



FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

Published by Authority

Uitgegee op Gesag

No. 81

BLOEMFONTEIN, 11 SEPTEMBER 1998

BLOEMFONTEIN, 11 SEPTEMBER 1998

OFFICE OF THE PREMIER

No. 17

11 September 1998

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-

No. 17 of 1998: Roads Ordinance Amendment Act, 1998

KANTOOR VAN DIE PREMIER

No. 17

11 September 1998

Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-

No. 17 van 1998: Wysigingswet op die Ordonnansie op Paaie, 1998

GENERAL EXPLANATORY NOTE :

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Roads Ordinance, 1968, so as to further define, to substitute or to delete certain expressions; to further regulate the declaration, deviation and closing of public roads; to extend the matters that may be investigated by a board; to further regulate inquiries by a special road board or a commission; to provide that a new road or deviation may also be brought into a serviceable state at the expense of any interested party; to extend the purposes for which strips of land adjacent to a public road may be appropriated; to amend the size of road camps; to further regulate the entry and taking possession of land and the removal of material; to extend the payment of compensation; to further regulate the planting or removing of trees and other vegetation within the road reserve; to delete references to the expression "european"; to provide for and regulate the appointment of board members; to extend the grounds on which a person is disqualified to be a member of a board; to delete the provisions regarding stock-paths; to substitute certain obsolete references; to provide that the responsible Member and Head of Department may delegate their powers; to substitute further obsolete references; and to provide for connected matters.

BE IT ENACTED by the Provincial Legislature of the Free State Province as follows :-

(Afrikaans text signed by the Premier)
(Assented to 7 September 1998)

Amendment of section 1 of Ordinance 4 of 1968, as amended by section 9 of Ordinance 6 of 1970, section 1 of Ordinance 4 of 1971 and section 3 of Act 4 of 1994

1. Section 1 of the Roads Ordinance, 1968 (hereinafter referred to as the Ordinance), is amended-

(a) by the deletion of the definition of "arbitration";

(b) by the insertion after the definition of "board" of the following definition:

" 'Director General' means the Director General of the Administration; "

(c) by the deletion of the definition of "Director";

(d) by the insertion after the definition of "district" of the following definition:

" 'Head of Department' means the Head of the Department of Public Works, Roads and Transport of the Administration; "

5

10

15

20

- (e) by the deletion of the definition of "large stock";
- (f) by the substitution for the definition of "local authority" of the following definition: 5
- " 'local authority' means a [municipal council, village management board or local board established in terms of the Local Government Ordinance, 1962 (Ordinance No 8 of 1962) or a peri-urban authority established in terms of the Small-Holdings Ordinance, 1954 (Ordinance No 17 of 1954)] transitional council, excluding a transitional rural council, established in terms of the Local Government Transition Act, 1993 (Act No 209 of 1993);";** 10
- (g) by the substitution for the definition of "roadway" of the following definition: 15
- " 'roadway' means [that part of a road which has been improved or constructed, or is intended, for vehicular traffic] the surface of a public road on which vehicles normally travel and which consists of one or more contiguous traffic lanes, including auxiliary lanes and the road shoulders;";** 20
- (h) by the deletion of the definition of "small stock";
- (i) by the deletion of the definition of "stock-path";
- (j) by the substitution for the definition of "Townships Board" of the following definition: 25
- " 'Townships Board' means the Townships Board referred to in section [4 of the Townships Ordinance, 1947 (Ordinance No 20 of 1947)] 2 of the Townships Ordinance, 1969 (Ordinance No 9 of 1969); and** 30
- (k) by the insertion after the definition of "Townships Board" of the following definition:
- " 'travelled way' means a roadway excluding the road shoulders;".** 35

Amendment of section 3 of Ordinance 4 of 1968, as amended by section 1 of Ordinance 13 of 1986 and section 3 of Act 4 of 1994

2. Section 3 of the Ordinance is amended - 40
- (a) by the substitution in subsection (1) for the words preceding paragraph of the following words:
- "(1) Subject to the provisions of subsection (2) and section 9 [and of the Mining Rights Act, 1967 (Act No 20 of 1967)], the responsible Member may by proclamation - ";** 45

(b) by the substitution for subsection (2) of the following subsection:

“(2) A proclamation shall not be issued in terms of subsection (1), unless the responsible Member has -

- (a) except in the cases referred to in subsections (3)(c)(i) and (4)(b), had the matter inquired into by either the board in whose area of jurisdiction the road concerned is, in the opinion of the responsible Member, mainly situated in accordance with the provisions of section 4, or a commission in accordance with the provisions of section 6, as the responsible Member may determine; **[and]** 5
- (b) in the case of a proclamation which provides for the declaration of a public road over land in a township, consulted the Townships Board in the matter; and 10 15
- (c) in the case where a person referred to in subsection (3)(a), is in terms of section 18(2) responsible for the payment of compensation, received security to his or her satisfaction from such person.”; 20

(c) by the substitution for paragraph (b) of subsection (3) of the following paragraph: 25

“(b) An application shall be submitted to the **[Director]** Head of Department together with a sketch plan indicating the situation of the road concerned and a fee of -

- (i) **[three hundred and fifty rand]** R2 000, in the case where the matter is to be inquired into by a commission in terms of section 6; 30
- (ii) **[two hundred and fifty rand]** R1 500, in the case where the matter is to be inquired into by a board in terms of section 4; and 35
- (iii) **[fifty rand]** R200, in respect of a case involving a declaration referred to in subsection (1)(b).”; and

(d) by the insertion after paragraph (c) of subsection (3) of the following paragraph, the existing paragraph (d) becoming paragraph (e): 40

“(d) The Head of Department may direct it to the board or commission, as the case may be, to institute an inquiry regarding the desirability to declare, to deviate or to close another road which is not contained in the original application, if he or she is of the opinion that the declaration, deviation or closing of such other road appears to be necessary as a result of the declaration, deviation or closing of the road for which application has been made.”. 45

Amendment of section 4 of Ordinance 4 of 1968, as amended by section 2 of Ordinance 13 of 1986 and section 3 of Act 4 of 1994

3. Section 4 of the Ordinance is amended -

(a) by the substitution for subsection (1) of the following subsection:

“(1) When a matter has, in terms of section 3(3)(c)(ii), 3(3)(d) or 3(4)(a), been referred to a board for inquiry, the inquiry shall be conducted by the committee established, in terms of section 33, for the ward which, in the opinion of the **[chairman]** chairperson of the board, is mainly concerned with the matter, and a decision taken or recommendation made by such committee in connection with such matter shall be deemed to be a decision or recommendation of the board.”; and

(b) by the substitution for paragraphs (b) and (c) of subsection (3) of the following paragraphs respectively:

“(b) After completion of the inquiry the committee shall submit its report, through the **[Director]** Head of Department, to the **[Provincial Secretary]** Director General who may, after consideration thereof, decide -

(i) to make a recommendation to the responsible Member that a declaration be made in terms of section 3(1); or

(ii) not to make any **[such]** recommendation to the responsible Member.

(c) The applicant and the persons who made objections to or representations regarding the proposed declaration shall immediately be informed, by notice sent to them by **[certified]** registered post, of the decision taken by the **[Provincial Secretary]** Director General.”.

Amendment of section 5 of Ordinance 4 of 1968, as amended by section 3 of Ordinance 13 of 1986 and section 3 of Act 4 of 1994

4. Section 5 of the Ordinance is amended -

(a) by the substitution for subsection (1) of the following subsection:

“(1) A person or body of persons having a direct interest in a matter about which the **[Provincial Secretary]** Director General has, in terms of section 4(3)(b), taken a decision, and who is aggrieved at such decision, may, within **[twenty-one]** 30 days after the date of the notice referred to in section 4(3)(c), apply in writing to the **[Director]** Head of Department that the matter be further inquired into by a special road board constituted in terms of subsection (3).”;

- (b) by the substitution for subsection (2) of the following subsection:
- “(2) An application in terms of subsection (1) shall be accompanied by a fee of **[three hundred and fifty rand] R2 000.**”; 5
- (c) by the substitution for paragraph (b) of subsection (3) of the following paragraph:
- “(b) A special road board shall consist of three members of whom one shall be designated **[chairman] chairperson** by the responsible Member: 10
Provided that a person shall **[except if he is the chairman of such a board,]** not serve on such board if he or she is resident, or the owner of land, in the district in which the road which is the subject of the inquiry is situated.”; 15
- (d) by the substitution for paragraph (b) of subsection (4) of the following paragraph:
- “(b) A copy of such notice shall be sent by **[certified] registered** post to the applicant and every person referred to in section 4(3)(c).”; and 20
- (e) by the substitution for subsection (6) of the following subsection:
- “(6) (a) If no application has been received in terms of subsection (1) in a matter in connection with which the **[Provincial Secretary] Director General** has given a decision or if the responsible Member has, after the submission to him or her of the documents referred to in subsection (5)(b), given a decision in the matter, such matter shall not be reopened unless the responsible Member is satisfied that circumstances have arisen which render the reopening of the matter necessary. 25 30
- (b) If the responsible Member decides under paragraph (a) to reopen the matter, the applicant shall lodge an application in terms of section 3(3) anew.” 35

Amendment of section 6 of Ordinance 4 of 1968, as amended by section 4 of Ordinance 13 of 1986 and section 3 of Act 4 of 1994

5. Section 6 of the Ordinance is amended - 40
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) Whenever a matter is, in terms of section 3(3)(c)(ii), 3(3)(d) or 3(4)(a), to be referred to a commission for inquiry, the responsible Member shall appoint a commission, consisting of three members, to inquire into the proposed declaration, and shall designate one of the members as **[chairman] chairperson** of the commission.”; and 45

(b) by the substitution for subsection (4) of the following subsection:

“(4) (a) A matter which has been before a commission shall not be reopened, unless the responsible Member is satisfied that circumstances have arisen which render the reopening of the matter necessary. 5

(b) If the responsible Member decides under paragraph (a) to reopen the matter, the applicant shall lodge an application in terms of section 3(3) anew.”. 10

Substitution of section 10 of Ordinance 4 of 1968, as amended by section 6 of Ordinance 13 of 1986

6. The following section is substituted for section 10 of the Ordinance: 15

“Applicant or interested party to bring public road into serviceable state at his own expense.

10. [(1)] Whenever a new public road or a deviation of a public road has been declared in terms of section 3(1), such new road or deviation shall not be opened for use by the public, until the applicant [therefor] or any other interested party has, at his or her own expense and to the satisfaction of the [Director] Head of Department brought the road or deviation concerned into a serviceable state and has carried out such works (including the erection of a gate or fence) thereon as the [Director] Head of Department may determine.”. 20 25

Amendment of section 12 of Ordinance 4 of 1968, as amended by section 2 of Ordinance 4 of 1971 and section 3 of Act 4 of 1994 30

7. Section 12 of the Ordinance is amended -

(a) by the substitution for subsection (1) of the following subsection: 35

“(1) The width of the road reserve of public roads shall be as follows:

[(a) **primary roads which are declared roads as defined in section 1 of the National Roads Act, 1935 (Act No 42 of 1935), eighty metres;**] 40

[(b)] (a) **primary roads [except primary roads referred to in paragraph a)]-**

(i) with one roadway, thirty-two metres; 45

(ii) with more than one roadway, sixty-four metres;

[(c)] (b) **secondary roads, twenty-five metres;**

[(d)] (c) tertiary roads, sixteen metres.”; and

(b) by the substitution for subsection (2) of the following subsection:

- “(2) The responsible Member may appropriate such further strips of land alongside any section of a public road in order to make such section of the road wider than the width prescribed in subsection (1), if he or she considers it necessary -
- (a) for the construction of an intersection, bridge, subway or similar structure;
- (b) for the erection of a gate with a funnel-shaped access to a primary road;
- (c) in order to make proper provision for the slopes of any cutting or embankment in the construction or reconstruction of a road;
- (d) for the establishment of a rest camp for users of such road; [or]
- (e) for any other works in connection with the construction [or], repair or use of such road;
- (f) for the erection of a weigh bridge; or
- (g) for the establishment of a road camp in terms of section 15(1).”.

Amendment of section 15 of Ordinance 4 of 1968, as amended by section 4 of Ordinance 4 of 1971, section 10 of Ordinance 13 of 1986 and section 3 of Act 4 of 1994

8. Section 15 of the Ordinance is amended by the substitution in paragraph (a) of subsection (1) for the expression “two” of the expression “five”.

Amendment of section 17 of Ordinance 4 of 1968, as amended by section 11 of Ordinance 13 of 1986 and section 3 of Act 4 of 1994

9. Section 17 of the Ordinance is amended -

(a) by the substitution for subsection (1) of the following subsection:

- “(1) The [Director] Head of Department may, after consultation with the owner or occupier of land, enter upon and take possession of such land [-] in order

- [(a)] to take measurements or make surveys or observations or carry out any other inspections for the purpose of the construction or maintenance of a road or pont or for any purpose incidental thereto [and 5
- (b) take possession of so much thereof as may be necessary for the construction or maintenance of a public road or pont or for any purpose incidental thereto].";
- (b) by the substitution for subsection (2) of the following subsection: 10
- "(2) The [Director] Head of Department may enter upon and take possession of any land and, [there take, without] against payment of compensation [save as otherwise provided by this Ordinance,] for the surface area and improvements thereon, calculated in the manner referred to in section 18, take possession of so much stone, gravel, sand, lime, water or other material as may be necessary for or in connection with the construction or maintenance of a public road, [or] pont or outspan or work incidental thereto, and may for this purpose make such excavations, sink such boreholes for water and carry out such other works as he or she may consider necessary: Provided that no such material shall be taken - 15
- (a) without prior consultation with the owner or occupier of the land as to the place from which such material shall be taken, and in the event of a dispute arising in the matter the committee established in terms of section 33 for the ward in which such land is situated shall decide the issue; 20 25
- (b) on land situated in a township; 30
- (c) from land that forms part of a railway or graveyard; 35
- (d) from any garden, orchard or cultivated land under irrigation; 40
- (e) from any quarry [,] or gravelpit upon land that was burdened with a valid mining authorisation and which have been opened up, and are being used, by the holder of such authorisation, or from any artificially constructed waterworks or other like works which have been [opened up] created, and are being used, by the owner or occupier of such land, except on payment of compensation determined in the manner provided by section [18(3)] 18(1)(a).". 45

Substitution of section 18 of Ordinance 4 of 1968, as amended by section 3 of Act 4 of 1994

10. The following section is substituted for section 18 of the Ordinance: 45

"Compensation.

18. (1) In the case of land which is acquired for the declaration, construction or maintenance of a public road, pont or outspan or the exercise of a power in terms of section 12(2), 15, 17 or Chapter IV of this Ordinance without such land being expropriated, the following provisions shall apply: 5
- (a) the compensation to which the owner is entitled, shall be calculated, determined and paid in accordance with section 12 of the Expropriation Act, 1975 (Act No 63 of 1975), as if the land to which the declaration or acquisition relates had been expropriated in terms of the provisions of the Expropriation Act, 1975, provided that where stone, gravel, sand, lime, water or other material is taken in accordance with section 17(2)(e) of this Ordinance, the compensation which is payable in accordance with section 12(1)(a)(i) of the Expropriation Act, 1975, shall be based on the volume measure of the material taken; 10 15
 - (b) no compensation shall be paid in respect of land which at the time of the declaration or acquisition already existed, or was being used, as a road; 20
 - (c) compensation in respect of unregistered rights shall be paid in accordance with section 13 of the Expropriation Act, 1975;
 - (d) the amount of the compensation shall be determined in terms of section 14 of the Expropriation Act, 1975, if the amount of the compensation cannot be agreed upon; 25
 - (e) the rights to precious metals, precious stones, base minerals and natural oil shall continue to vest in the person (including the State) in whom they vested prior to such declaration or acquisition; 30
 - (f) the date on which the Administration becomes liable for the payment of compensation in terms of the provisions of the Ordinance in question shall be regarded as the date of expropriation; 35
 - (g) the responsible Member shall within sixty days of the declaration of the land to be a road, notify the owner thereof, *mutatis mutandis* in the manner contemplated in section 7 of the Expropriation Act, 1975, if the land was not already a road at the time of the declaration;

(h)	the responsible Member shall furnish the local authority in whose area of jurisdiction the land is situated and the Registrar of Deeds in whose deeds registry the title deed to the land is registered, with a copy of the notice referred to in paragraph (g); and	5
(i)	the compensation is payable on the date of possession.	
(2)	The compensation to which an owner is entitled in terms of subsection (1), shall be paid by the responsible Member, unless he or she has determined that a person referred to in section 17(6) or 3(3)(a) of this Ordinance shall, as the case may be, be liable for payment thereof, in which case the responsible Member may require from the person referred to in section 3(3)(a) of this Ordinance to provide security to his or her satisfaction for payment of the said amount.	10
(3)	The Registrar of Deeds referred to in subsection (1)(h) shall on receipt of the said copy cause an appropriate endorsement of the declaration of the land to be a road to be made in his registers.	15
(4)	For purposes of the application of this section -	20
(a)	any reference to "Minister", "State" and " <i>Government Gazette</i> " in the relevant sections of the Expropriation Act, 1975, must be construed as being a reference to responsible Member, Administration and <i>Provincial Gazette</i> ;	25
(b)	"road" means a road as defined in this Ordinance and includes any land acquired or used for quarries, outspans or camps or other purposes in connection with such a road;	30
(c)	"date of possession" means the date on which damage is caused to the land, including any improvements, or the date on which the land is fenced off or any earlier date determined by the responsible <u>Member</u> ."	
Substitution of section 19 of Ordinance 4 of 1968		35
11.	The following section is substituted for section 19 of the Ordinance:	
"19.	The <u>[Director]</u> <u>Head of Department</u> may -	
(a)	<u>plant trees [and] or any vegetation;</u>	40
(b)	<u>remove trees or any vegetation;</u>	
(c)	<u>effect such improvements; [and] or</u>	

(d) provide such amenities,

within the road reserve of a public road, as he or she may deem fit.

Amendment of section 21 of Ordinance 4 of 1968

5

12. Section 21 of the Ordinance is amended –

(a) by the substitution in paragraph (d) of subsection (1) for the word “roadway” of the words “travelled way”; and

10

(b) by the substitution of subsection (3) of the following section:

“(3) For the purpose of this section “public road” includes **[a rest or road camp]** any land appropriated in accordance with section 12(2), a temporary deviation and a quarry.

15

Substitution of section 25 of Ordinance 4 of 1968

13. The following subsection is substituted for subsection (3) of section 25 of the Ordinance:

20

“(3) A district road board shall consist of eight members who are appointed by the responsible Member and consist of –

25

(a) four persons who shall each represent a different ward of the district concerned;

(b) two persons who possess knowledge of the value of land in the district; and

30

(c) two persons who are conversant with the road system in the concerned district.”.

Substitution of section 26 of Ordinance 4 of 1968, as amended by section 3 of Act 4 of 1994

35

14. The following section is substituted for section 26 of the Ordinance:

“Appointment of board members.

40

26. (1) The members of the board shall not be appointed unless the responsible Member has invited interested parties by notice in the *Provincial Gazette* and in at least two newspapers circulating in the district concerned, to nominate candidates for his or her consideration within 21 days of the publication of such notice.

45

- (2) The notice shall determine a day, time and place for the receipt of the nominations.
- (3) Any person of full age who - 5
- (a) resides in a ward or is an owner or lessee of land in a ward, may be nominated as a candidate to represent a ward, referred to in section 25(3)(a), on the board; 10
- (b) resides in a district or is an owner or lessee of land in a district and possesses knowledge of the value of land in the district, may be nominated as a candidate to be appointed as a member of the board, as referred to in section 25(3)(b); and 15
- (c) resides in a district or is an owner or lessee of land in a district and is conversant with the road system in the district, may be nominated as a candidate to be appointed as a member of the board, as referred to in section 25(3)(c), 20
- provided he or she is not disqualified, in terms of section 27, to serve as a member of a board and he or she has for the period of at least two years immediately preceding the nomination day resided, leased or owned land continuously in such a ward or district. 25
- (4) The nomination of a candidate shall be -
- (a) in writing;
- (b) signed by the proposer and seconder of whom both must reside, lease or own land in the district or ward, as the case may be in terms of subsection (3); and 30
- (c) accepted in writing by the candidate. 35
- (5) The nomination of a candidate shall be accompanied by -
- (a) the full names of the nominee, his or her address and the curriculum vitae of such person; and 40
- (b) an affidavit by the nominee wherein the nominee shall affirm that he or she is not disqualified in terms of section 27.
- (6) If at the closing time for the receipt of nominations in respect of a category referred to in section 25(3) - 45
- (a) only the required number of valid nominations have been received, the responsible Member shall appoint the nominated as members of the board;

- (b) more than the required number of valid nominations have been received, the responsible Member shall appoint the members of the board from the nominations; 5
- (c) no nominations have been received, the responsible Member shall – 5
 - (i) appoint a member of a transitional rural council, who was, on request of the responsible Member, nominated by the transitional rural council and who is qualified to be a member of the board; 10
 - (ii) appoint a person who is qualified to be a member of the board, although he or she was not nominated, when the number of nominations are still inadequate; and 10
- (d) less than the required number of valid nominations have been received, the responsible Member shall appoint the members in accordance with paragraphs (a) and (c). 15

Substitution of section 27 of Ordinance 4 of 1968

15. The following section is substituted for section 27 of the Ordinance:

“Persons not qualified to be board members.

- 27. A person may not be nominated [, **elected**] or appointed as a member of a board, or may not serve as such, if he or she [is] - 25
 - (a) is an unrehabilitated insolvent;
 - [(b) in terms of section 6 of the Electoral Consolidation Act, 1946 (Act No 46 of 1946), not entitled to be registered as a voter or to the continuance of such registration; or] 30
 - [(c) (b) [not resident in the district concerned] does not qualify in terms of section 26(3); 35
 - (c) is not a South African citizen;
 - (d) is mentally ill as defined in the Mental Health Act, 1973 (Act No 18 of 1973) and has been so declared by a competent court; 40
 - (e) has at any time been removed from an office of trust on account of misconduct;
 - (f) has at any time been convicted, whether in the Republic or elsewhere, of a criminal offence and is sentenced to imprisonment of not less than six months without the option of a fine; or 45

- (g) is a political office-bearer, excluding a member of a transitional rural council or, with the exception of section 31(5), a public servant.

Amendment of section 28 of Ordinance 4 of 1968

5

16. Section 28 is amended –

- (a) by the substitution for paragraph (a) of subsection (1) of the Ordinance of the following subsection:

10

“(1) [(a)] The members of a board [elected] appointed in terms of section [25(3)(a)] 26 shall hold office for a period of five years.”; and

- (b) by the deletion of paragraph (b) of subsection (1).

15

Amendment of section 29 of Ordinance 4 of 1968

17. Section 29 of the Ordinance is amended by the substitution for subsection (2) of the following subsection:

20

“(2) Whenever the seat of a member of the board has, in terms of subsection (1) or for any other reason, become vacant before the expiry of the period for which he or she was [elected or] appointed, the responsible Member may appoint any other person who is qualified to fill the vacancy until the expiry of the period for which the retiring member was [elected or] appointed.”.

25

Amendment of section 33 of Ordinance 4 of 1968

18. Section 33 of the Ordinance is amended by the substitution for subsection (2) of the following subsection:

30

“(2) A committee shall consist of three members of whom –

- (a) one shall be the member of the board appointed in terms of section 25(3)(a), 29(2) or (3), to represent the ward in respect of which the committee is constituted;

35

- (b) one shall be a member of the board appointed in terms of section 25(3)(b) or 29(2) or (3) and who was appointed by the board to serve on the committee for so long as it may please the board; and

40

- (c) one shall be a member of the board appointed in terms of section 25(3)(c) or 29(2) or (3) and who was appointed by the board to serve on the committee for so long as it may please the board.”.

45

Amendment of section 35 of Ordinance 4 of 1968, as amended by section 3 of Act 4 of 1994

19. Section 35 of the Ordinance is amended by the deletion in subparagraph (ii) of paragraph (b) of the expression “,stock-paths”.

5

Repeal of Chapter III of Ordinance 4 of 1968

20. Chapter III of the Ordinance is repealed.

10

Amendment of section 46 of Ordinance 4 of 1968, as amended by section 9 of Ordinance 4 of 1971 and section 3 of Act 4 of 1994

21. Section 46 of the Ordinance is amended by the deletion in subsection (1) of the words “or a stock-path”.

15

Substitution of section 52 of Ordinance 4 of 1968, as amended by section 9 of Act 94 of 1970

22. The following section is substituted for section 52 of the Ordinance:

20

“Limitation of actions.

52. [(2)] The Administration or an officer [or employee] of the Administration shall not be liable for any damages sustained by a person whilst using any part of a primary road other than the [roadway] travelled way.”.

25

Amendment of section 53 of Ordinance 4 of 1968, as amended by section 3 of Act 4 of 1994

23. Section 53 of the Ordinance is amended –

30

- (a) by the substitution for subsection (1) of the following subsection:

- “(1) When an animal is on a public road, [stock-path,] outspan, rest or road camp contrary to the provisions of this Ordinance or the [Road Traffic Ordinance, 1966 (Ordinance No 21 of 1966)] Road Traffic Act, 1989 (Act No 29 of 1989), or trespasses thereon, a [police] traffic officer, as defined in section 1 of the last-mentioned [Ordinance] Act, or any other person authorised thereto by the responsible Member, may impound such animal in accordance with the provisions of the Pound Ordinance, 1952 (Ordinance No 18 of 1952): Provided that the prohibition contained in section 19 of the last-mentioned Ordinance shall not apply in connection with the impounding of such animal.”; and

35

40

- (b) by the deletion in subsection (3) of the expressions “stock-path,” and “path,”.

45

Amendment of section 54 of Ordinance 4 of 1968, as amended by section 3 of Act 4 of 1994

24. Section 54 of the Ordinance is amended –

- (a) by the substitution for paragraph (a) of the following paragraph: 5
- “(a) contravenes or fails to comply with a provision of section 14(1), 20, 21(1), 34(1), [40, 41, 43, 44(1),] 49, 50(2) or (3) or 53(3) or of a notice posted up in terms of section 23;” 10
- (b) by the substitution for paragraph (b) of the following paragraph:
- “(b) without reasonable cause removes, alters the position of or in any manner causes damage to a notice, direction board or barrier posted up, erected or placed on a public road, [stock-path,] outspan, rest or road camp by an officer [or employee] of the Administration in the execution of his or her duties;” 15
- (c) by the deletion in paragraph (d) of the words “or stock-path”; 20
- (d) by the substitution for paragraph (f) of the following paragraph:
- “(f) hinders or interferes with the [Director] Head of Department or an officer [or employee] of the Administration in the exercise of a power or the carrying out of a duty in connection with the construction or maintenance of a public road, pont, [stock-path,] outspan, rest or road camp or other work incidental thereto;” and 25
- (e) by the substitution for the words following on paragraph (f) of the following words: 30
- “shall be guilty of an offence and liable on conviction to a fine [not exceeding two hundred rand] or to imprisonment for a period not exceeding [twelve] 6 months, or to both such fine and imprisonment.” 35

Amendment of section 55 of Ordinance 4 of 1968, as amended by section 3 of Act 4 of 1994

25. Section 55 of the Ordinance is amended -

- (a) by the deletion of paragraph (a) of subsection (1);
- (b) by the substitution for the word “election” of the word “appointment” in paragraph (b) of subsection (1); and 45
- (c) by the deletion in paragraph (e) of subsection (1) of the expression “stock-paths,”.

Insertion of section 55A in Ordinance 4 of 1968

26. The following section is inserted in the Ordinance after section 55:

"Delegations.

55A. (1) The responsible Member may, subject to such conditions as he or she may determine, delegate any power or function conferred upon him or her by or under this Ordinance, except the power to make regulations or to promulgate proclamations, to the Head of Department and he or she may authorise the Head of Department to delegate that power or function to any officer on the establishment of the Department.

(2) The Head of Department may, subject to such conditions as he or she may determine, delegate any of his or her powers or functions under this Ordinance, to an officer on the establishment of the Department.

(3) Any delegation under subsection (1) or (2) –

(a) must be in writing;

(b) does not prevent the person who made the delegation from exercising that power or performing that duty himself or herself; and

(c) may at any time be withdrawn in writing by such person."

Substitution of certain expressions in Ordinance 4 of 1968

27. The Ordinance is amended -

(a) by the substitution for the expressions "Director", "*Gazette*", "Orange Free State" and "Provincial Secretary", wherever they occur, of the expressions "Head of Department", "*Provincial Gazette*", "Free State" and "Director General", respectively; and

(b) by the substitution for the expressions "he", "him", "his", "chairman" and "vice-chairman", wherever they occur, of the expressions "he or she", "him or her", "his or her", "chairperson" and "vice-chairperson", respectively.

Short title

28. This Act shall be called the Roads Ordinance Amendment Act, 1998.