinance 18 of 1976) and in force at the commencement of this ordinance shall remain in force until altered under this section.

[Sub-s. (8) amended by s. 1 (1) (c) of Ord. 28 of 1980.]

## **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

### **6. Trekpaths.—(1) All trekpaths lawfully in existence in the rural area of any**

**division immediately prior to the commencement of this ordinance shall, with effect from such commencement—**

**6. Trekpaths.**—(1) All trekpaths lawfully in existence in the rural area of any division immediately prior to the commencement of this ordinance shall, with effect from such commencement—

- (a) cease to be trekpaths, and
- (b) be deemed to be minor roads proclaimed in terms of section 3 (1) (b) (i),

and all rest camps, rest places and resting places lawfully in existence on or within any such trekpath immediately prior to such commencement shall with effect from such commencement be deemed to be rest camps, rest places and stock camps established and maintained in terms of section 16.

(2) The statutory width of all minor roads contemplated by subsection (1) (b) shall not, without the approval of the Administrator, exceed one hundred and forty metres in any case where such minor road is bounded by a fence or one hundred and eighty metres where such minor road is not bounded by a fence.

(3) The road authority may provide water and construct drinking places for stock on or within the boundaries of the statutory width of any minor road contemplated by subsection (1) (b).

(4) The Trekpath Fund established by section 165 of the Divisional Councils Ordinance, 1952 (Ordinance 15 of 1952), as it existed immediately prior to the commencement of this ordinance, is, with effect from such commencement, hereby abolished.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**7. Construction and maintenance of public and private roads and public paths.**—(1) **The construction and maintenance of every public road, other than a minor road, of which the Administrator is the road authority shall be undertaken by him.**

**7. Construction and maintenance of public and private roads and public paths.**—(1) The construction and maintenance of every public road, other than a minor road, of which the Administrator is the road authority shall be undertaken by him.

(2) The construction and maintenance of every main road and every divisional road of which a council is the road authority shall, in so far as funds permit, be undertaken by such council.

(3) The construction and maintenance of every minor road and every public path may be undertaken by the road authority of such road or path; provided that a council which is the road authority of a minor road which is used by or on behalf of the State for the conveyance of pupils to and from school shall, in so far as funds permit, undertake the construction and maintenance of such minor road.

(4) The Administrator may, by written order, direct a road authority which is a council to undertake the construction and maintenance of any public road or public path (other than a minor road) of which it is the road authority according to such standards, in such position and for such width as he may specify in such order.

[Sub-s. (4) amended by s. 2 of Ord. 13 of 1985.]

(5) (a) A road authority which is a divisional council may, by agreement with and at the cost of the owner or occupier of immovable property situate within the rural area of the division concerned, construct and maintain a private road on such property in order to provide access from any dwelling on such property to the nearest public road and for the purposes of this subsection—

- (i) “cost” shall mean the actual cost to the road authority of the work done together with the percentage surcharge prescribed from time to time in terms of regulations in force under section 63 (1) (i), and
- (ii) no estimate of cost by a road authority shall be binding if the actual cost of the work done is found, on completion of such work, to exceed such estimate cost.

[Para. (a) amended by s. 2 of Ord. 11 of 1978.]

(b) The powers contemplated by paragraph (a) may only be exercised—

- (i) by resolution of the council; provided that the council may by special resolution only delegate these powers to the Secretary of the council on condition that such Secretary shall report on any powers thus exercised by him at the council meeting next ensuing;

[Sub-para. (i) substituted by s. 2 of Ord. 20 of 1983.]

- (ii) if the construction and maintenance of the private road contemplated by paragraph (a) will not hinder or delay the construction or maintenance of any public road of which such council is the road authority;
- (iii) if security for the payment of the cost of the construction or maintenance of such private road has, if the council so requires, been furnished to such council to its satisfaction before the commencement of such construction or maintenance, and
- (iv) if the owner or occupier concerned has indemnified the council against all claims of whatsoever nature by any person (including such owner or occupier) arising from or in consequence of the exercise of the powers contemplated by this subsection.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**8. Undertaking and cost of work on public roads and public paths.—(1) A road authority may, by agreement with and on behalf of another road authority, undertake or contribute to the cost of work in connection with the construction and maintenance of a public road or public path of which such other road authority is the road authority.**

**8. Undertaking and cost of work on public roads and public paths.—(1)** A road authority may, by agreement with and on behalf of another road authority, undertake or contribute to the cost of work in connection with the construction and maintenance of a public road or public path of which such other road authority is the road authority.

(2) Notwithstanding the repeal of the Divisional Councils Ordinance, 1952 (Ordinance 15 of 1952), by the Divisional Councils Ordinance, 1976, any agreement entered into in terms of section 128 or 129 of the Divisional Councils Ordinance, 1952 (Ordinance 15 of 1952), or section 186 or 187 of the Divisional Councils and Roads Ordinance, 1917 (Ordinance 13 of 1917), by a road authority which is a council and which is in force at the commencement of this ordinance shall be deemed to be an agreement entered into in terms of subsection (1).

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 9. Recovery of costs of construction and maintenance of minor roads.—(1) (a) A road authority which is a divisional council may, by special resolution and subject to the provisions of subsection (2), recover the whole or such percentage as it may determine of the costs, as estimated by such road authority, of the construction (including the cost of acquiring land for the purpose of such construction) and maintenance or of such construction or maintenance of a**

**minor road in its divisional area from the owners of properties who, in the opinion of such road authority, will benefit by such construction or maintenance.**

**9. Recovery of costs of construction and maintenance of minor roads.**—(1) (a) A road authority which is a divisional council may, by special resolution and subject to the provisions of subsection (2), recover the whole or such percentage as it may determine of the costs, as estimated by such road authority, of the construction (including the cost of acquiring land for the purpose of such construction) and maintenance or of such construction or maintenance of a minor road in its divisional area from the owners of properties who, in the opinion of such road authority, will benefit by such construction or maintenance.

(b) A road authority which has resolved to recover the costs contemplated by paragraph (a) shall recover such costs from the owners concerned in such proportions as such road authority may apportion between such owners.

(2) A road authority which desires to act in terms of subsection (1) shall, before commencing the construction or maintenance of the minor road concerned—

(a) serve notice on the owners contemplated by subsection (1) of its intention to recover the costs of construction and maintenance or construction or maintenance so contemplated and shall in such notice state—

(i) the cost, as estimated by such road authority, to be incurred in the construction and maintenance or construction or maintenance of such minor road;

(ii) the amount which is intended to be recovered from the owner concerned, and

(iii) that objections may be lodged with such road authority before a date specified in such notice not being less than twenty-one days after the date on which such notice is so served, and

(b) if any objections are lodged in accordance with such notice—

(i) transmit all such objections to the Administrator together with its comments thereon and a copy of the notice concerned, and

(ii) obtain the Administrator's authority to act in terms of subsection (1).

(3) Where the actual cost of any construction and maintenance or construction or maintenance is, on completion thereof, found to be less than the estimated costs hereinbefore contemplated, the amounts recoverable by a road authority in terms of this section shall be adjusted accordingly and the necessary refunds (if any) shall be made by the road authority to the owners concerned.

(4) All amounts which are recoverable by a road authority in terms of this section shall be paid by the owner concerned and his successors in title in one payment or in such instalments, during such period and at such rate of interest on the unpaid balance of any such amount as the road authority may determine.

(5) A road authority which, immediately prior to the commencement of the Roads Amendment Ordinance, 1978, was required to recover the costs of construction of a minor road shall, in respect of such minor road, be deemed to have made the determinations contemplated by and to have complied with the provisions of this section.

[S. 9 substituted by s. 3 of Ord. 11 of 1978.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 10. Distance indicators, signposts etc. on public roads and public paths.—A road authority—**

**10. Distance indicators, signposts etc. on public roads and public paths.**—A road authority—

- (a) shall erect and maintain direction signposts at the junction of every public road of which it is the road authority with any other public road, and
- (b) may and, in the case of a road authority which is a council which has been so directed by the Administrator, shall erect and maintain on public roads a public paths of which it is the road authority such distance indicators, signposts directions and warnings as may, in its opinion, be necessary or desirable for safety or guidance of the public.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 11. Walls, hedges etc. at road corners.**—Where a road authority considers it necessary for the safety of pedestrian or vehicular traffic it may and, in the case of a road authority which is a council which has been so directed by the Administrator, shall by written order, require the owner of any land to reduce the height of any tree, bush, vegetation, wall, hedge or fence at the junction of a public road or public path of which such road authority is the road authority with any other road or path (whether public or not) to a height specified in such order and being not less than one metre for a distance so specified and being not less than twenty metres on each side of the corner formed by such junction and if such owner fails to comply with such order to the satisfaction of such road authority within a time specified in such order, such road authority may enter upon such land and perform the necessary work at the cost of such owner.

**11. Walls, hedges etc. at road corners.**—Where a road authority considers it necessary for the safety of pedestrian or vehicular traffic it may and, in the case of a road authority which is a council which has been so directed by the Administrator, shall by written order, require the owner of any land to reduce the height of any tree, bush, vegetation, wall, hedge or fence at the junction of a public road or public path of which such road authority is the road authority with any other road or path (whether public or not) to a height specified in such order and being not less than one metre for a distance so specified and being not less than twenty metres on each side of the corner formed by such junction and if such owner fails to comply with such order to the satisfaction of such road authority within a time specified in such order, such road authority may enter upon such land and perform the necessary work at the cost of such owner.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 12. Fences along public roads and public paths.**—(1) A road authority may, and in the case of a road authority which is a council which has been so directed by the Administrator, shall erect a fence—

**12. Fences along public roads and public paths.**—(1) A road authority may, and in the case of a road authority which is a council which has been so directed by the Administrator, shall erect a fence—

- (a) along the boundary of the statutory width of any public path of which it is the road authority; provided that the Administrator shall not so direct in respect of a minor road;

[Para. (a) amended by s. 3 (a) of Ord. 13 of 1985 and substituted by s. 1 of Ord. 16 of 1986.]

- (b) around any land from which materials are being or have been raised and removed, and

(c) around any water supply provided or used by such road authority.

(2) A road authority—

(a) shall contribute not less than sixty per cent of the costs incurred by an other person in erecting a fence along the boundary of the statutory width of a main road or divisional road of which such road authority is the road authority—

(i) as a result of the issue of a notice in terms of section 13 (4) in respect of such road, or

(ii) as a result of the removal of one or more gates from such road in term of section 14,

and for the purposes of this paragraph “costs” means the cost of erecting fence in accordance with the standards of materials and construction general or specially determined by the road authority;

(b) which is a council which has been so directed by the Administrator, shall contribute such percentage as the Administrator may generally or specially determine of the costs incurred by any other person in erecting a fence along the statutory width of any public road or public path (other than a minor road) of which such council is the road authority, and

[Para. (b) amended by s. 3 (b) of Ord. 13 of 1985.]

(c) may contribute to the costs incurred by any other person in erecting a fence in accordance with the standards of materials and construction generally specially determined by the road authority along the boundary of the statutory width of any public road or public path of which such road authority is road authority and in respect of which no notice in terms of section 13 (4) been issued.

(3) (a) No person other than the road authority may erect a fence on the boundaries of the statutory width of a public road or public path except with the written permission of and in accordance with standards and specifications determined by such road authority.

(b) No person other than the road authority may remove a fence lawfully erected in terms of paragraphs (a) or (d) except with the written permission of such road authority.

[Para. (b) substituted by s. 3 (c) of Ord. 13 of 1985.]

(c) If a fence which, at the commencement of this ordinance, is situate on the boundary of the statutory width of a public road or public path is, as a result of the amendment of this ordinance or the alteration of the statutory width of such public road or public path under this ordinance, at any time after such commencement situate outside such boundary, the provisions of this ordinance shall apply in respect of such fence as if such fence were situate on such boundary; provided that the road authority shall not grant permission in terms of paragraph (b) for the removal of such fence for any reason other than that the condition of such fence necessitates its replacement unless the owner of the land over which such fence runs undertakes in writing to defray the total cost of such removal and of the re-erection of such fence in accordance with standards and specifications determined by such road authority on such boundary.

(d) All fences lawfully erected on or within the boundaries of the statutory width of a public road or public path prior to the commencement of this ordinance and in existence at such commencement shall be deemed to have been erected with the permission of and in accordance with standards and specifications determined by the road authority in terms of paragraph (a).

(e) Any permission deemed to have been granted in terms of paragraph (a) in respect of the erection of a fence within the boundaries of the statutory width of a public road or public path may at

any time be withdrawn by the road authority and in such event such fence shall be removed by such road authority and re-erected by it on such boundary at the cost of such road authority.

(4) (a) Any person who contravenes the provisions of subsection (3) shall be guilty of an offence and on conviction be liable to a fine not exceeding two hundred rands or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

(b) The provisions of section 64 (2), (3) and (4) shall apply *mutatis mutandis* in respect of any contravention of this section and the road authority concerned shall—

- (i) remove any fence which has been erected in contravention of this section and re-erect such fence on the boundary of the statutory width of the public road or public path concerned, and
- (ii) re-erect any fence which has been removed in contravention of this section on the boundary of the statutory width of the public road or public path concerned.

(5) Where a public road or public path is diverted the road authority may if it has contributed to the cost of any fence alongside thereof, remove such fence to the new location of such public road or public path.

(6) Subject to the provisions of the Fencing Act, 1963 (Act 31 of 1963), the owner of the land abutting on the boundary of the statutory width of any public road or public path shall be responsible for the maintenance of any fence lawfully erected on or within such boundary.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 13. Erection of gates across public roads and public paths.—(1) No person shall erect a gate across—**

**13. Erection of gates across public roads and public paths.—(1) No person shall erect a gate across—**

- (a) a trunk road;
- (b) a main road or divisional road in respect of which a notice contemplated by subsection (4) has been issued, or
- (c) any other public road or public path except with the approval of and in accordance with standards and specifications approved by the road authority; provided that, in the case of the erection of a gate across a main road or a divisional road, a road authority which is a council shall not grant such approval unless—
  - (i) it is prepared to construct a motor by-pass alongside such gate;
  - (ii) it has obtained the approval of the Provincial Roads Engineer for the construction of such motor by-pass, and
  - (iii) the person applying for such approval in respect of a gate in a fence other than a boundary fence has furnished such road authority with security to its satisfaction for the payment of one-half of the cost of construction of such motor by-pass.

(2) (a) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction liable to a fine not exceeding two hundred rands or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

(b) The provisions of section 64 (2), (3) and (4) shall apply *mutatis mutandis* in respect of any contravention of this section and the road authority concerned shall remove any gate erected in contravention of this section.

(3) A road authority which has granted approval in terms of subsection (1) (c) shall in so far as funds permit construct the motor by-pass contemplated by the said subsection either simultaneously with the erection of the gate in respect of which such approval was granted or as soon as possible thereafter.

(4) The Administrator may, by notice in the *Provincial Gazette*, prohibit the erection of gates across any main road or divisional road or any portion of any such road specified in such notice.

[Sub-s. (4) substituted by s. 3 of Ord. 18 of 1977.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 14. Removal of gates across public roads and public paths.—(1) A road authority may, after complying with the provisions of subsection (2), remove a gate across a public road or public path of which it is the road authority.**

**14. Removal of gates across public roads and public paths.—**(1) A road authority may, after complying with the provisions of subsection (2), remove a gate across a public road or public path of which it is the road authority.

(2) A road authority which intends to act in terms of subsection (1) shall—

- (a) by written notice inform every owner of land who, in the opinion of such road authority, may be adversely affected by the removal of such gate of its intention so to act and that any objections which such owner may have thereto may be lodged with the road authority on or before a date specified in such notice and being not less than twenty-one days after the date of such notice, and
- (b) in the case of a road authority which is a council and if any objections are lodged in accordance with such notice—
  - (i) transmit all such objections to the Administrator together with its comments thereon and a copy of such notice, and
  - (ii) obtain the Administrator's authority to act in terms of subsection (1).

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 15. Motor by-passes.—(1) The Administrator may construct a motor by-pass alongside a gate across any public road of which he is the road authority.**

**15. Motor by-passes.—**(1) The Administrator may construct a motor by-pass alongside a gate across any public road of which he is the road authority.

(2) A road authority which is a council may, with the approval of the Provincial Roads Engineer, and shall, when so directed by the Administrator, construct a motor by-pass in accordance with regulations in force under section 63 (1) alongside a gate across a public road of which such road authority is the road authority.

(3) Any motor by-pass lawfully in existence at the commencement of this ordinance shall be deemed to have been constructed by the road authority in terms of subsection (1) or (2), as the case may be.

(4) (a) The provisions of this ordinance relating to the closing and diversion of public roads (other than the provisions of section 19 (1) (b) shall not apply in respect of a motor by-pass.

(b) The Administrator may close or divert any motor by-pass alongside a gate across any public road of which he is the road authority.

(c) A road authority which is a council may, with the approval of the Administrator and

shall, when so directed by him, close or divert any motor by-pass alongside a gate across any public road of which such road authority is the road authority; provided that the Administrator shall not so direct in respect of a minor road.

[Para. (c) amended by s. 4 of Ord. 13 of 1985 and substituted by s. 2 of Ord. 16 of 1986.]

(d) Any motor by-pass alongside a gate which is removed in terms of section shall be removed by the road authority concerned simultaneously with the removal of such gate.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 16. Rest camps, rest places and stock camps.—A road authority may, within or outside the boundaries of the statutory with of any public road or public path of which such road authority is the road authority, establish and maintain rest camps and rest places for use by the travelled public and stock camps for use in connection with the removal of stock.**

**16. Rest camps, rest places and stock camps.**—A road authority may, within or outside the boundaries of the statutory with of any public road or public path of which such road authority is the road authority, establish and maintain rest camps and rest places for use by the travelled public and stock camps for use in connection with the removal of stock.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 17. Erection of structures on or near public roads.—(1) Notwithstanding the provisions of any other law no person shall erect or install or cause or permit to be erected or installed on land owned by him or under his management or control any structure the whole or any portion of which falls within—**

**17. Erection of structures on or near public roads.**—(1) Notwithstanding the provisions of any other law no person shall erect or install or cause or permit to be erected or installed on land owned by him or under his management or control any structure the whole or any portion of which falls within—

- (a) the statutory width, or
- (b) five metres from the boundary of the statutory width

of any public road except with the permission of and in accordance with plans, standards and specifications approved by the road authority and, in the case of a road authority which is a council, of and by the Administrator.

[Sub-s. (1) substituted by s. 2 (a) of Ord. 28 of 1980 and by s. 5 (a) of Ord. 13 of 1985.]

(2) . . . . .

[Sub-s. (2) deleted by s. 2 (b) of Ord. 28 of 1980.]

(3) Any person who contravenes any provision of subsection (1) shall be guilty of an offence and on conviction be liable to a fine not exceeding two hundred rands or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

[Sub-s. (3) amended by s. 2 (c) of Ord. 28 of 1980.]

- (4) Any permission or approval granted under this section shall—
  - (a) not legalise the doing of anything which is unlawful under any other provision of this ordinance or any other law, and

(b) not be construed as derogating from the provisions of section 34 (2).

(5) The owner of the land on which a structure has been erected or installed in contravention of subsection (1) shall, if so directed by notice served on him by the road authority, remove the entire structure so erected or installed within such time as may be specified in such notice, failing which such road authority may take all measures (including legal action) necessary to ensure that such structure is removed and shall recover the costs thereof from such owner.

[Sub-s. (5) amended by s. 2 (d) of Ord. 28 of 1980 and substituted by s. 5 (b) of Ord. 13 of 1985.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 18. Access to and exit from certain public roads and public paths.—(1) (a) Any road authority may by written order served on the owner of land abutting on any public road or public path of which such road authority is the road authority and in respect of any existing access to or exit from such land by or for a vehicle from or to such public road or public path—**

**18. Access to and exit from certain public roads and public paths.—(1) (a) Any road authority may by written order served on the owner of land abutting on any public road or public path of which such road authority is the road authority and in respect of any existing access to or exit from such land by or for a vehicle from or to such public road or public path—**

- (i) require such owner to deviate such access or exit, or
- (ii) for any reason restrict or, in the interests of road safety, close such access or exit

in such manner, to such extent and either permanently or for such period as may be specified in such notice.

(b) Any road authority which has, in terms of paragraph (a) (ii), permanently closed any access to or exit from any land may, if it is of opinion that the owner concerned is, as a direct consequence of such closing, unable to put such land to beneficial use, expropriate such land in terms of Chapter III; provided that a road authority which is a council shall not expropriate land under the preceding provisions of this paragraph unless the Administrator has, in writing, authorised such expropriation.

(2) (a) Where the deviation, restriction or closure in terms of subsection (1) of any access to or exit from land necessitates the alteration, re-sitting, re-erection or reconstruction of any gate, private garage or driveway, the road authority concerned shall, subject to the provisions of paragraph (b)—

- (i) carry out the work so necessitated at its own cost, or
- (ii) permit the owner concerned to carry out such work at the cost of such road authority.

(b) The liability of the road authority in terms of this subsection shall be limited to the cost of substituting gates, garages or driveways of a similar standard to those which are, in terms of paragraph (a), required to be altered, re-sited, re-erected or reconstructed.

(3) The Administrator may, after consultation with a road authority which is a council, by order in writing direct such road authority to act in terms of subsection (1) or (2) or subsections (1) and (2) in relation to any land (excluding land which abuts on a minor road) specified in such order and if such road authority fails to comply with the terms of such order within a period specified therein the Administrator may exercise and perform the powers, duties and functions conferred and imposed on such road authority by the said subsections and recover the expenditure incurred by him in that regard from such road authority.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 19. Closing and diversion of public roads and public paths by road authority.—(1) Notwithstanding the provisions of section 3 (1) but subject to the provisions of subsection (2) and of any other law a road authority other than a municipal council which is not a village council may—**

**19. Closing and diversion of public roads and public paths by road authority.—**(1) Notwithstanding the provisions of section 3 (1) but subject to the provisions of subsection (2) and of any other law a road authority other than a municipal council which is not a village council may—

- (a) divert a public road or public path of which it is the road authority or any portion thereof if—
  - (i) any point on the centre line of the diversion would not be further than one thousand metres from the nearest point on the centre line of the public road, public path or portion thereof proposed to be diverted, and
  - (ii) in the case of a main road or divisional road of which a council is the road authority, the Provincial Roads Engineer has approved the proposed diversion;
- (b) temporarily close or temporarily restrict or regulate the use of a public road or public path of which it is the road authority or any portion thereof or the roadway of any such public road or portion—
  - (i) for the purpose of or pending the construction, reconstruction, maintenance and repair thereof;
  - (ii) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such road, path or portion;
  - (iii) if such road, path or portion is, in the opinion of the road authority, in a state dangerous to traffic;
  - (iv) by reason of any emergency or public event which, in the opinion of the road authority, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
  - (v) for any other reason which, in the opinion of the road authority, renders the temporary closing or restriction or regulation of the use of such road, path or portion necessary or desirable;
- (c) temporarily divert a public road or public path or portion thereof or the roadway of a public road which has been temporarily closed or the use whereof has been temporarily restricted or regulated in terms of paragraph (b),

and shall, if so required by the owner of land which has been damaged in consequence of a temporary diversion contemplated by paragraph (c), compensate such owner for such damage in an amount not exceeding the actual financial loss suffered by such owner as agreed upon between the owner and road authority or in the absence of agreement as determined—

- (i) by the Administrator, in the case where the road authority is a council, and
- (ii) by arbitration, in the case where the road authority is the Administrator.

(2) A road authority which intends to act in terms of subsection (1) (a) shall—

- (a) by written notice inform every owner of land over which the proposed diversion will pass of its intention so to act and that any objections which such owner may have thereto may be lodged with the road authority on or before a date specified in such notice and being not less than twenty-one days after the date of such notice, and
- (b) in the case of a road authority which is a council and if any objections are lodged in accordance with such notice—
  - (i) transmit all such objections to the Administrator together with its comments thereon and a copy of such notice, and
  - (ii) obtain the Administrator's authority to act in terms of subsection (1).

(3) The Administrator may, after considering the objections (if any) lodged in accordance with the notice contemplated by subsection (2) (a) in the case of the proposed diversion of a public road or public path or portion thereof of which he is the road authority, proceed with the proposed diversion, either to the extent contemplated by such notice or to such amended extent as to him may seem necessary or desirable or may abandon the proposed diversion.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 20. Indication of closing or diversion.—Whenever a public road, public path or portion of such a road or path or the roadway of a public road is closed or diverted in terms of section 19 the road authority shall erect and maintain the appropriate signs prescribed from time to time in terms of the Road Traffic Ordinance, 1966 (Ordinance 21 of 1966), and may in addition erect and maintain such other notice boards indicating such closure or diversion as such road authority may consider necessary or desirable, at each end of the closed or diverted section—**

**20. Indication of closing or diversion.—**Whenever a public road, public path or portion of such a road or path or the roadway of a public road is closed or diverted in terms of section 19 the road authority shall erect and maintain the appropriate signs prescribed from time to time in terms of the Road Traffic Ordinance, 1966 (Ordinance 21 of 1966), and may in addition erect and maintain such other notice boards indicating such closure or diversion as such road authority may consider necessary or desirable, at each end of the closed or diverted section—

- (a) in the case of a public road, public path or portion thereof which has been diverted, as soon as the diversion is open to public traffic and until the road authority has acted in terms of section 21, and
- (b) in the case of a public road, public path or portion thereof or the roadway of any public road or portion thereof which has been temporarily closed or diverted, for the duration of such closing or diversion.

[S. 20 substituted by s. 4 of Ord. 18 of 1977.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 21. Right of public to use closed or diverted public road or public path.—Notwithstanding the closing or diversion of a public road or public path or any portion thereof under this ordinance, the right of the public to use such road, path or portion shall continue until the road authority concerned has, by visible means on or attached to the land comprised in such road, path or portion, indicated that, in the case of a closure, such road, path or portion is closed to public traffic and, in the case of a diversion, the diversion is open to public traffic.**

**21. Right of public to use closed or diverted public road or public path.**—Notwithstanding the closing or diversion of a public road or public path or any portion thereof under this ordinance, the right of the public to use such road, path or portion shall continue until the road authority concerned has, by visible means on or attached to the land comprised in such road, path or portion, indicated that, in the case of a closure, such road, path or portion is closed to public traffic and, in the case of a diversion, the diversion is open to public traffic.

## **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

### **22. Ownership of public roads and public paths.—(1) The ownership of—**

**22. Ownership of public roads and public paths.**—(1) The ownership of—

- (a) all public roads and public paths and of all rest camps, rest places and stock camps established and maintained in terms of section 16 as well as the land comprised therein, and
- (b) all land and rights expropriated and all materials raised and removed,

shall, subject to the provisions of subsection (2), vest in the road authority concerned.

(2) If—

- (a) any public road or public path is diverted or permanently closed;
- (b) the statutory width of a public road or public path is reduced;
- (c) any rest camp, rest place or stock camp outside the boundaries of the statutory width of a public road or public path is abolished or reduced in size, or
- (d) a road authority informs an owner of land that it does not intend to continue to work a quarry which has been worked on such land by such road authority,

the ownership of the land thereby ceasing to form part of such public road, public path, rest camp, rest place or stock camp or comprised in such quarry, as the case may be, together with all works and things attached thereto, shall, unless the Administrator, by notice in the *Provincial Gazette*, otherwise directs pass to and vest in the owner of the land of which such firstmentioned land originally formed part; provided that the provisions of this subsection shall not apply in the case of land registered in accordance with subsection (3).

(3) All lands and rights of which the ownership vests in a road authority in terms of subsection (1) may be registered—

- (a) in the case of land and rights acquired by the Administrator in his capacity as road authority, in the name of the Roads Trustees contemplated by section 23, and
- (b) in the case of land and rights acquired by a road authority which is a council, in the name of such council.

### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 23. Road Trustees.—(1) The Roads Trustees shall be the Provincial Secretary and the Provincial Roads Engineer who may with the approval of the Administrator in any manner acquire property for road purposes and may alienate any property of which ownership vests in them in terms of section 22 or this section.**

**23. Road Trustees.**—(1) The Roads Trustees shall be the Provincial Secretary and the Provincial Roads Engineer who may with the approval of the Administrator in any manner acquire property for road purposes and may alienate any property of which ownership vests in them in terms

of section 22 or this section.

(2) Any land which has been acquired for road purposes and which, immediately prior to the commencement of this ordinance, was registered in the name of the State, may, at the request of the Administrator, be designated by the Minister of Agricultural as land which is to be transferred to the Roads Trustees.

(3) The ownership of land designated in terms of subsection (2) shall vest in the Roads Trustees and the Registrar of Deeds shall, on the application of the Provincial Secretary, make an appropriate endorsement to that effect on the title deeds of such land.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 24. Doubt or dispute as to location or route of public road or public path and extent of inner municipal area.—(1) Whenever the location or route of a public road or public path is in doubt or is the subject of a dispute, the Administrator may determine such location and route and a document purporting to set out such determination and to have been signed by or on behalf of the Provincial Roads Engineer shall, on its production in any legal, arbitration or other proceedings or inquiry whatsoever, be conclusive proof of such determination and of such location and route.**

**24. Doubt or dispute as to location or route of public road or public path and extent of inner municipal area.—(1)** Whenever the location or route of a public road or public path is in doubt or is the subject of a dispute, the Administrator may determine such location and route and a document purporting to set out such determination and to have been signed by or on behalf of the Provincial Roads Engineer shall, on its production in any legal, arbitration or other proceedings or inquiry whatsoever, be conclusive proof of such determination and of such location and route.

(2) In the event of any doubt or dispute as to the limits of any particular inner municipal area, the matter shall be referred to the Administrator whose decision shall be final.

(3) A main road or divisional road which is situate outside an inner municipal area shall be deemed to form part of such inner municipal area if—

- (a) the municipal council and divisional council concerned have so agreed and the Administrator has approved the agreement hereinbefore contemplated, or
- (b) the Administrator has so directed.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**25. Withholding of subsidy.—If a road authority which is a council fails to comply with any order or direction contemplated by section 7 (4) or 12 (1) within the time specified therein or, if no such time is specified, within a reasonable time, the Administrator may—**

**25. Withholding of subsidy.—**If a road authority which is a council fails to comply with any order or direction contemplated by section 7 (4) or 12 (1) within the time specified therein or, if no such time is specified, within a reasonable time, the Administrator may—

- (a) withhold payment of any sum payable in terms of Chapter IV by way of subsidy to such road authority until such order has been complied with by such road authority, or
- (b) undertake and carry out the work required to be performed in terms of such order at the total or partial cost of such road authority, in which event the Administrator may retain and use any sum withheld in terms of paragraph (a) for the purpose of carrying

out such work.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 26. Transfer of powers and duties of road authority.—**The Administrator may, either of his own accord or on the application of a council and if he is, after consultation with the councils concerned, of opinion that he or a particular council should be the road authority for a particular public road or public path, by notice in the *Provincial Gazette* determine that he or such council, as the case may be, shall, with effect from a date specified in such notice, be the road authority for such public road or public path and from such date the powers, duties and functions of a road authority in terms of this ordinance shall, in respect of such public road or public path, vest in the person so determined to be the road authority for such public road or public path.

26. **Transfer of powers and duties of road authority.—**The Administrator may, either of his own accord or on the application of a council and if he is, after consultation with the councils concerned, of opinion that he or a particular council should be the road authority for a particular public road or public path, by notice in the *Provincial Gazette* determine that he or such council, as the case may be, shall, with effect from a date specified in such notice, be the road authority for such public road or public path and from such date the powers, duties and functions of a road authority in terms of this ordinance shall, in respect of such public road or public path, vest in the person so determined to be the road authority for such public road or public path.

### CHAPTER III EXPROPRIATION

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 27. Power of road authority to expropriate property, take rights and raise and remove materials for road purposes.—(1) Subject to the provisions of this ordinance, a road authority may for road purposes—**

27. **Power of road authority to expropriate property, take rights and raise and remove materials for road purposes.—(1)** Subject to the provisions of this ordinance, a road authority may for road purposes—

- (a) expropriate property, other than property which is owned by the State;
- (b) take the right temporarily to use property, other than property which is owned by the State, and
- (c) raise and remove materials, including water (other than water which has been artificially pumped for the watering of stock), from immovable property other than immovable property which is situate within an inner municipal area, whether or not such property or materials are, in the case of a road authority which is a council, situate within its municipal or divisional area, as the case may be; provided that—
  - (i) a road authority which is a council shall not so raise and remove materials owned by the State or another road authority otherwise than by agreement with the State or such other road authority, and
  - (ii) the Administrator shall not so raise and remove materials from immovable property owned by the State (other than immovable property which has been reserved or obtained for provincial purposes) or owned by another road authority

otherwise than by agreement with the State or such other road authority.

[Sub-s. (1) amended by s. 4 of Ord. 11 of 1978.]

- (2) The powers conferred on a road authority in terms of subsection (1) shall
- (a) where only a portion of immovable property is expropriated and the own of the remainder of such immovable property satisfies the road authority that such remainder has, due to the expropriation of such portion, become useless him, include the power to expropriate such remainder;
  - (b) when any immovable property is acquired or expropriated by the authority, include the power to expropriate so much of any other immovable property as may, in the opinion of the road authority, be injuriously affected by such firstmentioned acquisition or expropriation, and
  - (c) include the power to expropriate land outside the boundaries of the statutory width of a public road or public path for the purposes of splaying corners, constructing traffic circles at road intersections, making cuts or fills or constructing bridges or subways.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 28. Inspection of property for purposes of ordinance.—(1) If any property or the temporary use of any property or any material on such property is or may be required for road purposes or in order to determine the value of such property or material, a road authority or any person authorised thereto in writing by such road authority may, after giving reasonable notice (which, in the case of an entry contemplated by paragraph (a) into any structure or on any enclosed yard or garden, shall not, without the consent of the owner or occupier concerned, be less than twenty-four hours) to the owner or occupier of such property or material of its or his intention so to act—**

**28. Inspection of property for purposes of ordinance.—(1) If any property or the temporary use of any property or any material on such property is or may be required for road purposes or in order to determine the value of such property or material, a road authority or any person authorised thereto in writing by such road authority may, after giving reasonable notice (which, in the case of an entry contemplated by paragraph (a) into any structure or on any enclosed yard or garden, shall not, without the consent of the owner or occupier concerned, be less than twenty-four hours) to the owner or occupier of such property or material of its or his intention so to act—**

- (a) enter upon the land in question with the necessary workmen, equipment and vehicles;
- (b) survey and determine the area and levels of the land in question;
- (c) dig or bore on or into the land in question;
- (d) construct and maintain waterworks in any river or stream;
- (e) in so far as it may be necessary to gain access to the land in question, enter upon and pass over any land with the necessary workmen, equipment and vehicles, and
- (f) demarcate the boundaries of the property or material in question.

(2) If any person has suffered any damage as a result of the exercise of any power conferred by subsection (1), the road authority shall be liable to pay damages in respect thereof or to repair such damage at its cost.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 29. Notice of expropriation taking or raising and removal.—(1) If a road authority has**

**decided to expropriate or to take the right temporarily to use any property or to raise and remove materials in terms of section 27, such road authority shall serve or cause to be served on the owner an appropriate notice in accordance with the provisions of subsection (2).**

**29. Notice of expropriation taking or raising and removal.**—(1) If a road authority has decided to expropriate or to take the right temporarily to use any property or to raise and remove materials in terms of section 27, such road authority shall serve or cause to be served on the owner an appropriate notice in accordance with the provisions of subsection (2).

(2) The notice of expropriation shall—

- (a) contain a description sufficiently clear to identify the property or materials concerned as well as, in the case where only a portion of a piece of land or a real right in or over any such portion is expropriated or a right is taken temporarily to use only such a portion, a sketch plan showing the approximate position of such portion and indicating the approximate extent of such portion;
- (b) state the date of expropriation or, as the case may be, the date from which the property will be used or the material raised and removed, which date shall not be later than one hundred and eighty days after the date of notice; provided that the date as from which the property may be used shall not be earlier than sixty days as from the date of notice unless the road authority is of opinion that such property is urgently required for any purpose for which it will be used by the road authority;
- (c) state the amount which is offered as compensation for the property or for the use thereof or request the owner to advise the road authority in writing within a period of sixty days from the date of notice of the amount claimed by him as such compensation and how much of the lastmentioned amount represents each of the respective amounts contemplated by section 35 (1) (a) (i) and (ii) and (b) with full particulars as to how such amounts are made up; provided that the road authority—
  - (i) shall, if the owner requests the road authority in writing within thirty days from the date of notice to extend such period, extend such period by not less than a further sixty days, and
  - (ii) may extend the said period or any extension thereof contemplated by subparagraph (i), and
- (d) if an amount is therein offered as compensation, draw the attention of the owner to the fact that, if any person has a right contemplated by section 31 (1) (d) (ii), (iv) or (v) in respect of the property of which the road authority had no knowledge on the date of notice, the road authority may withdraw the offer.

(3) If the property being expropriated is land, the road authority shall serve or cause to be served a copy of the expropriation notice upon—

- (a) every person who, according to the title deed of such land, is the holder of a mortgage bond over or in respect of such land;
- (b) every council within whose area of jurisdiction such land is situated, and
- (c) every person who, according to the written statement contemplated by section 31 (1) (d), is the holder of a right or a lessee, purchaser, builder or sharecropper so contemplated.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 30. Passing of ownership of expropriated property and exercise of right to use**

**property.—(1) The ownership of property expropriated in terms of this ordinance shall, on the date of expropriation, vest in the road authority, released from all mortgage bonds and all unregistered rights (if any) but if such property is land, it shall remain subject to all registered rights (except mortgage bonds) unless and until such registered rights have been expropriated in terms of this ordinance.**

**30. Passing of ownership of expropriated property and exercise of right to use property.—**(1) The ownership of property expropriated in terms of this ordinance shall, on the date of expropriation, vest in the road authority, released from all mortgage bonds and all unregistered rights (if any) but if such property is land, it shall remain subject to all registered rights (except mortgage bonds) unless and until such registered rights have been expropriated in terms of this ordinance.

(2) If a road authority has, in terms of section 27 taken the right temporarily to use property for road purposes, the road authority may, as from the date of expropriation, exercise such right.

(3) The road authority which has expropriated property may cause such property to be entered upon, taken possession of and used before proceedings have been commenced to determine the amount of compensation to be paid for or in respect thereof.

(4) The owner of immovable property which has been expropriated shall, from the date of expropriation to the date on which the road authority takes possession of such property, take care of and maintain such property and if such owner wilfully or negligently fails to do so and such property depreciates in value in consequence of such failure, the road authority may recover the amount by which such property has depreciated from such owner; provided that the road authority shall compensate the owner for costs which, in the opinion of the road authority, were necessarily incurred after the date of expropriation in respect of such care and maintenance.

(5) The owner shall be entitled to the use of and income from the expropriated property from the date of expropriation to the date on which the road authority takes possession of such property and shall, during that period, remain liable for the payment of all rates, taxes and charges levied under any law on or in respect of such property as if such property had not been expropriated.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 31. Duties of owner of property which has been expropriated or is to be used by road authority.—(1) An owner whose property has been expropriated in terms of this ordinance shall, within a period of sixty days from the date of notice in question, deliver or cause to be delivered to the road authority a written statement indicating—**

**31. Duties of owner of property which has been expropriated or is to be used by road authority.—**(1) An owner whose property has been expropriated in terms of this ordinance shall, within a period of sixty days from the date of notice in question, deliver or cause to be delivered to the road authority a written statement indicating—

- (a) if any compensation was offered in the notice of expropriation for such property, whether or not he accepts such compensation or, if he does not accept it, the amount claimed by him as compensation and how much of that amount represents each of the respective amounts contemplated by section 35 (1) (a) (i) and (ii) or (b), together with full particulars as to how such lastmentioned amounts are made up;
- (b) if no compensation was offered in the notice of expropriation for such property, the amount claimed by him as compensation and how much of that amount represents

each of the respective amounts contemplated by section 35 (1) (a) (i) and (ii) or (b), together with full particulars as to how such lastmentioned amounts are made up;

- (c) if the property expropriated is land and any amount is claimed in terms of paragraphs (a) and (b), full particulars of all improvements thereon which, in the opinion of the owner, affect the value of such land;
- (d) if the property expropriated is land—
  - (i) the names and addresses of all persons who are the holders of registered rights in or over such land;
  - (ii) which, prior to the date of notice, was leased for business or agricultural purposes by unregistered lease, the name and address of the lessee, together with the lease or a certified copy thereof, if it is in writing, or full particulars of the lease, if it is not in writing;
  - (iii) which, prior to the date of notice, was sold by the owner, the name and address of the purchaser, together with the contract of purchase and sale or a certified copy thereof;
  - (iv) on which a building has been erected which is subject to a lien in favour of a builder by virtue of a written contract, the name and address of such builder, together with such contract or a certified copy thereof, and
  - (v) which was on the date of notice farmed by a share-cropper, the name and address of such share-cropper, together with the share-cropper contract or a certified copy thereof, if it is in writing, or full particulars of the contract, if it is not in writing, and
- (e) the address at which the owner desires that further correspondence in connection with the expropriation be delivered to or served upon him;

provided that the road authority—

- (i) shall, if the owner requests the road authority in writing within thirty days from the date of notice to extend such period, extend such period by not less than a further sixty days, and
- (ii) may extend the said period or any extension thereof contemplated by subparagraph (i).

(2) The road authority may, after receipt of the written statement contemplated by subsection (1), require the owner to deliver or cause to be delivered to the road authority within such period, not being less than one month, as may be specified by the road authority, such further particulars and information in respect of any matter contemplated by the said subsection as the road authority may consider necessary for the proper determination of the amount of compensation payable.

(3) The provisions of subsection (1) (a), (b), (c) and (e) shall *mutatis mutandis* apply in respect of the taking, in terms of section 27, of a right temporarily to use any property for road purposes.

(4) Any person who wilfully furnishes false or misleading information in any written statement which he, by virtue of subsection (1) or (2), delivers or causes to be delivered to the road authority, shall be guilty of an offence and liable on conviction to be punished as if he had been convicted of fraud.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 32. Making of final offer by road authority and related matters.—(1) If within ninety days of the date of expropriation no agreement has been reached between the road authority and the owner as to the amount of compensation payable in terms of**

**this ordinance, the road authority shall, not later than one hundred and eighty days after the said date, in writing serve a final offer of compensation on the owner.**

**32. Making of final offer by road authority and related matters.**—(1) If within ninety days of the date of expropriation no agreement has been reached between the road authority and the owner as to the amount of compensation payable in terms of this ordinance, the road authority shall, not later than one hundred and eighty days after the said date, in writing serve a final offer of compensation on the owner.

(2) If a final offer of compensation has been made in terms of subsection (1) the owner shall be deemed to have accepted such offer unless—

- (a) he has, within thirty days of the date on which such offer is served on him, notified the road authority in writing that—
  - (i) he does not accept such offer, and
  - (ii) he intends to institute proceedings for the determination of the amount of compensation payable to him in accordance with the provisions of the law relating from time to time to the determination of compensation payable in consequence of an expropriation by the Administrator or a council, as the case may be;
- (b) he takes such steps as may be necessary to institute such proceedings within sixty days (or such longer period as the road authority may approve) of the date on which such offer is served on him, and
- (c) he proceeds expeditiously with such proceedings in accordance with the law relating thereto.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 33. Payment of amount offered as compensation.**—(1) **A road authority may, prior to the determination of the amount of compensation payable in terms of this ordinance and subject to the provisions of subsection (3)—**

**33. Payment of amount offered as compensation.**—(1) A road authority may, prior to the determination of the amount of compensation payable in terms of this ordinance and subject to the provisions of subsection (3)—

- (a) pay the amount offered as compensation to the owner or any portion of such amount to such owner or to any person contemplated by section 39;
- (b) deposit such amount or any portion of such amount with the Master, or
- (c) utilize such amount or any portion of such amount in settlement of the rates, taxes and other charges contemplated by section 40

under the same circumstances in which such road authority should or could have so paid, deposited or utilized such compensation had it been determined; provided that, in the case of a road authority which is a council, no such payment (excluding a payment in respect of a minor road) shall be made without the prior written approval of the Administrator.

[Sub-s. (1) amended by s. 7 of Ord. 13 of 1985.]

(2) Any moneys received by the Master in terms of subsection (1) shall be paid into the Guardian's Fund referred to in section 41 (2) (b) and bear interest at the rate therein referred to until the compensation payable in terms of this ordinance has been determined, whereupon such moneys shall, for the purposes of section 41, but subject to the provisions of subsection (3), be deemed to have

been received by the Master in terms of section 41 (1).

(3) The payment, deposit or utilization of any amount under subsection (1) shall not preclude the determination by agreement or in terms of the law relating from time to time to the determination of compensation payable in consequence of an expropriation by the Administrator or a council, as the case may be, of a different amount as compensation but if the amount so determined as compensation is less than the amount paid, deposited or utilized as aforesaid, the owner to or on whose behalf such lastmentioned amount was paid or the Master with whom it was deposited or the local authority concerned, as the case may be, shall refund the difference to the road authority together with, in the case of such owner or local authority, interest at the rate contemplated by section 35 (3) from the date on which the amount was so paid, deposited or utilized and, in the case of the Master, the interest accrued thereon in terms of subsection (2).

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 34. Powers and duties of road authority in relation to payment of compensation.—(1) From and after the commencement of this ordinance a road authority—**

**34. Powers and duties of road authority in relation to payment of compensation.—(1) From and after the commencement of this ordinance a road authority—**

- (a) shall, notwithstanding anything to the contrary relating to or deemed to relate to land or materials for road purposes which is reserved in favour of the State or a road authority and is contained in a title deed but subject to the succeeding provisions of this section, pay compensation to the owner calculated in accordance with the provisions of—
  - (i) section 35 (1) for any land or right expropriated in terms of this ordinance;
  - (ii) subsection (3) for land (not being land used for commercial purposes as a quarry) from which any materials, other than water, are raised and removed in terms of this ordinance;
  - (iii) section 35 (1) for materials raised and removed in terms of this ordinance if such materials were being commercially exploited on the date of expropriation, and
  - (iv) section 35 (1) for water raised and removed in terms of this ordinance from any waterworks, and
- (b) may, subject to the provisions of subsection (2), pay compensation to the owner calculated in accordance with the provisions of—
  - (i) section 35 (1) (a) (ii) for any right taken temporarily to use property and for any damage which, in the opinion of the road authority, is or will be caused by the exercise or performance of any power or duty conferred or imposed on such road authority by or under this ordinance, and
  - (ii) section 35 (1) (a) for any property expropriated and for any materials raised and removed in terms of this ordinance where the provisions of paragraph (a) are not applicable;

provided that if a road authority which is a council is unwilling to pay compensation in terms of this paragraph or if such road authority and an owner are unable to reach agreement as to the amount of such compensation, such owner may in writing appeal to the Administrator against such road authority's decision not to pay compensation in terms of this paragraph or against the amount of compensation offered by such road authority, as the case may be, and the Administrator may, after consultation with such

road authority—

- (aa) dismiss such appeal;
- (bb) direct such road authority to pay compensation in terms of this paragraph, or
- (cc) determine the amount of such compensation,

and the Administrator's decision in such appeal shall be final and binding on such road authority and such owner.

(2) The provisions of this section shall not be construed so as to require or, except with the prior approval of the Administrator, to authorise a road authority which is a council to pay compensation in respect of improvements made within the statutory width of a public road or public path after such width was fixed.

(3) Compensation contemplated by subsection (1) (a) (ii) shall, subject to the provisions of subsection (4), be paid in arrear in annual instalments which shall—

- (a) fall due on the first day of July following on the date on which the materials concerned are raised and removed for the first time and thereafter on the first day of July of every succeeding year in which such materials are raised and removed, and
- (b) not exceed an amount calculated in accordance with the formula—

$$Y = \frac{A \times B}{60}$$

in which formula—

“Y” represents the maximum amount of the annual instalment of compensation due;

“A” represents the maximum amount of compensation which would have been payable in accordance with section 35 (1) (a) (i) had this subsection not been enacted, and

“B” represents the number of completed months which have elapsed since the date on which the materials were raised and removed for the first time or since the date on which the immediately preceding annual instalment of compensation became due, as the case may be; provided that for the purposes of determining the annual instalment of compensation due in respect of the year in which materials are raised and removed for the last time the said number of completed months shall be increased by the number of completed months which in the opinion of the road authority will elapse before—

- (i) any natural vegetation of whatsoever nature is re-established on the land in question, or
- (ii) the owner of such land could reasonably be expected to put such land to beneficial use,

whichever is the lesser;

provided that where the road authority is of opinion that the total amount of all instalments required to be paid in terms of this subsection is equal to the maximum amount of compensation which would have been payable in accordance with section 35 (1) (a) (i) had this subsection not been enacted, such road authority may, in lieu of paying such annual instalments, pay such maximum amount to the owner.

[Proviso to sub-s. (3) inserted by s. 3 of Ord. 28 of 1980.]

(4) The aggregate of all annual instalments of compensation due in terms of subsection (3)

shall not exceed the maximum amount of compensation which would have been payable in accordance with section 35 (1) (a) (i) had subsection (3) not been enacted.

[S. 34 substituted by s. 5 of Ord. 18 of 1977.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 35. Basis for determination of compensation.—(1) The amount of compensation to be paid in terms of section 34 (1) (a) shall not exceed—**

**35. Basis for determination of compensation.—**(1) The amount of compensation to be paid in terms of section 34 (1) (a) shall not exceed—

- (a) in the case of any property other than a right, the aggregate of—
  - (i) the amount which such property would have realized if sold on the date of notice in the open market by a willing seller to a willing buyer, and
  - (ii) an amount sufficient to make good any actual financial loss caused by the relevant expropriation;
- (b) in the case of a right, an amount sufficient to make good any actual financial loss or inconvenience caused by the relevant expropriation.

(2) Interest shall, subject to the provisions of subsection (3), be payable by the road authority on the amount of any compensation contemplated by subsection (1) (a) (i) or any portion thereof (other than an annual instalment of compensation contemplated by section 34 (3)) which has not been paid to the person entitled thereto or has not been dealt with in terms of section 33 or 41 at the rate applicable on the date of expropriation in respect of loans granted by the State by virtue of a determination by the Minister of Finance in terms of section 26 (1) of the Exchequer and Audit Act, 1975 (Act 66 of 1975), with effect from a date sixty days after the date on which—

- (a) such compensation is finally determined, or
- (b) the road authority becomes aware of the name and address of the person entitled to such compensation or portion,

whichever is the later.

[Sub-s. (2) substituted by s. 6 (a) of Ord. 18 of 1977.]

(3) If the owner of property which has been expropriated occupies or utilizes such property or any portion thereof no interest shall, in respect of the period during which such owner so occupies or utilizes such property or portion, be payable in terms of subsection (2) on so much of the amount of compensation payable as, in the opinion of the road authority, represents the value of the property so occupied or utilized.

(4) In determining the amount of compensation to be paid in terms of this ordinance the following rules shall apply:—

- (a) Where a new public road or public path is constructed across, over or partly on portion of an existing public road or public path, the value of such portion shall not be taken into account.
- (b) Where the construction of a new public road or public path on certain property results in the closing of an existing public road or public path on such property, the value of the land comprised in the closed portion of such existing public road or public path shall, unless the Administrator has issued a notice contemplated by section 22 (2), be set-off against the value of the land expropriated for such new public road or public path.

- (c) The fact that the property was expropriated without the consent of the owner shall not be taken into account.
- (d) The special suitability or usefulness of the property or materials in question for the purpose for which such property or materials is required by the road authority shall not be taken into account if it is unlikely that such property or materials would have been purchased for such purpose in the open market or that the right to use such property for such purpose would have been so purchased.
- (e) If the value of the property has been enhanced in consequence of the use thereof in a manner which is unlawful or detrimental to the health of any person, such enhancement shall not be taken into account.
- (f) Improvements made after the date of notice on or to the property (except where such improvements were necessary for the proper maintenance of existing improvements or where such firstmentioned improvements were made in pursuance of agreements entered into before such date) shall not be taken into account.
- (g) Any unregistered right in respect of any other property or any indirect damage or anything done with the object of obtaining compensation therefor shall not be taken into account.
- (h) Any enhancement or depreciation in the value of the property before or after the date of notice, which may be due to the purpose for which or in connection with which the property is being or has been expropriated or is to be used or which is a consequence of any work or act which the road authority has performed or may perform or intends to perform for or in connection with such purpose, shall not be taken into account.
- (i) Whenever in the opinion of the road authority the amount of compensation may be affected by the presence of precious metals, base minerals or natural oil as defined in section 1 of the Mining Rights Act, 1967 (Act 20 of 1967), or precious stones as defined in section 1 of the Precious Stones Act, 1964 (Act 73 of 1964), the Minister of Mines shall be consulted prior to any compensation being offered or agreed to by the road authority; provided that for the purposes of this paragraph the words 'base minerals' shall not include materials raised and removed for road purposes in terms of this ordinance.

[Para. (i) substituted by s. 6 (b) of Ord. 18 of 1977.]

- (j) Account shall be taken of—
  - (i) any benefit which will ensure to the person to be compensated from any work which the road authority has built or constructed or undertaken to build or construct on behalf of such person to compensate him, wholly or partially, for any financial loss which such person will suffer in consequence of the expropriation;
  - (ii) any benefit which will ensure to the person to be compensated in consequence of the expropriation;
  - (iii) any amount of compensation payable in terms of section 36 in respect of an unregistered right, and
  - (iv) any relevant quantity of water to which the person to be compensated—
    - (aa) is entitled to by virtue of—
      - (aaa) the provisions of section 62 (1) or 63 of the Water Act, 1956 (Act 54 of 1956), or
      - (bbb) a permit issued under section 62 (2) of the said Act, or

(bb) will become entitled to by virtue of—

(aaa) a permit which will, according to a written statement by the Secretary for Water Affairs, be issued to such person, or

(bbb) any scheduling which will, according to such a statement, be granted to such person,

as the case may be.

(k) In respect of the goodwill of any business, trade or profession carried on, or conducted by any person on the date of expropriation on land which has been expropriated, the amount of compensation shall not exceed—

(i) the highest net profit which, according to written evidence, was obtained from such business, trade or profession during any period of twelve consecutive months of the period of thirty-six months or part thereof immediately preceding the date of expropriation, or

(ii) if such business, trade or profession has been carried on or conducted for less than twelve months, an amount equal to the net profit for a period of twelve months calculated in relation to the net profit which according to written evidence, was actually obtained from such business, trade or profession during the period for which such business, trade or profession was carried on or conducted on such land.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 36. Payment of compensation.—(1) The holder of any right in respect of expropriated property under any lease or contract contemplated by section 31 (1) (d) (ii), (iv) or (v) and which has been terminated in terms of section 42 shall, subject to the provisions of subsections (2) and (3), be entitled to compensation in terms of this ordinance as if such right were a registered right in respect of such property which had been expropriated in terms of this ordinance on the date on which such land was expropriated.**

**36. Payment of compensation.—**(1) The holder of any right in respect of expropriated property under any lease or contract contemplated by section 31 (1) (d) (ii), (iv) or (v) and which has been terminated in terms of section 42 shall, subject to the provisions of subsections (2) and (3), be entitled to compensation in terms of this ordinance as if such right were a registered right in respect of such property which had been expropriated in terms of this ordinance on the date on which such land was expropriated.

(2) The road authority shall offer any holder contemplated by subsection (1) an amount as compensation which shall be deemed to be an amount offered as compensation in terms of section 29 (2) (c).

(3) If the owner of expropriated property fails to comply with the provisions of section 31 (1) (d) (ii), (iv) or (v), the road authority shall not be obliged to pay compensation to the lessee, builder or share-cropper concerned in terms of subsection (1) and such owner shall be liable to any such lessee, builder or share-cropper for damage sustained by him in consequence of the expropriation of such property.

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**37. Determination of compensation.—(1) The compensation to be paid in terms of section 34 (1) (a) shall, in the absence of agreement between the road**

**authority and the owner as to the amount thereof, be determined in accordance with the provisions of the law relating from time to time to the determination of compensation payable in consequence of an expropriation by the Administrator or a council, as the case may be.**

**37. Determination of compensation.**—(1) The compensation to be paid in terms of section 34 (1) (a) shall, in the absence of agreement between the road authority and the owner as to the amount thereof, be determined in accordance with the provisions of the law relating from time to time to the determination of compensation payable in consequence of an expropriation by the Administrator or a council, as the case may be.

(2) The amount of compensation to be paid in terms of section 34 (1) (b) shall, subject to any direction or determination by the Administrator in terms of such section, be the amount agreed upon by the road authority and owner concerned.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 38. Effect of certain proceedings.**—Notwithstanding any proceedings (including arbitration proceedings) for the determination of compensation or an appeal against or review of any such proceedings, the provisions of this Chapter shall continue to apply as if no such proceedings, appeal or review had been instituted or noted.

**38. Effect of certain proceedings.**—Notwithstanding any proceedings (including arbitration proceedings) for the determination of compensation or an appeal against or review of any such proceedings, the provisions of this Chapter shall continue to apply as if no such proceedings, appeal or review had been instituted or noted.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 39. Discharge of debt secured by mortgage bond and utilization of compensation moneys in regard to certain unregistered rights.**—(1) If any immovable property expropriated under this ordinance was, immediately prior to the date of expropriation—

**39. Discharge of debt secured by mortgage bond and utilization of compensation moneys in regard to certain unregistered rights.**—(1) If any immovable property expropriated under this ordinance was, immediately prior to the date of expropriation—

- (a) encumbered by a registered mortgage bond, or
- (b) the subject of a contract contemplated by section 31 (1) (d) (iii) of which the road authority has been informed in a statement contemplated by the said section,

the road authority shall, subject to the provisions of sections 40 and 41, not pay any portion of the compensation payable in terms of this ordinance, except to such person and on such terms as may have been agreed upon between the owner of such property and the mortgagee or purchaser concerned, as the case may be, and as the road authority may have been notified in writing by them.

(2) If an owner of immovable property which has been expropriated fails to comply with the provisions of section 31 (1) (d) (iii) and the purchaser concerned in consequence thereof does not receive any portion of the compensation by virtue of the provisions of subsection (1), such owner shall be liable to such purchaser for any damage which such purchaser may have sustained in consequence of the expropriation and the road authority shall not be obliged to pay compensation in terms of this ordinance in respect of such damage.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 40. Payments of rates, taxes and other charges out of compensation moneys.—(1) Every council shall, upon the service on it of a copy of an expropriation notice by or on behalf of a road authority in terms of section 29 (3) (b) in respect of immovable property situate in the municipal or divisional area of such council, forthwith inform such road authority in writing of any rates, taxes and other charges which are due and payable to it and in respect of the payment of which the production of an authority or certificate is, in terms of the law relating to such council, a prerequisite for the registration of transfer by a Registrar of Deeds.**

**40. Payments of rates, taxes and other charges out of compensation moneys.—(1) Every council shall, upon the service on it of a copy of an expropriation notice by or on behalf of a road authority in terms of section 29 (3) (b) in respect of immovable property situate in the municipal or divisional area of such council, forthwith inform such road authority in writing of any rates, taxes and other charges which are due and payable to it and in respect of the payment of which the production of an authority or certificate is, in terms of the law relating to such council, a prerequisite for the registration of transfer by a Registrar of Deeds.**

[Sub-s. (1) amended by s. 7 of Ord. 18 of 1977.]

(2) A road authority may utilize so much of the compensation payable in terms of this ordinance as is necessary for the payment on behalf of the owner of the rates, taxes and other charges contemplated by subsection (1).

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 41. Deposit of compensation with Master or Development Trust.—(1) If property expropriated under this ordinance was burdened by a fideicommissum or if compensation is payable in terms of this ordinance to a person whose address is not known or if compensation is so payable and there is no person to whom such compensation can be paid, the road authority may deposit such compensation with the Master or if, in the opinion of the road authority, such property was not burdened by a fideicommissum and the compensation is so payable to a Black, with the South African Development Trust referred to in section 4 of the Development Trust and Land Act, 1936 (Act 18 of 1936), and after such deposit such road authority shall cease to be liable in respect of such compensation or any interest thereon.**

**41. Deposit of compensation with Master or Development Trust.—(1) If property expropriated under this ordinance was burdened by a *fideicommissum* or if compensation is payable in terms of this ordinance to a person whose address is not known or if compensation is so payable and there is no person to whom such compensation can be paid, the road authority may deposit such compensation with the Master or if, in the opinion of the road authority, such property was not burdened by a *fideicommissum* and the compensation is so payable to a Black, with the South African Development Trust referred to in section 4 of the Development Trust and Land Act, 1936 (Act 18 of 1936), and after such deposit such road authority shall cease to be liable in respect of such compensation or any interest thereon.**

(2) Any moneys received by the Master in terms of subsection (1) shall—

(a) if the property concerned was burdened by a *fideicommissum*, be subject *mutatis*

*mutandis* to all the terms and conditions contained in the will or other instrument whereby such *fideicommissum* was constituted, and

- (b) subject to the provisions of paragraph (a) be paid into the Guardian's Fund referred to in section 86 of the Administration of Estates Act, 1965 (Act 66 of 1965), for the benefit of the persons who are or may become entitled thereto and shall, subject to the provisions of section 88 of the said Act, bear interest at the rate determined from time to time by the Minister of Finance in terms of such lastmentioned section.

[Para. (b) substituted by s. 8 of Ord. 18 of 1977.]

(3) The provisions of subsections (1) and (2) shall not affect the jurisdiction of any court in relation to the payment or disposal of compensation payable in terms of this ordinance.

(4) In the event of a dispute or doubt as to the person who is entitled to receive any compensation payable in terms of this ordinance or in the event of the issue of an interdict in respect of the payment of any such compensation or if the owner and any mortgagee, holder of a right or purchaser have not notified the road authority in terms of section 39 in regard to the payment of such compensation, the road authority shall pay such compensation to the Master.

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**42. Termination of unregistered rights.—When land has been expropriated, all unregistered rights in respect of such land shall terminate on the date of expropriation and the road authority shall, subject to the provisions of sections 36 and 39, not be obliged to pay compensation in respect of such rights.**

**42. Termination of unregistered rights.—**When land has been expropriated, all unregistered rights in respect of such land shall terminate on the date of expropriation and the road authority shall, subject to the provisions of sections 36 and 39, not be obliged to pay compensation in respect of such rights.

#### CHAPTER IV ROADS SUBSIDY

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 43. Estimates of expenditure.—(1) Not later than the first day of January in each year every road authority which is a council shall submit to the Provincial Roads Engineer, for approval by the Administrator, estimates of expenditure for the following financial year on public roads in respect of which subsidy is claimable in terms of this ordinance.**

**43. Estimates of expenditure.—(1)** Not later than the first day of January in each year every road authority which is a council shall submit to the Provincial Roads Engineer, for approval by the Administrator, estimates of expenditure for the following financial year on public roads in respect of which subsidy is claimable in terms of this ordinance.

[Sub-s. (1) amended by s. 2 of Ord. 6 of 1980 and by s. 6 (a) of Ord. 4 of 1983.]

(2) Estimates shall be in such form as the Provincial Roads Engineer may from time to time determine.

(3) If a road authority refuses or fails to submit estimates as required by subsections (1) and (2) the Administrator may reduce the subsidy payable to such road authority by such amount as he

may determine.

(4) The Administrator may, in approving any estimates, alter or delete any proposed expenditure included therein.

(5) The Administrator may at any time authorise the amendment of estimates approved by him.

Part 1

[Part 1 substituted by s. 3 of Ord. 6 of 1980.]

*Subsidies Payable to Road Authorities which are Divisional Councils*

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**44. Categories of expenditure.—For the purposes of the payment of subsidy, expenditure by road authorities which are divisional councils on public roads (other than minor roads) shall be divided into the following categories:—**

**44. Categories of expenditure.**—For the purposes of the payment of subsidy, expenditure by road authorities which are divisional councils on public roads (other than minor roads) shall be divided into the following categories:—

- (a) *Revenue expenditure*, being expenditure not defrayed from the proceeds of any loan contemplated by paragraph (b)—
  - (i) on such maintenance or repair of such public roads as, in the opinion of the Provincial Roads Engineer, does not alter the horizontal or vertical location of the roadway concerned;
  - (ii) on the resealing of such public roads as are permanently surfaced;
  - (iii) on the erection of fences in terms of section 12;
  - (iv) on the construction, reconstruction or betterment of such public roads;
  - (v) in respect of compensation payments made with the approval of the Administrator in terms of section 34, and
  - (vi) which, in the opinion of the Provincial Roads Engineer, was necessarily incurred on the basic planning required to determine the most suitable route for any such public road which such road authority proposes to construct, and
- (b) *Loan repayment expenditure*, being the interest and redemption payments on loans (other than an overdraft, short-period loan or loan at call contemplated by section 103 of the Divisional Councils Ordinance, 1976 (Ordinance 18 of 1976)) taken up—
  - (i) from the Provincial Revolving Loan Fund established in terms of section 3 of the Provincial Capital and Loan Funds Ordinance, 1962 (Ordinance 3 of 1962), and
  - (ii) prior to the first day of January, 1980, from any other sourceto defray the approved capital expenditure contemplated by section 45.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 45. Approved expenditure.—(1) The Administrator shall, for each road authority which is a divisional council and after consideration of the estimates of expenditure contemplated by section 43, determine for the council concerned—**

**45. Approved expenditure.**—(1) The Administrator shall, for each road authority which is a divisional council and after consideration of the estimates of expenditure contemplated by section 43, determine for the council concerned—

- (a) an approved revenue expenditure, and
- (b) an approved capital expenditure (including expenditure in respect of compensation payments made with the approval of the Administrator in terms of section 34) to be defrayed from loans taken up to meet such capital expenditure from the Provincial Revolving Loan Fund established in terms of section 3 of the Provincial Capital and Loan Funds Ordinance, 1962 (Ordinance 3 of 1962),

and may, if he deems it necessary or desirable, at any time authorise an increase in such approved revenue expenditure or approved capital expenditure or in both such approved revenue expenditure and such approved capital expenditure.

(2) The Administrator may, in determining an approved revenue expenditure or approved capital expenditure in terms of subsection (1) or in increasing any such approved revenue expenditure or approved capital expenditure or both such approved revenue expenditure and such approved capital expenditure, direct that any item in or portion of any such expenditure shall not rank for subsidy under this ordinance and any such direction shall be final and binding on the road authority concerned.

(3) The Administrator may, whenever he acts in terms of subsection (1) or subsection (2) or subsection (1) and subsection (2), impose such conditions relating to the expenditure concerned as he may deem necessary or desirable.

(4) No road authority which is a divisional council shall, without the approval of the Administrator, exceed the total amount of—

- (a) the approved revenue expenditure contemplated by subsection (1);
- (b) the revenue expenditure approved in terms of subsection (1) for the construction, reconstruction or betterment of public roads (other than minor roads), or
- (c) the approved capital expenditure contemplated by subsection (1),

and if any such road authority so exceeds any such total amount, the Administrator may reduce the subsidy payable to such road authority in terms of section 46 by such amount as he may deem proper.

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**46. Administrator to determine subsidy.**—The subsidy payable in respect of public roads (other than minor roads) to a road authority which is a divisional council shall be such amount as the Administrator may determine annually, having regard to—

**46. Administrator to determine subsidy.**—The subsidy payable in respect of public roads (other than minor roads) to a road authority which is a divisional council shall be such amount as the Administrator may determine annually, having regard to—

- (a) the compound percentage increase per annum in the total valuation of all ratable immovable property in the divisional area concerned during the period between the two immediately preceding general valuations of immovable property in such divisional area;
- (b) the relevant date or time contemplated by the definition of “time of valuation” in section 2 of the Valuation Ordinance, 1944 (Ordinance 26 of 1944);

- (c) the estimates of expenditure submitted in terms of section 43 (1), and
- (d) such other factors as he may deem relevant.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 47. Excess of subsidy.—(1) Whenever the total actual expenditure incurred in any financial year by a road authority which is a divisional council on or in connection with public roads (other than minor roads) is less than the sum of—**

**47. Excess of subsidy.**—(1) Whenever the total actual expenditure incurred in any financial year by a road authority which is a divisional council on or in connection with public roads (other than minor roads) is less than the sum of—

- (a) the approved revenue expenditure for such financial year, and
- (b) all interest and redemption payments specified in the estimates of expenditure contemplated by section 43,

which rank for subsidy, the excess of the subsidy determined in terms of section 46 in respect of such road authority over the subsidy which would be payable to such road authority on or in respect of such total actual expenditure shall, after deduction therefrom of an amount equal to the sum of—

- (i) the amount by which, in the opinion of the Provincial Roads Engineer, the loan repayment expenditure referred to in section 44 (b) has been overestimated, and
- (ii) an amount equal to the amount received from another source as contemplated by section 53,

be paid into the Divisional Councils Reserve Fund contemplated by section 5 of the Provincial Capital and Loan Funds Ordinance, 1962 (Ordinance 3 of 1962), hereinafter referred to as ‘the Fund’, to the credit of such road authority.

[Sub-s. (1) amended by s. 6 (b) of Ord. 4 of 1983.]

(2) A road authority which is a divisional council may with the approval of the Administrator and subject to such terms and conditions as he may impose utilise moneys standing to its credit in the Fund to defray any expenditure on or in connection with public roads (other than minor roads) which by virtue of any direction in terms of section 45 (2) does not rank for subsidy.

(3) No interest shall be payable on amounts standing to the credit of road authorities in the Fund.

(4) No subsidy shall be payable on expenditure which is defrayed in terms of subsection (2).

(5) The Provincial Accountant shall, in respect of each road authority which is a divisional council, keep a proper record of all payments into and from the Fund in terms of this section.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 48. . . . .**

**48. . . . .**

[S. 48 deleted by s. 3 of Ord. 6 of 1980.]

Part 2

*Subsidies Payable to Road Authorities which are Municipalities*

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**49. Categories of expenditure.—For the purposes of the payment of subsidy, expenditure by road authorities which are municipal councils on trunk roads and main roads shall be divided into the following categories:—**

49. **Categories of expenditure.**—For the purposes of the payment of subsidy, expenditure by road authorities which are municipal councils on trunk roads and main roads shall be divided into the following categories:—

- (a) *Maintenance expenditure*, being expenditure from revenue on the maintenance and improvement of—
  - (i) permanently surfaced roads, and
  - (ii) roads not being permanently surfaced roads.
- (b) *Construction expenditure*, being the interest and redemption instalments on loans (other than overdrafts and short-period loans contemplated by section 103 of the Municipal Ordinance, 1974 (Ordinance 20 of 1974) taken up for—
  - (i) the construction of permanently surfaced roads including the cost of widening of roads to the statutory width, the acquisition of property for such purpose and the construction of subways and flyovers;
  - (ii) the construction of bridges over water courses, and
  - (iii) the alteration, deviation or removal, necessitated by the construction of a road, of any pipe, post, standard, wire, cable, conduit, sewer, appliance, work, article or thing used by a municipal council for providing any municipal service.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**50. Calculation of subsidy.—The Administrator shall pay to a road authority which is a municipal council on its expenditure on trunk roads and main roads a subsidy calculated as follows:—**

50. **Calculation of subsidy.**—The Administrator shall pay to a road authority which is a municipal council on its expenditure on trunk roads and main roads a subsidy calculated as follows:—

- (a) on maintenance expenditure:
  - (i) eighty per cent of such expenditure on permanently surfaced roads, and
  - (ii) sixty per cent of such expenditure on roads not being permanently surfaced roads, and
- (b) on construction expenditure:
  - (i) eighty per cent or such other percentage as the Administrator may, either generally or specially, determine in respect of such expenditure as is contemplated by section 49 (b) (i) and (ii), and
  - (ii) equal to such percentage, if any, as the Administrator may, either generally or specially, determine in respect of such expenditure as is contemplated by section 49 (b) (iii) but not exceeding seventy per cent;

[Para. (b) substituted by s. 8 of Ord. 13 of 1985.]

provided that no such subsidy shall be paid on any compensation payments made in terms of section 34 unless—

- (a) the Administrator's authority to expropriate the property concerned has been obtained

before such property is expropriated, and

- (b) where the compensation to be paid has been determined by agreement between such road authority and the owner, the Administrator has authorised the payment of such compensation.

[Proviso to s. 50 inserted by s. 9 of Ord. 18 of 1977.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 50A. Subsidy limited to expenditure in approved estimates.—No subsidy shall be payable on expenditure not shown in the approved estimates or on any expenditure in excess of the amount shown in the approved estimates.**

**50A. Subsidy limited to expenditure in approved estimates.**—No subsidy shall be payable on expenditure not shown in the approved estimates or on any expenditure in excess of the amount shown in the approved estimates.

[S. 50A inserted by s. 4 of Ord. 6 of 1980.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**50B. Alternative method of paying subsidy on capital expenditure.—(1) Whenever subsidy would be payable on interest and redemption instalments on a loan taken up by a road authority which is a municipal council to meet capital expenditure, the Administrator may pay to such road authority a sum as subsidy on an amount representing the whole or portion of the cost of the work, and in such event no such subsidy shall be paid in respect of the balance of such amount.**

**50B. Alternative method of paying subsidy on capital expenditure.**—(1) Whenever subsidy would be payable on interest and redemption instalments on a loan taken up by a road authority which is a municipal council to meet capital expenditure, the Administrator may pay to such road authority a sum as subsidy on an amount representing the whole or portion of the cost of the work, and in such event no such subsidy shall be paid in respect of the balance of such amount.

(2) The sum paid as subsidy in terms of subsection (1) shall be calculated at the rate of subsidy prescribed for the category in which the work concerned falls unless the Administrator has directed that such sum be calculated at some other rate determined by him.

(3) In subsection (1) “balance” means the difference between the amount and the sum referred to therein.

[S. 50B inserted by s. 4 of Ord. 6 of 1980.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 51. Equated percentage rate of subsidy on construction expenditure.—(1) Every road authority which is a municipal council other than a village council shall, before commencing any construction in respect of which subsidy is payable in terms of this Chapter, submit to the Provincial Roads Engineer a detailed estimate of expenditure divided into subsidisable and non-subsidisable items and the Provincial Roads Engineer shall thereupon equate the relative percentage rates applicable in respect of such construction.**

**51. Equated percentage rate of subsidy on construction expenditure.**—(1) Every road

authority which is a municipal council other than a village council shall, before commencing any construction in respect of which subsidy is payable in terms of this Chapter, submit to the Provincial Roads Engineer a detailed estimate of expenditure divided into subsidisable and non-subsidisable items and the Provincial Roads Engineer shall thereupon equate the relative percentage rates applicable in respect of such construction.

(2) Subsidy on the interest and redemption instalments of any loan taken up for the purposes of the construction contemplated by subsection (1) shall be paid at the equated percentage rate so contemplated.

(3) On completion of the construction contemplated by subsection (1) the road authority concerned shall submit a written statement of the actual expenditure, divided into subsidisable and non-subsidisable items, incurred on or in respect of such construction to the Provincial Roads Engineer who may, if the estimates contemplated by subsection (1) have been departed from in the course of such construction, revise and alter the equated percentage rate contemplated by subsection (1).

### Part 3

#### *Miscellaneous*

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 52. Subsidy on expenditure on prospective main roads and on basic planning in connection with roads.—In addition to any other subsidy payable under this Chapter, the Administrator may pay to a road authority which is a council—**

**52. Subsidy on expenditure on prospective main roads and on basic planning in connection with roads.**—In addition to any other subsidy payable under this Chapter, the Administrator may pay to a road authority which is a council—

- (a) a subsidy not exceeding fifty per cent of the expenditure incurred by it with the Administrator's approval on the acquisition of land for the widening and the construction and maintenance of a public street or public road declared to be a prospective main road under section 17 (1) of the Roads Ordinance, 1949 (Ordinance 12 of 1949), prior to the repeal thereof, or
- (b) on expenditure incurred by it on such basic planning as may be necessary to determine the most suitable route for a public road which the road authority proposes to construct, a subsidy applicable—

(i) . . . . .

[Sub-para. (i) deleted by s. 5 of Ord. 6 of 1980.]

- (ii) in the case of a road authority which is a municipal council, to construction expenditure referred to in section 49 (b) (i).

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 53. Contributions from other sources.—Whenever expenditure which ranks for subsidy is incurred on or in connection with a public road (other than a minor road) and is partly or wholly defrayed by a contribution from a source other than the road authority concerned or the Administrator, only that portion of such expenditure as is not so defrayed shall rank for subsidy.**

**53. Contributions from other sources.**—Whenever expenditure which ranks for subsidy is

incurred on or in connection with a public road (other than a minor road) and is partly or wholly defrayed by a contribution from a source other than the road authority concerned or the Administrator, only that portion of such expenditure as is not so defrayed shall rank for subsidy.

[S. 53 substituted by s. 6 of Ord. 6 of 1980.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 54. Subsidy payable on interest and redemption.—Whenever the cost of work is defrayed from loan moneys, subsidy shall, subject to the provisions of section 55, be payable only on the interest and redemption instalments on such loan.**

**54. Subsidy payable on interest and redemption.**—Whenever the cost of work is defrayed from loan moneys, subsidy shall, subject to the provisions of section 55, be payable only on the interest and redemption instalments on such loan.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 55. . . . .**

**55. . . . .**

[S. 55 repealed by s. 8 of Ord. 6 of 1980.]

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 56. Payment of subsidy.—(1) Subsidies payable under this Chapter shall be calculated to the nearest rand and shall be paid annually after expiration of the financial year in respect of which they are due, on submission by a road authority of a claim in such form as the Provincial Roads Engineer may from time to time determine.**

**56. Payment of subsidy.**—(1) Subsidies payable under this Chapter shall be calculated to the nearest rand and shall be paid annually after expiration of the financial year in respect of which they are due, on submission by a road authority of a claim in such form as the Provincial Roads Engineer may from time to time determine.

[Sub-s. (1) amended by s. 6 (c) of Ord. 4 of 1983.]

(2) Advances free of interest may be made by the Provincial Roads Engineer on account of subsidies; provided that the aggregate amount of such advances to a road authority during any financial year shall not exceed ninety per cent of the estimated aggregate amount of subsidy payable to such road authority for that financial year and that the necessary adjustments are made on payment of the claim for subsidy provided for in subsection (1).

[Sub-s. (2) amended by s. 6 (c) of Ord. 4 of 1983.]

(3) If the Administrator is satisfied that any work has not been satisfactorily performed, that value has not been received for any money spent or that any condition under which a loan was approved has not been complied with, he may, notwithstanding any other provision of this Chapter, in his discretion reduce the amount of subsidy payable to the road authority.

(4) The Provincial Auditor shall furnish to the Provincial Roads Engineer and the council concerned a certificate setting out in respect of each category of expenditure the actual amount on which subsidy is payable, and such adjustments as may be necessary in respect of subsidies paid or payable shall be made according to such certificate.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 57. Interest on**

**unexpended balance of loan moneys.—(1) Every loan raised by a road authority which is a council to finance works in respect of which subsidy is payable under this Chapter shall be credited to a special account.**

**57. Interest on unexpended balance of loan moneys.—**(1) Every loan raised by a road authority which is a council to finance works in respect of which subsidy is payable under this Chapter shall be credited to a special account.

(2) Interest at the rate of five per cent per annum or such other rate as may from time to time be determined by the Administrator, calculated monthly on the unexpended balance of the loan as reflected in such special account at the end of each month, shall be payable by such road authority and all such interest shall be applied in reduction of the interest and redemption instalments on such loan.

(3) A statement reflecting the unexpended balance of any loan contemplated by subsection (1) and the interest earned thereon in terms of subsection (2) shall be prepared by the road authority at the end of each month and shall be retained for audit purposes.

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**58. Availability of records of road expenditure.—**Every road authority which is a council shall, through its secretary or town clerk or any other officer in its employ, as the case may be, at all times have available for inspection by the Provincial Roads Engineer or any person employed in the Department of Roads of the Provincial Administration of the Province who has been appointed by the Provincial Roads Engineer for that purpose all books, records, invoices, accounts and other documents relating to any expenditure incurred by such road authority on or in connection with public roads.

**58. Availability of records of road expenditure.—**Every road authority which is a council shall, through its secretary or town clerk or any other officer in its employ, as the case may be, at all times have available for inspection by the Provincial Roads Engineer or any person employed in the Department of Roads of the Provincial Administration of the Province who has been appointed by the Provincial Roads Engineer for that purpose all books, records, invoices, accounts and other documents relating to any expenditure incurred by such road authority on or in connection with public roads.

[S. 58 substituted by s. 7 of Ord. 6 of 1980.]

#### **CHAPTER V GENERAL AND SUPPLEMENTARY**

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 59. Right of entry.—**The Provincial Roads Engineer, a road authority and any person authorised thereto in writing by the Provincial Roads Engineer or road authority shall, through his or its employees, agents and contractors, together with such assistants and advisers as may be necessary, and after giving reasonable notice to the owner or occupier of any land of its or his intention so to act, have access to, over, through or under such land by the shortest and most practicable route reasonable in the circumstances for the purpose of—

**59. Right of entry.—**The Provincial Roads Engineer, a road authority and any person authorised thereto in writing by the Provincial Roads Engineer or road authority shall, through his or

its employees, agents and contractors, together with such assistants and advisers as may be necessary, and after giving reasonable notice to the owner or occupier of any land of its or his intention so to act, have access to, over, through or under such land by the shortest and most practicable route reasonable in the circumstances for the purpose of—

- (a) ascertaining or doing anything in connection with the administration of this ordinance;
- (b) performing any act authorised or required to be performed by or under this ordinance;
- (c) making any inspection, enquiry, investigation or survey in connection with the exercise or performance of the powers, duties and functions conferred and imposed by or under this ordinance, and
- (d) inspecting, maintaining and repairing any structure, apparatus, appliance, installation or any other thing whatsoever which is or has been constructed, erected or placed on such land by or on behalf of the Provincial Roads Engineer,

and where such access is obtained to land enclosed by a fence, the Provincial Roads Engineer, road authority or authorised person, as the case may be, shall erect in such fence a gate provided with a lock which shall be kept locked when such gate is not open for use and of which a duplicate key shall be supplied to the occupier of such land.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 60. Actions for damages in certain circumstances.—(1) No action shall lie against a road authority or any employee, agent or contractor of a road authority for or in respect of any damage or injury sustained or alleged to have been sustained by any person—**

**60. Actions for damages in certain circumstances.—(1)** No action shall lie against a road authority or any employee, agent or contractor of a road authority for or in respect of any damage or injury sustained or alleged to have been sustained by any person—

- (a) in using any part of a public road or public path other than the roadway of a public road;
- (b) in using a public road or public path merely by reason of the fact that such road authority has contributed towards the costs of construction, repair, improvement or maintenance of such road or path, or
- (c) as a result of the exercise of the powers contemplated by section 59.

(2) If a person uses a public road for *bona fide* trekking with stock no action shall lie in respect of damage caused by such stock within a distance of forty-five metres from the boundary of such road on any side thereof on which it is not fenced, and such stock shall not be liable to be impounded while within such distance and for the purposes hereof a person shall not be deemed to have used a public road for the *bona fide* trekking with stock unless such trek was completed within twenty-four hours after its commencement, or unless during any twenty-four hours during which the trek lasted, a distance of at least ten kilometres in the case of small stock and twenty kilometres in the case of large stock, was covered in the same direction.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 61. Appeals.—(1) Any person who is aggrieved by—**

**61. Appeals.—(1)** Any person who is aggrieved by—

- (a) an order issued in terms of section 11 or 18 (1) (a);
- (b) a refusal to grant approval in terms of section 13 (1) (c);

- (c) any action taken in regard to the raising and removal of materials from land owned or occupied by such person, or
- (d) any action taken under section 5 (4) (b)

by a road authority which is a council may, by notice in writing (hereinafter referred to as the “notice of appeal”) served on the Provincial Roads Engineer not later than one month after the date on which the order, refusal or action appealed against is served on or notified to the person appealing (hereinafter referred to as the “appellant”), appeal to the Administrator against such order, refusal or action.

(2) The appellant shall—

- (a) set out fully in the notice of appeal the grounds of the appeal and any representations which he may wish to make in support of such grounds;
- (b) serve a true copy of the notice of appeal and of such grounds and representations on the road authority concerned, and
- (c) submit to the Provincial Roads Engineer proof in writing of the service of such copy.

(3) The road authority shall, as soon as practicable after the service on it in terms of subsection (2) of a true copy of the notice of appeal, grounds and representations contemplated by the said subsection, furnish the Provincial Roads Engineer with its representations in regard to the appeal; provided that if such representations are not received by the Provincial Roads Engineer within one month after such service the Administrator may proceed to consider and decide such appeal in the absence of such representations.

(4) Pending the Administrator’s consideration of and decision on an appeal against an order or action contemplated by subsection (1), such order or action shall not be proceeded with.

(5) In the case of any appeal the Administrator may—

- (a) confirm the order, refusal or action appealed against;
- (b) set aside such order, refusal or action;
- (c) confirm such order, refusal or action subject to such modifications and conditions (including the payment of compensation by either the appellant or the road authority or both) as he may deem fit, or
- (d) give any other direction in regard to such order, refusal or action, subject to such modifications and conditions (including the payment of compensation by either the appellant or the road authority or both) as he may deem fit.

(6) The Administrator’s decision in regard to an appeal contemplated by this section shall be final and binding on the appellant and the road authority concerned.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 62. Service of documents.—(1) Whenever any notice, order or other document is by this ordinance authorised or required to be served on any person, it shall be deemed to have been effectively and sufficiently served on such person—**

**62. Service of documents.—**(1) Whenever any notice, order or other document is by this ordinance authorised or required to be served on any person, it shall be deemed to have been effectively and sufficiently served on such person—

- (a) when it has been delivered to him personally;
- (b) when it has been left at his place of residence or business in the Republic with a

person apparently over the age of sixteen years;

- (c) when it has been posted by registered or certified mail to his last known residential or business address in the Republic and an acknowledgement of the posting thereof from the Department of Posts and Tele-communications referred to in the Post Office Readjustment Act, 1968 (Act 67 of 1968), is produced;
- (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner contemplated by paragraph (a), (b) or (c);
- (e) if his address and agent or representative in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property, structure, object or other thing (if any) to which it relates, or
- (f) if—
  - (i) the whereabouts of any person on whom such notice, order or document is authorised or required to be served is not readily ascertainable by the road authority;
  - (ii) by reason of the number of such persons or for any other reason, the road authority is of opinion that service of such notice, order or document in accordance with paragraphs (a), (b), (c), (d) or (e) is not practicable, or
  - (iii) the property concerned is subject to a *fideicommissum* and it is not known to the road authority who the *fideicommissaries* are or will be,when such notice, order or document has been published in the press.

(2) When any notice, order or other document as aforesaid is authorised or required to be served on a person by reason of his being or having been the owner or occupier of or holding some other right in respect of any immovable property, structure, object or other thing, it shall be sufficient if he is therein described as the owner or occupier of such immovable property, structure, object or other thing or as the holder of such other right, as the case may be.

### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

#### **63. Regulations and by-laws.—(1) The Administrator may make regulations—**

##### **63. Regulations and by-laws.—(1) The Administrator may make regulations—**

- (a) prescribing the mode of construction, size, design, material, level and position of motor gates;
- (b) prescribing the length and width of approaches from the roadway to a motor gate;
- (c) prescribing the signs to be erected and maintained to give warning of a motor by-pass and the closing or diversion of a motor by-pass;
- (d) providing for deviations, exceptions and exemptions from and the waiver of any such regulations;
- (e) for the proper and effectual management, maintenance and control of motor by-passes;
- (f) prescribing the form and manner in which any application contemplated by this ordinance shall be made, the information which shall be submitted together with any such application and the fees (if any) which shall accompany such application;
- (g) for the use, control and protection of rest camps, rest places and stock camps on or forming part of public roads and public paths of which he is the road authority;
- (h) prescribing the manner in which road authorities shall keep account of all monies

- received or paid out in respect of roads;
- (i) prescribing how road works shall be costed;
- (j) notwithstanding the provisions of Chapter IV—
  - (i) prescribing in respect of any category of expenditure, items which shall rank for subsidy and items which shall not rank for subsidy;
  - (ii) subject to the regulations made in terms of subparagraph (i), conferring discretionary powers on the Provincial Roads Engineer to exclude from payment of subsidy expenditure in any category on items which he may consider unjustified or unnecessary, and
  - (iii) making the payment of subsidy on the expenditure on any work conditional upon such work being carried out in accordance with plans and specifications approved by the Provincial Roads Engineer;
- (k) prescribing to whom, and fixing the date on which, claims for subsidy shall be submitted, and
- (l) relating to any other matter which he deems necessary or desirable to prescribe in order to achieve the objects and purposes of this ordinance,

and may in such regulations create offences and provide for the imposition of penalties in respect thereof.

(2) A road authority which is a council may in respect of public roads and public paths of which it is the road authority make by-laws generally for the better carrying out of the provisions of this ordinance and in particular, but without prejudice to the generality of the foregoing, relating to—

- (a) walls and fences on the boundaries of the statutory width of public roads and public paths or between such boundaries and the building line;
- (b) traffic on public roads and public paths and the restriction of the use of public roads and public paths to specified classes of traffic;
- (c) admission to public roads and public paths which are temporarily closed;
- (d) the use of rest camps, rest places and stock camps established and maintained by such road authority;
- (e) the minimum standards of materials for and the erection of fences along and gates across public roads and public paths, and
- (f) the cleaning and training of animals and the repairing, cleaning and outspanning of vehicles on public roads and public paths,

and for the purposes hereof the provisions of the law relating to the making of by-laws by such a council shall *mutatis mutandis* apply.

## **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

### **64. Offences.—(1) Any person who—**

#### **64. Offences.—(1) Any person who—**

- (a) damages, destroys or defaces any public road or public path or any thing of whatsoever nature thereon or forming part thereof;
- (b) without the permission of the road authority, erects any fence, wall, hedge, trench, ditch or other barrier of whatsoever nature along, through, over or under a public road or public path;

- (c) places any obstruction or obstacle on, in, over or under a public road or public path;
- (d) throws or deposits or causes or permits to be thrown or deposited on or onto a public road or public path anything of whatsoever nature which is or is likely to be dangerous, harmful or injurious to traffic, whether vehicular or pedestrian, on such road or path;
- (e) deposits, accumulates or discharges or causes or permits to be deposited, accumulated or discharged on land abutting on a public road or public path any substance, matter or thing of whatsoever nature which is or is likely to be blown or washed on or onto such road or path or is or is likely to be offensive, dangerous, harmful or injurious to traffic, whether vehicular or pedestrian, on such road or path;
- (f) threatens, resists, hinders or obstructs or uses foul, abusive or insulting language towards or at any employee, agent or contractor of a road authority in the exercise or performance of the powers, duties and functions conferred and imposed on him by or under this ordinance;
- (g) falsely holds himself out to be an employee, agent or contractor of a road authority;
- (h) moves, removes, damages or destroys any peg, beacon or other means of identification placed on, in, over or under or attached to land for the purposes of this ordinance by or on behalf of a road authority;
- (i) contravenes or fails to comply with any provision of this ordinance;
- (j) hinders, obstructs or interferes with stock while on a public road or in a stock camp;
- (k) not being the owner or occupier of land where a stock camp is not fenced off, uses such camp for any purpose other than the *bona fide* trekking with stock, or
- (l) hinders or obstructs any person in the exercise of any of his rights arising from a public servitude,

shall be guilty of an offence and on conviction liable to a fine not exceeding two hundred rands or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

(2) In addition to any other penalty, the court convicting a person of an offence under this ordinance shall sentence him to a fine equivalent to the amount of all expenditure incurred or estimated by the road authority to be incurred by it in the execution of any work necessary to restore the public road or public path concerned to its former state or, failing payment of such fine, to imprisonment for a period not exceeding six months.

(3) Any fine paid in terms of subsection (2) shall be paid over to the road authority concerned.

(4) The provisions of subsections (2) and (3) shall not preclude the road authority from recovering the full amount of all expenditure incurred by it in the execution of any work contemplated by subsection (2) less the amount of any fine paid in terms of the said subsection from any person liable therefor, whether or not such person has been prosecuted for or convicted of an offence in terms of this section.

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**65. Delegations.—(1) A road authority may, either generally or specially, in writing and, in the case of a road authority which is a council, by special resolution, delegate any power or duty conferred or imposed on such road authority by or under this ordinance to any employee, agent or contractor of such road authority.**

**65. Delegations.**—(1) A road authority may, either generally or specially, in writing and, in the case of a road authority which is a council, by special resolution, delegate any power or duty conferred or imposed on such road authority by or under this ordinance to any employee, agent or contractor of such road authority.

[Previous s. 65 renumbered to sub-s. (1) by s. 4 (1) of Ord. 28 of 1980.]

(2) The provisions of section 2 of the Delegation of Powers Ordinance, 1965 (Ordinance 13 of 1965), shall not apply in respect of any power vested in the Administrator under this ordinance, or any other ordinance repealed by this ordinance or the Divisional Councils Ordinance, 1976 (Ordinance 18 of 1976), to issue proclamations.

[Sub-s. (2) inserted by s. 4 (1) of Ord. 28 of 1980.]

### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**66. Savings.**—(1) Every trunk road, main road, divisional road, minor road or road of necessity and public path lawfully in existence immediately prior to the commencement of this ordinance shall be deemed respectively to be a trunk road, main road, divisional road, minor road or public path declared and classified as such under this ordinance and the person who, immediately prior to such commencement, was responsible for the construction, reconstruction, maintenance, repair and improvement of any such public road or public path shall, subject to the provisions of this ordinance or any proclamation or notice issued hereunder, be deemed to be the road authority for such public road or public path; provided that where a municipal council other than a village council was immediately prior to such commencement the road authority for a public road, road of necessity or public path in its outer municipal area, the divisional council in whose divisional area such outer municipal area is situate shall be deemed to be the road authority for such road or path.

66. Savings.—(1) Every trunk road, main road, divisional road, minor road or road of necessity and public path lawfully in existence immediately prior to the commencement of this ordinance shall be deemed respectively to be a trunk road, main road, divisional road, minor road or public path declared and classified as such under this ordinance and the person who, immediately prior to such commencement, was responsible for the construction, reconstruction, maintenance, repair and improvement of any such public road or public path shall, subject to the provisions of this ordinance or any proclamation or notice issued hereunder, be deemed to be the road authority for such public road or public path; provided that where a municipal council other than a village council was immediately prior to such commencement the road authority for a public road, road of necessity or public path in its outer municipal area, the divisional council in whose divisional area such outer municipal area is situate shall be deemed to be the road authority for such road or path.

[Sub-s. (1) substituted by s. 10 of Ord. 18 of 1977 and by s. 5 of Ord. 11 of 1978.]

(2) The roads described in—

- (a) the Schedule to the Native Territories Roads Ordinance, 1948 (Ordinance 22 of 1948), and
- (b) Schedule B to the Transkeian Territories Road Tax Ordinance, 1935 (Ordinance 1 of 1935), to the extent to which such roads are situated in any area not included in the Transkei by or under the Transkei Constitution Act, 1963 (Act 48 of 1963), shall, with effect from the commencement of this ordinance, be deemed to be public roads declared as such in terms of section 3 (1) (a) and classified in terms of section 4 as

main roads and all expenditure incurred from and after the first day of April, 1970, to and including the day immediately preceding the commencement of this ordinance by the Provincial Administration of the Province on or in connection with the roads contemplated by paragraph (b) shall be deemed to have been validly incurred.

(3) All divisional roads, to the extent to which they are situate or are, after the commencement of this ordinance, included within an inner municipal area which is under the jurisdiction and control of a municipal council other than a village council, shall cease to be divisional roads.

(4) Any proclamation, notice, certificate or other document issued, any direction, approval, permission or authority given, any appointment or regulation made or any other action taken or thing done under the provisions of any law repealed by this ordinance or the Divisional Councils Ordinance, 1976 (Ordinance 18 of 1976) shall be deemed to have been issued, given, made, taken or done under the provisions of this ordinance.

[Sub-s. (4) amended by s. 9 (1) of Ord. 13 of 1985.]

(5) Any expropriation commenced by a road authority or proceedings for the determination of compensation instituted by or against a road authority prior to the commencement of this ordinance shall be continued as if this ordinance has not been passed; provided that the parties concerned may agree to proceed with such expropriation or proceedings in accordance with the provisions of this ordinance in which case the provisions of this ordinance shall apply to such expropriation or proceedings as if it or they had commenced or been instituted in terms of this ordinance.

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 /**

**67. Repeals.—The laws specified in Schedule III are hereby repealed to the extent set forth in the third column of such Schedule.**

67. Repeals.—The laws specified in Schedule III are hereby repealed to the extent set forth in the third column of such Schedule.

**Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / 68. Short title and date of commencement.—This ordinance shall be called the Roads Ordinance, 1976, and shall come into operation on the first day of January, 1977.**

68. Short title and date of commencement.—This ordinance shall be called the Roads Ordinance, 1976, and shall come into operation on the first day of January, 1977.

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / SCHEDULE I**

SCHEDULE I

[Schedule I repealed by s. 8 of Ord. 6 of 1980.]

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / SCHEDULE II**

SCHEDULE II

[Schedule II repealed by s. 8 of Ord. 6 of 1980.]

#### **Ordinances / Transport / ROADS ORDINANCE NO. 19 OF 1976 / SCHEDULE III**

SCHEDULE III

No. and Year of Ordinance	Short title	Extent of Repeal
31 of 1935	Provincial Road Fund Ordinance, 1935.	The whole.
3 of 1936	Roads Ordinance, 1936.	So much as is unrepealed.
27 of 1936	Roads Ordinance, 1936, Amendment Ordinance, 1936.	The whole.
9 of 1938	Roads Amendment Ordinance, 1938.	So much as is unrepealed.
5 of 1939	Roads Ordinance, 1936, Amendment Ordinance, 1939.	The whole.
25 of 1940	Roads Ordinance, 1936, Amendment Ordinance, 1940.	The whole.
13 of 1948	Provincial Road Fund Amendment Ordinance, 1948.	The whole.
22 of 1948	Native Territories Roads Ordinance, 1948.	The whole.
13 of 1950	Roads Amendment Ordinance, 1950.	The whole.
4 of 1951	Divisional Councils and Roads Amendment Ordinance, 1951.	Sections 14, 15 and 16.
10 of 1951	Provincial Road Fund Amendment Ordinance, 1951.	The whole.
16 of 1951	Roads Amendment Ordinance, 1951.	The whole.
21 of 1956	Native Territories Roads Amendment Ordinance, 1956.	The whole.
7 of 1957	Provincial Road Fund Amendment Ordinance, 1957.	So much as is unrepealed.
28 of 1960	Trunk Roads Ordinance, 1960.	The whole.
14 of 1961	Divisional Councils and Roads Amendment Ordinance, 1961.	So much as is unrepealed.
3 of 1962	Provincial Capital and Loan Funds Ordinance, 1962.	Sections 8, 9 and 10.
22 of 1962	Divisional Councils and Roads Amendment Ordinance, 1962.	So much as is unrepealed.
14 of 1963	Divisional Councils and Roads Amendment Ordinance, 1963.	So much as is unrepealed.
3 of 1964	Umzimkulu Road Board Abolition Ordinance, 1964.	So much as is unrepealed.
16 of 1966	Trunk Roads Amendment Ordinance, 1966.	The whole.
6 of 1969	Road Subsidy Ordinance, 1969.	So much as is unrepealed.
27 of 1970	Road Subsidy Amendment Ordinance, 1970.	The whole.
28 of 1970	Roads Amendment Ordinance, 1970.	The whole.
10 of 1972	Trunk Roads Amendment Ordinance, 1972.	The whole.
18 of 1973	Road Subsidy Amendment Ordinance, 1973.	The whole.