

No. 4, 2001
22 June 2001

[English text signed by the Premier]

KWAZULU-NATAL PROVINCIAL ROADS ACT NO. 4 OF 2001

Assented to on 2001-06-06

ACT

To provide for the transformation, restructuring, establishment and control of the KwaZulu-Natal provincial road network; to develop and implement provincial road policy, norms and standards; to provide for optimum road safety standards, efficient and cost-effective management of the provincial road network, the maintenance of provincial road assets and the provision and development of equitable road access to all communities within the Province, including previously disadvantaged communities; to provide for transparency in the development and implementation of provincial road network policies and practices; and to provide for all matters connected therewith.

TABLE OF CONTENTS

KWAZULU-NATAL PROVINCIAL ROADS BILL

Part and Section Number

Part I:

Definitions and application of Act

1. Definitions
2. Application of this Act

Part II:

Ministerial powers

3. Ministerial powers

Part III:

Provincial roads

4. Vesting control, establishment, administration and management of provincial roads
5. Establishment, control, implementation, administration and management of provincial road network
6. Determination of standards for provincial and public roads

7. Declaration and de-declaration of provincial roads
8. Assessment of existing roads within the Province
9. Construction and maintenance of provincial roads
10. Access to main roads and district roads and closure of provincial roads
11. Junctions between public roads or public rights-of-way and provincial roads
12. Control of stormwater and watercourses on provincial roads
13. Structures adjacent to and on provincial roads
14. Fencing on provincial roads
15. Prohibition on abandoning vehicles, machines, parts or leaving of refuse within the boundaries of provincial roads and road reserves
16. Damaging provincial roads
17. Obstruction of officials, surveyors or contractors or interference with survey pegs
18. Trading on or adjacent to main roads, district roads or local roads

Part IV:

Development affecting provincial road network

19. Development plans
20. Restriction on subdivision of land
21. Land use changes and development proposals
22. Amendment, rescission or lapsing of development proposals
23. Exemptions

Part V:

Establishment, control and management of resting places for livestock

24. Declaration and de-declaration of a resting place
25. Minister not liable for claim
26. Prohibition of movement of livestock on public road
27. Impounding uncontrolled livestock

Part VI:

Acquisition and expropriation of land

28. Acquisition and expropriation of land, material on or in land and right to use land temporarily

Part VII:

Removal of materials from land and compensation

29. Removal of materials from land and compensation

Part VIII:

Acquisition of land and vesting in a responsible authority or municipality

30. Acquisition of land and vesting in a responsible authority or municipality

Part IX:

Public right-of-way

31. Public right-of-way

Part X:

Advertising on provincial roads

32. Prohibition of certain advertisements on or adjacent to provincial roads
33. Permission to display advertisements

Part XI:

Environmental obligations

34. Environmental policy
35. Environmental obligations
36. Environmental impact assessment

Part XII:

Public participation and advisory and technical bodies

37. Public participation
38. Advisory bodies
39. Mandatory declaration of interests and conflicts of interests by members of advisory and technical bodies established by the Minister

Part XIII:
Inspection

- 40. Inspection of property
- 41. Inspection procedure for monitoring
- 42. Offences

Part XIV:
Internal review of Departmental decisions

- 43. Internal review of Departmental decisions

Part XV:
Regulations

- 44. Regulations

Part XVI:
Provincial roads administration and good governance principles

- 45. Provincial roads administration and good governance

Part XVII:
Ministerial Liability

- 46. Claims against Minister
- 47. Indemnification

Part XVIII:
Offences and penalties

- 48. Offences
- 49. Penalties

Part XIX:
Service of notice

- 50. Service of notice

Part XX:
Repeal of prior statutes, regulations and ordinances and Interpretation of this Act

- 51. Repeal and amendment of laws and savings
- 52. Inconsistencies between different texts

53. State bound
54. Short title and date of commencement

Schedule

BE IT ENACTED by the Parliament of the Province of KwaZulu-Natal, as follows:

Part I

Definitions and application of Act

Definitions

1. As used in this Act and unless the context indicates otherwise-

"access" means any manner by which persons, vehicles or livestock enter or exit from any property onto a provincial road; "access road" means a road other than a public road which affords access from a property to a public road;

"adjacent" means properties or land sharing a common border;

"advertisement" means a notice or sign intended to publicise any message or available goods or services and does not include road traffic signs or traffic lights;

"Appeal Tribunal" means the Appeal Tribunal established in terms of the KwaZulu-Natal Planning and Development Act, 1998; "body" means an advisory or technical body established in terms of section 38;

"boundary" means the boundary of a provincial road as declared in terms of a declaration of a main road, district road or local road under section 7(2)(a) and includes the road reserve.

"building restriction area" means the land adjacent to the boundary of any provincial road in which the erection of structures is controlled;

"Constitution" means the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996);

"construct" means to build, alter, repair or maintain a road;

"consultation" means the process by which comment is invited on departmental policy, procedures, regulations, proposals, plans or reports;

"contribution" means financial, technical or other assistance authorised by the Minister to achieve the purposes of this Act; "court" means any institution vested with judicial authority in terms of Chapter 8 of the Constitution;

"declaration" means a determination in terms of section 7 of this Act and

"declare" has a corresponding meaning;

"deeds registry" means any deeds registry established in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

"Department" means the KwaZulu-Natal Department of Transport;

"development" means the improvement of land, including but not limited to the erection or improvement of structures thereon;

"Development Facilitation Act" means the Development Facilitation Act, 1995 (Act No. 67 of 1995);

"development plan" means a plan referred to in section 25 of the KwaZulu-Natal Planning and Development Act, 1998, which plan also contains a transport plan, and includes the initial development plan and any amendment, extension or rescission of [such] the development plan;

"direct access" means access obtained at a point on the boundary of any property abutting or fronting on a provincial road, which is common to the property and the road;

"district road" means any provincial road or section or deviation of a provincial road inclusive of the full extent of the width of the road, notwithstanding that only a portion thereof may be in actual use for traffic purposes, and which is intended to link main roads to communities, resorts and farms and which has been declared a district road by the Minister in terms of section 7(2)(a) of this Act;

"encroach" means unlawfully to-

- (i) gain or attempt to gain entry to the lands or property of another;
- (ii) occupy or attempt to occupy the lands or property of another;
- (iii) invade or attempt to invade the lands or property of another; or
- (iv) intrude on property rights of others;

"Gazette" means the Provincial Gazette of the Province;

"improvement" means in respect of land anything which adds value to the land, excluding the land itself;

"KwaZulu-Natal Planning and Development Act, 1998" means the KwaZulu-Natal Planning and Development Act, 1998 (Act No. 5 of 1998);

"livestock" means cattle, sheep, horses, goats or any other animals or birds which are bred, purchased, sold or retained as private property;

"local road" means any provincial road or section or deviation of a provincial road, inclusive of the full extent of the width of the road, notwithstanding that only a portion thereof may be in actual use for traffic purposes, which links a main road or district road to local communities and farms and which has been declared a local road by the Minister in terms of section 7(2)(a) of this Act;

"main road" means any provincial road or section or deviation of a provincial road, inclusive of the full extent of the width of the road, notwithstanding that only a portion thereof may be in actual use for traffic purposes, and which is intended for traffic purposes between other main roads, towns, and major agricultural areas and which has been declared a main road by the Minister in terms of section 7(2)(a) of this Act;

"maintenance" means the rendering of all reasonably necessary services and repairs, including improvements, required to provide roadworthy conditions on provincial roads and adjacent structures, including but not limited to bridges, ferries, drifts in the line of roads, road signs, approaches, excavations, embankments, subways, furrows, drains, dams, kerbs, fences, parapets, guard rails, drainage work within or outside the road and any other work or object forming part of or connected with or concerning the road;

"materials" means sand, stone, rock, gravel, clay, soil and any other materials to be removed from the land and required for road construction and maintenance;

"Minister" means the member of the KwaZulu-Natal Executive Council whose portfolio includes responsibility for roads in the Province;

"municipality" means any local government structure contemplated in terms of Chapter 7 of the Constitution, the Local Government Transition Act, 1993 (Act No. 209 of 1993), Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and any other applicable law;

"norm" means a principle to guide, control and regulate standards;

"occupier" means, in relation to land, a person who is in actual occupation of the land and, if no person is in actual occupation thereof, any person who whether as owner, lessee, licensee or otherwise, has for the time being control of the land;

"official" means a person who is an employee or designated agent of the Department;

"policy" means the principles, including planning, general goals and objectives, which guide and determine ministerial and Departmental decisions;

"Premier" means the Premier of the Province of KwaZulu-Natal;

"prescribe" means prescribed by regulations made in terms of this Act;

"property" means movable and immovable property and includes a real right in or

over property; "Province" means the Province of KwaZulu-Natal;

"Provincial Revenue Fund" means the Provincial Revenue Fund contemplated in section 226 of the Constitution;

"provincial road" means any main road, district road or local road, including any deviation or portion or section of a provincial road, which has been declared a main road, district road or local road by the Minister in terms of section 7(2)(a) of this Act;

"provincial road network" means the provincial road network incorporating main roads, district roads and local roads;

"public right-of-way" means a right-of-way intended for use at all times by the public and includes any right-of-way intended for use by pedestrians and livestock;

"public road" means a road or public right-of-way which the public has the right to use and includes the land of which the road consists or over which the road reserve extends, including property acquired for or as a consequence of the construction of a road or a section of a road and anything on that land forming part of, connected with or belonging to the road;

"register" means the registration of a public right-of-way in accordance with regulations promulgated under this Act;

"registrar of deeds" means a registrar of deeds appointed under the Deeds Registries Act, 1937 (Act No. 47 of 1937); "regulation" means any regulation promulgated under this Act;

"responsible authority" means any municipal government body contemplated in Chapter 7 of the Constitution, Local Government Transition Act, 1993 (Act No. 209 of 1993), Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and any other applicable law;

"resting place" means any land or portion of land declared by the Minister as a resting place for livestock;

"road reserve" means the full width of a road and includes the roadside and the roadway, in addition to any adjacent land specifically acquired for road purposes, as declared in terms of a declaration of a main road, district road or local road under section 7(2)(a).

"roadside" means that portion of a road reserve not forming the roadway;

"roadway" means that part of a road reserve intended to be used by vehicles;

"standard" means the criteria against which goods, services and performance are measured;

"structure" means any structure, erection or other improvement, aboveground or

underground, whether permanent or temporary and irrespective of its nature or size, including but not limited to advertisements, any enclosures, fences, driveways, garden walls, golf course fairways, loading areas, parking areas, patios, signs, swimming pools, tennis courts, thatched shelters or utility services;

"subdivide" means the division of a registered immovable property into two or more portions which are or could be registered in a Deeds Registry as separate entities;

"surveyor" means a person registered under the Professional Land Surveyors' and Technical Surveyors' Act, 1984 (Act No. 40 of 1984);

"Surveyor-General" means the Surveyor General as defined in section 1 of the Land Survey Act, 1997 (Act No. 8 of 1997);

"this Act" includes any regulations made hereunder; and

"transport plan" means a plan developed for the regulation, provision and management of transport services and infrastructure, including but not limited to public transport, roads, rail, terminals and facilities.

Application of this Act

2. This Act applies throughout the Province and must-
 - (a) bind the state;
 - (b) be applied in the development, declaration, implementation and administration of the provincial road network to facilitate the rational and equitable development of the provincial road network, including but not limited to the extension of the provincial road network to previously disadvantaged communities;
 - (c) be implemented to facilitate the creation of employment and contracting opportunities for previously disadvantaged communities and persons; and
 - (d) apply whenever a person exercises any discretion or takes any decision or prescribes any regulation in terms of this Act or any other law in force in the Province and dealing with the provincial road network, including but not limited to any law dealing with planning and development, including any law dealing with subdivision, use and planning of land.

Part II

Ministerial powers

Ministerial powers

3. (1) The Minister must develop, declare, implement, administer and promote the provincial road network in terms of effective, open, accountable and co-operative governance and in accordance with national and provincial

norms, standards and practices to-

- (a) achieve optimal road safety standards within the Province;
 - (b) protect and maintain provincial road network assets;
 - (c) achieve the progressive realisation of equitable road access to all communities within the Province;
 - (d) ensure efficient and cost-effective management and control of the provincial road network; and
 - (e) maintain and protect the environment.
- (2) The Minister is, within the Province's available resources, responsible for all aspects of management, control, implementation and administration of the provincial road network, including but not limited to-
- (a) determining provincial road network priorities and allocations;
 - (b) providing technical and logistical support, financial management, monitoring and evaluation of the provincial road network and undertaking corrective action where required;
 - (c) coordinating, planning, developing, implementing, controlling, operating and maintaining the provincial road network;
 - (d) ensuring an equitable and appropriate allocation of funds for the provincial road network;
 - (e) declaring and de-declaring provincial roads;
 - (f) designing, constructing, maintaining, operating, managing, altering, deviating and closing provincial roads;
 - (g) acquiring property by lease, purchase or donation for and on behalf of the Department, including but not limited to authorising temporary occupation of private immovable property or expropriating property for transport development and ensuring the payment of just and equitable compensation for the taking of the land or property for public purposes or in the public interest in terms of the Expropriation Act, 1975 (Act No. 63 of 1975) and disposing of property for and on behalf of the Department in terms of the State Land Disposal Act, 1961 (Act No. 48 of 1961);
 - (h) controlling main and district road access;
 - (i) maintaining roadside control of the provincial road network;

- (j) managing advertising on or adjacent to main roads and, where a safety hazard exists, on district roads and local roads;
 - (k) promulgating and enforcing road fencing regulations and fencing contribution regulations;
 - (l) regulating provincial road network contributions;
 - (m) authorising payments of grants-in-aid or ex gratia payments as required to achieve the objectives of this Act;
 - (n) entering into any agreement with a responsible authority, municipality, entity or person to provide for a contribution to secure the construction, reconstruction, improvement, repair or maintenance of any provincial road or to acquire or dispose of, by lease, purchase or donation, any property on or adjacent to an existing or proposed provincial road; and
 - (o) negotiating, entering into and signing contracts necessary to implement provincial road network policy, subject to applicable tendering and purchasing statutes and regulations.
- (3) The Minister must apply uniform standards utilising objective criteria to all determinations of the status of any road within the provincial road network.
- (4) Where the National Department of Transport, responsible authority, municipality or any other entity or person requests that the Minister provide assistance with the construction and maintenance of roads which are not provincial roads, the Minister, where he or she deems it expedient to provide assistance, must enter into a written agreement with the National Department of Transport or relevant responsible authority or municipality to provide for the work to be undertaken and the payment of all costs for the roads.
- (5) The Minister may-
- (a) convene meetings, liaise and consult with national government, other provinces, municipalities, provincial departments, the private sector, non-governmental organisations, communities and constituencies served by the Department to achieve the objectives of this Act;
 - (b) establish, set the terms and conditions of-reference in relation to and administer projects to promote the removal of refuse and rubbish and to contribute to the beautification of provincial roads;
 - (c) take out insurance against any risk, loss or damage concerning the exercise of his or her powers or the performance of his or her functions in terms of this Act;
 - (d) create technical, advisory and other consultative structures

required to implement provincial road network policy, establish terms and conditions of reference and conditions for appointment to those structures, and make the necessary appointments;

- (e) initiate and coordinate accurate and relevant research as he or she considers advisable in the performance of departmental functions;
 - (f) make recommendations to all levels of government where he or she considers legislation or action advisable for the promotion of the provincial road network;
 - (g) propose enactment of legislation and regulations to implement and administer the provincial road network;
 - (h) delegate any authority in terms of this Act concerning a provincial road to a responsible authority or municipality and may also withdraw the delegation of authority at any time; and
 - (i) delegate any authority in terms of this Act to any officer within the Department and may also withdraw the delegation of authority at any time.
- (6) The Minister must-
- (a) ensure that the Department exercises the highest professional standards in the promotion of the provincial road network, allocation and expenditure of funds and accounting for funds from national government, provincial government, or any other source; and
 - (b) undertake any other responsibilities and functions, as required by this Act or any other national or provincial law.

Part III

Provincial roads

Vesting control, establishment, administration and management of provincial roads

4. (1) The control, establishment, administration and management of all provincial roads vests in the Minister.
- (2) The control, administration and management of existing roads within the Province which fell under Schedule 1 of the Self-Governing Constitution Act, 1971 (Act No. 21 of 1971), and were administered by the former KwaZulu Government on 27 April 1994, and existing roads within the Province which fell under and were administered under the Roads Ordinance, 1968 (Ordinance No. 10 of 1968), by the former Natal Provincial Administration on 27 April 1994 vests in the Minister.

Establishment, control, implementation, administration and management of provincial road network

5. (1) The Minister must establish, control, implement, administer and manage the provincial road network, which must be planned, declared and administered within a structured framework to provide equitable road access to address developmental needs in all communities within the Province.
- (2) The provincial road network consists of all main roads, district roads and local roads.
- (3) The Minister is entitled to access to any public road in the Province to provide planning, development, construction and maintenance services.
- (4) Legal responsibility and liability for work undertaken in connection with any road under subsection (3) is limited solely to provincial roads within the provincial road network or roads on which the Minister has authorised construction or maintenance.
- (5) All roads within the provincial road network are public roads which the public is entitled to use, except where a road or a portion thereof has been temporarily or permanently closed or is being constructed, altered, repaired or maintained.

Determination of standards for provincial and public roads

6. (1) The Minister must determine all standards and requirements for provincial roads and public roads and the standards and requirements must apply to any responsible authority, municipality, entity or person with respect to the provincial road network.
- (2) Provincial standards and requirements relating to the provincial road network under subsection (1) must apply to-
 - (a) access to and use of a main and district road;
 - (b) construction or maintenance of a provincial road;
 - (c) closure, alteration or deviation of a provincial road;
 - (d) stormwater and watercourses on a provincial road;
 - (e) structures on or adjacent to a provincial road;
 - (f) fencing adjacent to a provincial road;
 - (g) refuse on a provincial road;
 - (h) damage to a provincial road;

- (i) trading on or adjacent to a main road or district road;
- (j) advertising on or adjacent to main roads and, where there is a safety hazard, advertising on or adjacent to district roads and local roads; and
- (k) any other standards and requirements relevant to the provincial road network.

Declaration and de-declaration of provincial roads

7. (1) The Minister must make regulations to prescribe the requirements for the declaration and de-declaration of provincial roads.
- (2) The Minister may, subject to subsections (4) and (7) and by notice in the Gazette-
 - (a) declare that any road, section of a road or any route within the Province is a main road, district road or local road and, subject to national legislation, may restrict the usage of a main road, district road or local road to specified categories of vehicles; or
 - (b) declare or modify a declaration related to an existing main road, district road or local road or section of a main road, district road or local road and declare that the status or nature of the road has changed and any one of the following may apply-
 - (i) the status of the main road, district road or local road or section of a main road, district road or local road is converted into another category of provincial road;
 - (ii) a relevant responsible authority, municipality, entity or person or the National Department of Transport must assume control of and responsibility for the main road, district road or local road or section of a main road, district road or local road; or
 - (iii) the main road, district road or local road or section of a main road, district road or local road must be closed.
- (3) If the Minister decides to proceed with the construction of a new provincial road or deviate from any existing provincial road, the Minister must, by notice in the Gazette, indicate the approximate route the proposed provincial road or deviation is to follow and must declare the road a main road, district road or local road.
- (4) Where the Minister has determined that there is a need to declare or de-declare a main road, district road or local road, the Minister must consult with the responsible authority or municipality to be affected by the proposed

declaration or de-declaration.

- (5) The Minister must enter into a written agreement with the relevant responsible authority or municipality, entity or person or National Department of Transport, which must, in terms of subsection (2)(b)(ii), exercise control over and responsibility for a main road, district road or local road or section of a main road, district road or local road.
- (6) The Minister may, where appropriate and within the constraints of available financial resources, pay full or partial compensation to a relevant responsible authority or municipality, entity or person entering into a written agreement in terms of subsection (5).
- (7) If the Minister and relevant responsible authority or municipality, entity or person can not reach agreement in terms of subsection (2)(b)(ii) on the control and responsibility for a provincial road, the dispute must be resolved in accordance with the Arbitration Act, 1965 (Act No. 42 of 1965), by an arbitrator agreed to by the parties and if the parties fail to agree on an arbitrator, the State Attorney must appoint an arbitrator to resolve the dispute and-
 - (a) Each party must pay an equal share of all fees and costs related to the arbitration; and
 - (b) the decision of the arbitrator is final and binding on all parties.

Assessment of existing roads within the Province

8. The Minister must, within two years of this Act coming into effect, assess and determine the status of all roads and public rights-of way within the provincial road network and effect any declaration or de-declaration which may be necessary to give effect to the assessment and determination.

Construction and maintenance of provincial roads

9.
 - (1) The Minister is, within available financial resources, responsible for construction and maintenance of provincial roads and any other work the Minister deems desirable for the maintenance of provincial roads.
 - (2)
 - (a) If a responsible authority, municipality or person wishes to undertake construction, maintenance or any other work on a provincial road on an agency or any other basis, the responsible authority, municipality or person must obtain written approval from the Minister prior to undertaking construction, maintenance or other work.
 - (b) A responsible authority, municipality or person undertaking construction, maintenance or other work on a provincial road in terms of paragraph (a) must, under section 6, adhere to provincial standards and requirements for provincial roads.

- (c) The Minister, where he or she has granted written approval to a responsible authority, municipality or person to undertake construction, maintenance or other work on a provincial road, must specify the terms of reference and any payment for work.
- (3) The Minister is not liable for any claim or damages arising from the existence, construction, use or maintenance of any provincial road, except where the loss or damage was caused by the wilful or negligent act or omission of an official.

Access to main roads and district roads and closure of provincial roads

10. (1) A person may not-
- (a) gain access to a main road or district road except at an entrance or exit authorised by the Minister and provided for that purpose;
 - (b) construct or otherwise use an access to an existing main road or district road without prior authorisation contemplated in subsection (2); or
 - (c) close or partially close any provincial road without prior written authorisation contemplated in subsection (2).
- (2) The Minister may-
- (a) as he or she deems necessary, designate, authorise or otherwise provide for access to and from a main road or district road;
 - (b) upon application by a relevant responsible authority, municipality, entity or person, grant written authorisation for access to or from a main road or district road or closure of a provincial road and must specify in the authorisation any conditions relating to the access or closure, including but not limited to the nature of access or closure and the place and manner in which the access or closure may be erected, constructed or otherwise provided for;
 - (c) upon application by a relevant responsible authority, municipality, entity or person, refuse to grant written authorisation for access to and from a main or district road, in which case the Minister-
 - (i) must provide written reasons for his or her refusal to the applicant; and
 - (ii) may indicate alternative or suggested adequate arrangements for any new access;
 - (d) at any time amend or cancel an authorisation issued under this section; or

- (e) temporarily close or partially close any provincial road for the execution of repairs or any other necessary purpose, provided that, except in the event of an emergency, a provincial road may not be completely closed unless arrangements are made for the diversion of traffic.
- (3) Where the Minister determines that it is necessary to close, alter or deviate a provincial road, entrance, driveway or other means of access to a provincial road, the Minister must provide reasonable alternative access to the main road, district road, local road or affected property unless the Minister determines, based on objective criteria, that the provision of alternative access is not feasible under the circumstances.
 - (4) The Minister may, subject to the Department's available financial resources and with due regard to the lack of an alternative access to or from a main road, district road or local road which has been closed in terms of subsection (2)(e), compensate a person who had authorised access to the provincial road for direct loss suffered by him or her as a result of the closure of the provincial road.
 - (5) Access in relation to a main road or district road under this section must include-
 - (a) any road, bridge, subway, gate, stile, passage or other means by which it is possible to gain access to a main road or district road;
 - (b) any new access required for any new building other than a building to replace, alter or extend an existing building which is erected on any property served by an existing direct access; or
 - (c) any new access required for any property which is served by an existing access and for which there is a plan to subdivide that property.
 - (6) Access to or from a main road or district road, which immediately before the commencement of this Act was authorised by or under any other law, is deemed to be authorised under this Act.
 - (7) A person is guilty of an offence and has no claim against the Minister for any harm or damage incurred where he or she-
 - (a) causes a vehicle to enter or exit to a main road or district road at any place other than access points authorised in terms of this Act; or
 - (b) uses a provincial road which is closed in terms of subsection (2)(e) in disregard of any measures undertaken to ensure the safety of the public.
 - (8) A person is guilty of an offence and liable for all costs incurred to restore an affected provincial road to its original condition where he or she-

- (a) obstructs direct access to an entrance, driveway or other means of access to a main road or district road; or
 - (b) closes, alters, obstructs, blockades or deviates a provincial road.
- (9) Where the Minister restores an affected provincial road to its original condition, the Minister is not be liable for any claim or damages arising from the construction, use, maintenance or repairs of that provincial road, except where the loss or damage was caused by the wilful or negligent act or omission of an official.

Junctions between public roads or public rights-of-way and provincial roads

11. The Minister may-

- (a) alter or deviate any junction between a provincial road and any other public road or public right-of-way in the manner and to the extent the Minister deem necessary; or
- (b) close any access from a public road or public right-of-way to a provincial road, provided that the access must not be closed unless there is, in the opinion of the Minister, reasonable alternative means of access to a provincial road from all properties served by the public road or public right-of-way.

Control of stormwater and watercourses on provincial roads

12. (1) A person may not, without the prior written approval of the Minister, which approval may be conditional or unconditional-
- (a) lead any water over, under or across a provincial road; or
 - (b) by any means whatever raise the level of water in any river, dam or watercourse so as to cause interference with or endanger any provincial road or any bridge, culvert, drift or other thing forming part of, connected with or belonging to a provincial road.
- (2) The Minister may, subject to any other laws as may be applicable and after consultation with the owner and the lessee-
- (a) deviate any watercourse, stream or river if the deviation is necessary for the protection of a provincial road or structure related to a provincial road or for the construction of a structure connected with or belonging to a provincial road; or
 - (b) divert storm water from or under any provincial road onto private property, other than land occupied by buildings, other structures or improvements; and

- (c) pay reasonable compensation, as agreed upon, or failing agreement, as may be determined in accordance with section 14 of the Appropriation Act, 1975 (Act No. 63 of 1975), for any damage caused as a result of any action taken under paragraph (a) or paragraph (b).

Structures adjacent to and on provincial roads

13. (1) A person may not, without the prior written permission of the Minister, which permission may be conditional or unconditional, erect, lay, establish or alter any structure or permit the erection, laying, establishment or alteration of any structure-
- (a) on, over or below the surface of a provincial road so as to encroach on a provincial road; or
 - (b) in a building restriction area within fifteen metres of the boundary of a main road or district road.
- (2) If the Minister grants permission to erect, lay, establish or alter a structure or imposes an obligation to remove a structure as a condition imposed under subsection (1), the registrar of deeds must, immediately upon the written request of the Minister, register or endorse the permission or obligation on the title deed of the land in question and in the appropriate registers in the office of the registrar of deeds and-
- (a) the cost in connection with the registration or endorsement must be paid by the person to whom the permission or endorsement has been granted; and
 - (b) the Minister may enforce compliance with the prescribed registration.
- (3) A person, who without the permission prescribed under subsection (1) or contrary to the terms and conditions of the permission, erects, lays, establishes or alters any structure or other thing, or grants permission therefor, must, if the Minister has by notice in writing directed him or her to do so, remove the structure, alteration or addition within the period stated in the notice which may not be less than fourteen days.
- (4) (a) Subject to paragraph (b), the Minister may remove a structure, alteration or addition for which he or she has by notice in terms of subsection (3) directed the removal and which has not been removed within the period stated in the notice.
- (b) If a hazardous or dangerous situation requiring immediate or urgent action arises in the public interest, the Minister may, without first directing its removal under subsection (3), remove any structure, alteration or addition which has been erected, laid, or established on, over or below the surface of a provincial road without the permission prescribed in terms of subsection (1) or contrary to the terms and

conditions of any permission.

- (5) Notwithstanding anything to the contrary in any other law, the Minister may remove or relocate, to a place to be determined by him or her, any structure erected, laid or established on or over or below the surface of a provincial road or other land situated within fifteen metres from a provincial road before the commencement of this Act or before the date on which the provincial road at issue is declared a provincial road by the Minister.
- (6) The Minister may recover the cost of any removal or relocation contemplated in this section from the appropriate person or body.

Fencing on provincial roads

14. (1) The Minister may, based on objective criteria established in regulations, authorise the erection of fencing adjacent to a provincial road and the fencing must thereafter be maintained by the owner of the property adjacent to the provincial road.
- (2) An owner of land adjacent to a provincial road is responsible for all maintenance of any fence adjacent to his or her property and constructed by the Department.
- (3) The Minister may, notwithstanding the Fencing Act, 1963 (Act No. 31 of 1963), in his or her discretion, authorise a contribution for the maintenance of any fence adjacent to a provincial road, but this provision does not remove or diminish the responsibility of the owner of land adjacent to a provincial road for maintaining any fence adjacent to his or her property.
- (4) Sections 22 to 27, inclusive, of the Fencing Act, 1963 (Act No. 31 of 1963) apply mutatis mutandis to this section.

Prohibition on abandoning vehicles, machines or parts, or leaving of refuse within the boundaries of provincial roads and road reserves

15. (1) A person may not, within the boundaries of a provincial road or road reserve and without the prior written permission of the Minister or contrary to any condition imposed by the Minister as set out in the written approval, abandon any vehicle, machine or part, or leave any other refuse.
- (2) The Minister may authorise the removal of refuse or abandoned vehicles, machines or parts found within the boundaries of a provincial road or road reserve, and may recover the cost of removal from the person who left the vehicle, machine, part or other refuse within the boundaries of a provincial road or road reserve.

Damaging provincial roads

16. (1) A person who wilfully or negligently damages a provincial road is guilty of an

offence.

- (2) A court convicting a person of wilfully or negligently damaging a provincial road may, in addition to imposing a sentence on him or her, order him or her to pay an amount which in the opinion of the court is equal to the value of the damage caused.
- (3) (a) The Minister may, on reasonable suspicion, instruct, by written notice, a person whose actions or omissions-
 - (i) have caused damage to a provincial road; or
 - (ii) are likely to cause damage to a provincial road, to take action or refrain from taking action as may be specified in the notice within the period specified in the notice.
- (b) Notwithstanding the provisions of paragraph (a), in the event of a hazardous or dangerous situation arising which requires immediate or urgent action in the public interest, the Minister or a person authorised by him or her may enter upon any land and take such action as may be necessary to prevent damage to a provincial road.
- (4) If a person fails to comply with a directive under subsection (3)(a), the Minister-
 - (a) may take any measure that may be necessary to prevent the occurrence of the damage referred to in subsection (3)(a);
 - (b) is not liable for any measure taken or work performed by the Department or its agents in terms of subsection (a); and
 - (c) may recover the cost for any measures taken or work performed from the person whose actions or omissions have caused damage to a provincial road or are likely to cause damage to a provincial road.

Obstruction of officials, surveyors or contractors or interference with survey pegs

17. (1) A person who obstructs or hinders the Minister or any official, surveyor or contractor in the execution of his or her duties, or prevents any official, surveyor or contractor from entering upon land for any purpose authorised by this Act is guilty of an offence.
- (2) A person who moves, or wilfully damages any survey pegs placed by the Minister or any official, surveyor or contractor in the execution of his or her duties is guilty of an offence.

Trading on or adjacent to main roads district roads or local roads

18. (1) A person may not, without the written approval of the Minister, or contrary to

the terms and conditions of that approval or except upon premises approved by the Minister, carry on any trade, offer, deliver or manufacture for sale any goods on a-

- (a) main road or district road or within fifteen metres of the boundary of the main road or district road where the carrying on of the trade, offering, delivering or manufacturing for sale would constitute a safety hazard on a main road or district road; or
 - (b) local road where the carrying on of trade, offering, delivering or manufacturing for sale would constitute a safety hazard on a local road.
- (2) An official or a person authorised in writing by the Minister or authorised in terms of any legislation to control traffic on a provincial road may require a person suspected on reasonable grounds of contravening subsection (1) to produce the written approval, and failing which must-
- (a) request the person concerned to provide his or her full name, identity number and residential address, including any telephone or other contact information and any other relevant documentation to confirm the information; and
 - (b) order that person to remove or may seize all articles reasonably related to the contravention of subsection (1), including any structure, tent, vehicle, implement or other object related to the commission of the offence.

Part IV

Development affecting provincial road network

Development plans

19. (1) A responsible authority undertaking the preparation of a development plan under section 26(1) of the KwaZulu-Natal Planning and Development Act, 1998, must give notice of its intention in the manner prescribed to the Minister.
- (2) Any development plan prepared under section 25 of the KwaZulu-Natal Planning and Development Act, 1998, must-
- (a) include a transport plan; and
 - (b) specify the impact of the development plan on the provincial road network.
- (3) A development plan prepared by a responsible authority under section 25 of the KwaZulu-Natal Planning and Development Act, 1998, must be-

- (a) submitted to the Minister prior to approval of the development plan as contemplated in the KwaZulu-Natal Planning and Development Act, 1998; and
 - (b) reviewed by the Minister, who, within 28 days, must-
 - (i) approve or refuse the development plan to the extent that it affects the provincial road network in the province; and
 - (ii) submit his or her written decision and any objections with respect to the development plan, which written decision may include directions for compliance with provincial road network policy, standards, norms and frameworks, to the Minister responsible for the administration of the KwaZulu-Natal Planning and Development Act, 1998.
- (4) The responsible body in the Province vested with the responsibility for development plans in terms of section 25 of the KwaZulu-Natal Planning and Development Act, 1998 may not, as contemplated in section 29(2) of the KwaZulu-Natal Planning and Development Act, 1998, approve any development plan-
- (a) prior to the expiry of the 28 day period referred to in subsection (3)(b); or
 - (b) which is in conflict with the directions of the Minister as contemplated in subsection 3(b)(ii), except to the extent that the Minister's directions are altered by the Appeal Tribunal in terms of subsection (5).
- (5) Where a responsible authority is aggrieved by any decision of the Minister related to one or more development plans, the responsible authority may appeal the Minister's decision to the Appeal Tribunal within the period and in the manner prescribed in the KwaZulu-Natal Planning and Development Act, 1998.
- (6) (a) Until such time as the KwaZulu-Natal Planning and Development Act, 1998 commences operation, a responsible authority preparing a development plan must submit its plan in terms of this section to the Minister.
- (b) The Minister must review the development plan submitted under paragraph (a) within 28 days and shall-
- (i) approve or refuse the development plan to the extent that it affects the provincial road network in the Province; and
 - (ii) submit his or her decision and any objections with respect to the development plan, which written decision may include directions for compliance with the provincial road network

policy, standards, norms and frameworks, to the responsible authority.

- (c) The responsible authority may not proceed with the development plan if it is in conflict with the directions of the Minister under paragraph (b)(ii).

Restriction on subdivision of land

- 20. (1) Any responsible authority in the Province vested with the responsibility for considering any sub-divisional application must give written notice to the Minister of any sub-divisional application involving property adjacent to any provincial road and within five hundred metres of an intersection of a provincial road and any other public road.
- (2) The Minister must, within 28 days-
 - (a) approve or refuse a sub-divisional application submitted under subsection (1), to the extent that it affects the provincial road network in the Province; and
 - (b) submit his or her written decision and any objections concerning the sub-divisional application, including directions or conditions for compliance with provincial road network policy, to the responsible authority vested under law in the Province with responsibility for considering any sub-divisional application.
- (3) The responsible authority in the Province vested with responsibility for consideration of sub-divisional applications may not approve any sub-divisional application-
 - (a) prior to the expiry of the 28 day period referred to in subsection (2); or
 - (b) which is in conflict with the directions of or conditions imposed by the Minister as contemplated in subsection (2)(b), except to the extent that the Minister's directions are altered by the Appeal Tribunal in terms of subsection (4).
- (4) Where a responsible authority is aggrieved by any decision of the Minister in respect of any sub-divisional application, the responsible authority may appeal against the decision of the Minister to the Appeal Tribunal as prescribed in the KwaZulu-Natal Planning and Development Act, 1998.
- (5) The Surveyor-General must not approve any general plan, and the registrar of deeds must not allow the registration or endorsement of any title deed, until he or she is satisfied that in respect of land referred to in subsection (i), the Minister has certified that-

- (a) there has been compliance with the provisions of subsections (1) to (3), inclusive; or
 - (b) in the event of an appeal under subsection (4), the Appeal Tribunal has resolved the issue.
- (6) Until such time as the KwaZulu-Natal Planning and Development Act, 1998 commences operation, a responsible authority wishing to appeal the Minister's decision in terms of subsection (4) must appeal to the member of the Executive Council responsible for development in the Province.

Land use changes and development proposals

21. (1) Notwithstanding the provisions of any law to the contrary, any responsible authority with responsibility for approving changes in land use or development proposals under section 34 of the KwaZulu-Natal Development and Planning Act, 1998, and which receives an application for any change in land use adjacent to a provincial road and within five hundred metres of an intersection of a provincial road and any public road, must-
- (a) within 14 days of receipt of the application and prior to considering or ruling on the application, submit the application to the Minister for his or her assessment and determination of the impact of the application on provincial road and transport plans and services; and
 - (b) ensure that the application has sufficient information for the Minister to assess and determine the impact of the application on provincial road and transport services.
- (2) The Minister must, within 28 days-
- (a) approve or refuse an application for a change in land use or development proposal submitted in terms of subsection (1), to the extent that it affects the provincial road network in the Province; and
 - (b) submit his or her written decision and any objections concerning the application for change in land use or any development proposal, including directions or conditions for compliance with provincial road network policy, to the responsible authority vested under law in the Province with responsibility for considering any sub-divisional application.
- (3) The responsible authority in the Province vested with responsibility for consideration of applications for change in land use or development proposals may not approve the application-
- (a) prior to the expiry of the 28 day period referred to in subsection (2); or
 - (b) which is in conflict with the directions of or conditions imposed by the

Minister as contemplated in subsection (2)(b), except to the extent that the Minister's directions are altered by the Appeal Tribunal in terms of subsection (4).

- (4) Where a responsible authority or person is aggrieved by any decision of the Minister related to changes in land use or development proposals, the responsible authority may appeal the Minister's decision to the Appeal Tribunal as prescribed in the KwaZulu-Natal Planning and Development Act, 1998.
- (5) Notwithstanding any provision to the contrary in the Deeds Registries Act, 1937 (Act No. 47 of 1937), any of the conditions imposed in subsection (2)(b) must be registered or endorsed against the relevant title deed.
- (6) Notwithstanding any provision to the contrary in the Deeds Registries Act, 1937 (Act No. 47 of 1937), or any other law, the registrar of deeds may, with the approval in writing of the Minister, cancel any condition which has in terms of subsection (5) been inserted in a deed of transfer or endorsed upon a title deed.
- (7) Until such time as the KwaZulu-Natal Planning and Development Act, 1998 commences operation, a responsible authority or person wishing to appeal the Minister's decision in terms of subsection (4) must appeal to the member of Executive Council responsible for development in the Province.

Amendment, rescission or lapsing of development proposals

22. (1) Any amendment to or rescission of an approved development proposal contemplated in section 19, 20 or 21 must be submitted to the Minister by the relevant responsible authority and no amendment or rescission may be adopted without the prior written approval of the Minister.
- (2) An action contemplated under a development proposal may not be commenced more than 18 months after the date of approval without submitting the proposal for re-consideration by the Minister under section 19, 20 or 21.

Exemptions

23. (1) The Minister may, upon application to him or her in the manner prescribed, exempt any responsible authority wholly or partially from sections 19, 20 or 21.
- (2) The Minister may at any time withdraw an exemption contemplated in subsection (1).
- (3) The Minister must, before granting or withdrawing any exemption, under subsections (1) or (2), indicate his or her intention to do so by publication in the Gazette.

- (4) In granting or withdrawing any exemption under this section, the Minister may impose any conditions he or she considers proper.
- (5) A responsible authority or person aggrieved by a decision of the Minister to grant, refuse or withdraw an exemption under this section, or to impose any condition thereon, may appeal to the Appeal Tribunal.

Part V

Establishment, control and management of resting places for livestock

Declaration and de-declaration of a resting place

24. The Minister may, by notice in the Gazette, declare that property adjacent to a public road is or ceases to be a resting place for livestock.

Minister not liable for claim

25. The Minister is not liable for any claim or damages arising from the existence or use of any resting place, except where the damage or loss was caused by the wilful or negligent act or omission of an official acting for and on behalf of the Department.

Prohibition of movement of livestock on public roads

26. The Minister may, by notice in the Gazette, prohibit or restrict the movement of livestock on any public road designated by him or her in the notice.

Impounding uncontrolled livestock

27. The Minister may, where the owners have failed to remove uncontrolled livestock from a provincial road or a road reserve, impound the livestock under any applicable law.

Part VI

Acquisition and expropriation of land

Acquisition and expropriation of land, material on or in land and right to use land temporarily

28. (1) The Minister may, by agreement with the owner of the land without recourse to the Expropriation Act, 1975 (Act No. 63 of 1975) or subject to the Expropriation Act, 1975 (Act No. 63 of 1975), pay compensation-
 - (a) to expropriate land for a provincial road, the building of any provincial road, works or any purpose concerning a provincial road, including but not limited to any access road, the acquisition, mining or treatment of gravel, stone, sand, clay, water or any other material or substance, the accommodation of road building staff and the storage and maintenance of vehicles, machines, equipment, tools, stores or

material;

- (b) to take gravel, stone, sand, clay, water or any other material or substance on or in land for the construction and maintenance of a provincial road for works or purposes referred to in paragraph (a); and
 - (c) for the temporary use of land for any purpose for which the Minister may expropriate the land.
- (2) The Minister may, in his or her discretion and notwithstanding anything in this Act, authorise by way of equitable relief where no payment or compensation is claimable, the payment of an amount to be determined by him or her, where the Minister is of the opinion that serious injury is or will be caused by the exercise of any power of expropriation.
- (3) If any land is or will be divided by a road in a manner that in the Minister's opinion, the land or any part of it is or will be useless to the owner, the Minister must expropriate the land or the part of it in question.

Part VII

Removal of materials from land and compensation

Removal of materials from land and compensation

29. (1) Subject to the provisions of the Minerals Act, 1991 (Act No. 50 of 1991), and subsection (2) of this section, the Minister may search for and take sand, stone, rock, gravel, clay, soil and other materials for road construction and maintenance in or on land.
- (2) The owner or occupier of the land from which sand, stone, rock, gravel, clay, soil and any other materials are taken is entitled to compensation.

Part VIII

Acquisition of land and vesting in a responsible authority or municipality

Acquisition of land and vesting in a responsible authority or municipality

30. (1) The Minister may, for the purpose of providing an access from any property to a provincial road, acquire so much of any property as is required for that purpose.
- (2) The provisions of section 28 of this Act must apply in respect of any expropriation or other acquisition in terms of subsection (1).
- (3) Land acquired by the Minister under subsection (1) within the area of jurisdiction of a responsible authority or municipality must, from a date to be determined by the Minister, vest in the responsible authority or municipality.
- (4) For the purpose of subsection (3), the Minister must advise the responsible

authority or municipality of the contemplated vesting of land, at the same time submitting a plan of the road and proposed point of access to a provincial road to the responsible authority or municipality.

Part IX
Public right-of-way

Public right-of-way

31. (1) A public right-of-way must-
- (a) be registered by the Minister in accordance with this Act; and
 - (b) constitute a reasonable means of access to a public road or other public amenity.
- (2) A responsible authority, municipality or person applying for the registration or de-registration of a public right-of-way bears all costs incidental thereto, and must submit-
- (a) proof of consultation with an affected community, and
 - (b) an application in the prescribed form, to the Minister, who may grant or refuse the application and whose decision is final.
- (3) Notwithstanding the absence of an application contemplated in subsection (2), the Minister may, after consultation with the owner or occupier of land and an affected community, register or de-register a public right-of-way under this Act.
- (4) The Minister must maintain a register of all public rights-of-way registered under section 1(a) and the register must be available for public viewing during normal business hours.
- (5) A person who closes a registered right-of-way without prior written authorisation from the Minister is guilty of an offence.

Part X
Advertising on provincial roads

Prohibition of certain advertisements on or adjacent to provincial roads

32. (1) Subject to the provisions of signs of subsection (2) a person may not display-
- (a) an advertisement on a main road or permit it to be displayed unless it is displayed in accordance with the written permission of the Minister; or
 - (b) any advertisement within five hundred metres of and visible from a main road or permit the advertisement to be displayed.

- (2) The provisions in subsection (1) do not apply to the display of any advertisement which complies with the requirements, if any, of regulations relating to the nature, content or size of an advertisement or the time, place or manner of its display.
- (3) A person who displays an advertisement or permits it to be displayed contrary to the provisions of subsection (1) must, if the Minister has by notice in writing directed the person to do so, remove the advertisement within the period stated in the notice which period may not be less than fourteen days.
- (4)
 - (a) Subject to the provisions of paragraph (b), the Minister may remove or order to be removed any advertisement which the Minister has by notice under subsection (3) directed to be removed and which has not been removed within the period stated in the notice, and recover the cost of removal from the person who displayed the advertisement or permitted its display.
 - (b) The Minister may at any time remove an advertisement displayed contrary to the provisions of subsection (1), without first directing its removal under subsection (3) and may recover the cost of removal from the person who displayed the advertisement or permitted its display.
- (5) Where an advertisement constitutes a safety hazard on or adjacent to a district road or local road, the Minister may apply sub sections (1) to (4), inclusive, to regulate advertisements on or adjacent to a district or local road.
- (6) For purposes of this section, unless the contrary is proved-
 - (a) an advertisement is be deemed to be displayed-
 - (i) by the person who erected it or otherwise caused it to appear; or
 - (ii) in the case of any advertisement relating to a product or article produced or manufactured by a particular person, or to a service rendered by a particular person, or to a business, undertaking or place owned by a particular person, by that person;
 - (b) an advertisement which is within five hundred metres of and visible from a main road is deemed to have been displayed after the commencement of this Act, unless the contrary is proved; and
 - (c) a person who owns or occupies land whereon an advertisement has been erected in contravention of this Act or regulations thereunder will be deemed to have erected the advertisement or otherwise to have caused it to appear or to have renovated, restored and repaired it, as

the case may be, or to have permitted its erection, appearance, renovation or repair unless the contrary is proved.

Permission to display advertisements

33. (1) The Minister may grant or refuse any permission in terms of section 32(1)(a) for which a person has applied.
- (2) If the Minister grants permission under subsection (1), he or she may, subject to any applicable regulation, prescribe the-
- (a) specifications to which the advertisement must conform;
 - (b) period during which the permission may be in effect;
 - (c) manner, place and circumstances in which and the conditions subject to which the advertisement may be displayed, and the Minister may at any time amend or revoke the permission.

Part XI

Environmental obligations

Environmental policy

34. The Minister must, under national and provincial legislation, regulate the operations of the Department to minimise, the impact of transport infrastructure and operations on the environment and must, where appropriate, make regulations relating to transport infrastructure and operations to achieve this goal.

Environmental obligations

35. Environmental management must constitute an integral part of the planning, construction, operation and maintenance of the provincial road network and the Department's infrastructure and facilities throughout the Province.

Environmental impact assessment

36. The Minister must comply with a national or provincial requirement for an environmental impact assessment in the construction of provincial transport infrastructure and operations.

Part XII

Public participation and advisory and technical bodies

Public participation

37. The Minister is committed to public participation and transparency in the development and implementation of the provincial road network, including but not limited to the declaration and de-declaration of roads under section 7(2).

Advisory bodies

38. (1) The Minister may, from time to time, establish and disestablish advisory and technical bodies, including but not limited to-
- (a) advisory committees;
 - (b) boards;
 - (c) forums; and
 - (d) other committees and advisory groups.
- (2) Membership of bodies contemplated in subsection (1) must be representative of the Province, with appointment practices or selection procedures based on the needs of the body and the need to redress the imbalances of the past.
- (3) When establishing an advisory or technical body contemplated in subsection (1), the Minister must-
- (a) determine the number of members and the manner in which the members must be selected and appointed;
 - (b) fix the duration of the appointments: Provided that all appointments for more than 1 (one) year in duration must be made on a rotating basis to ensure continuity; and
 - (c) specify the terms of reference and the duration of that body.
- (4) When establishing a board under subsection (1)(b), the duration of which is anticipated to be more than one year, the Minister must invite nominations for board membership through the media and any other form of communication deemed expedient by the Minister.
- (5) Notwithstanding the provisions of subsection (3), the Minister may, on good cause shown, at any time terminate the appointment of a member of a body established in terms of subsection (1).
- (6) The Minister must inform the Portfolio Committee of the Parliament of KwaZulu-Natal responsible for roads of any action taken under subsections (1)(3) and (5).
- (7) Each body contemplated in subsection (1) must-
- (a) keep and retain minutes of their proceedings;
 - (b) submit annual reports on its activities to the Minister; and

- (c) submit other reports and returns as the Minister may from time to time require.
- (8) The Minister may, from time to time and in consultation with the member of the Executive Council whose portfolio includes responsibility for finance, determine the basis on which members of the bodies contemplated in subsection (1) may be compensated for necessary out-of-pocket expenditure: Provided that different bases may be determined for different bodies, members and classes of members.

Mandatory declaration of interests and conflict of interests by members of advisory and technical bodies established by the Minister

- 39.
- (1) A member of an advisory or a technical body appointed by the Minister may not use his or her appointed position to promote any financial or other interest, including but not limited to the interests of any person, company or other entity, with members of the advisory or technical bodies responsible for representing and overseeing the interests of the Department, Province and their constituencies.
 - (2) A member of an advisory or technical body appointed by the Minister under this Act must, within 30 days of his or her appointment, submit a written declaration of all financial or other interests which are or could be related to or are in conflict with the appointment, which declaration must include relevant information about any criminal convictions against the member submitting the written declaration.
 - (3) The prescribed declaration referred to in subsection 1 of all financial and other interests by members of advisory or technical bodies appointed by the Minister must include past, existing or foreseeable future financial or other interests in all matters related to transport, roads and the provision of public transport.
 - (4) A declaration of interest must include but not be limited to all interests relating to the rendering of public transport, constructing or maintaining roads and the provision of equipment or supplies to the Department.
 - (5) Where financial or other interests of a member of an advisory or technical body appointed by the Minister change during the term of his or her appointment, the member is required to submit a written notice of any change of financial or other interest which could affect the member's decision-making with respect to the provincial road network.
 - (6) Any written notice of change of declaration of financial or other interests affecting the provincial road network must be submitted to the Minister within 10 days from the date of the change of financial or other interest.
 - (7) The Minister may terminate the appointment of any member of an advisory or technical body who fails to submit the prescribed declaration of interests or

who fails to advise the Minister of any change of financial or other interests affecting the provincial road network.

- (8) A meeting of an advisory or technical body is not invalid if a decision was taken under circumstances where a member failed to disclose his or her financial or other interest and the member's failure to disclose the interest was not material to the decision made by the advisory or technical body.

Part XIII Inspection

Inspection of property

40. (1) If any property or the temporary use of property is required for public purposes, the Minister may-
- (a) for the purpose of ascertaining whether any particular property is suitable for the purpose or use contemplated, or for the purpose of determining the value thereof, authorise a person to-
 - (i) enter upon any land in question with the necessary staff, equipment and vehicles,
 - (ii) survey and determine the area and levels of that land;
 - (iii) dig or bore on or into that land;
 - (iv) construct and maintain a measuring weir in any river or stream;
 - (v) insofar as it may be necessary to gain access to that land, enter upon and go across any other land with the necessary staff, equipment and vehicles; and
 - (b) authorise a person to demarcate the boundaries of any land required for the purpose or use set out in paragraph (a), provided that the person may not, without the consent of the owner or occupier, enter any building or enter upon any enclosed yard or garden attached to any building, unless he or she has given the owner or occupier at least 24 hours' notice of his or her intention to do so.
- (2) If a person has suffered any damage as a result of the exercise of any power referred to in subsection (1), the Minister is liable to pay reasonable compensation or to repair the damage.

Inspection procedure for monitoring

41. (1) The Minister may authorise an official to conduct an inspection for purposes of carrying out any function contemplated in this Act.

- (2) The Minister must provide an official with a letter of authority stating that the official is authorised to conduct an inspection and the purpose of the inspection, including but not limited to-
- (a) inspection of land or premises as prescribed under this Act;
 - (b) survey of land or premises as prescribed under this Act;
 - (c) removal of signs and advertisements as prescribed under this Act;
 - (d) removal of structures as prescribed under this Act;
 - (e) questioning a person present on land or premises being inspected under this Act;
 - (f) questioning a person who the official reasonably believes may have information relevant to an inspection;
 - (g) inspection of any document that a person is prescribed to maintain in terms of any law or that may be relevant to an inspection;
 - (h) copying any document referred to in paragraph (g) or if necessary removing the document to copy it; and
 - (i) taking samples of any substance relevant to an inspection.
- (3) An official who removes anything other than a substance contemplated in subsection (2)(i) from land or premises being inspected must-
- (a) issue a receipt for it to the owner or person in control of the premises; and
 - (b) return it as soon as practicable after achieving the purpose for which it was removed.

Offences

42. It is an offence for a person-
- (a) to refuse an official access to land or premises to which the official has requested admission;
 - (b) to obstruct or hinder an official who is carrying out a duty under this Act;
 - (c) to fail or refuse to provide an official with any information that the person is required to provide under this Act;
 - (d) to knowingly give false or misleading information to an official;

- (e) to unlawfully prevent the owner or occupier of any land or premises or a person working for that owner from entering the land or premises to comply with a requirement of this Act;
- (f) to pretend to be an official;
- (g) without authority, to enter or inspect land or premises; or
- (h) who, in the performance of any function or exercise of any power under this Act, acquires information relating to the financial or business affairs of a person and discloses that information except-
 - (i) to a person who requires that information to perform a function or exercise a power under this Act;
 - (ii) if the disclosure is ordered by a court of law; or
 - (iii) if the disclosure is in compliance with any provision of any other law.

Part XIV

Internal review of Departmental decisions

Internal review of Departmental decisions

43. (1) A person outside the Department wishing the Minister to review and decide on any Departmental decision related to the purposes of this Act must, within 21 working days of the Departmental decision or the date on which the person became aware of the decision, make a written submission to the Minister.
- (2) The submission referred to in subsection (1) must state all factual and legal issues relating to the dispute and the nature of any requested relief.
- (3) The Minister may take any appropriate steps to investigate all matters related to a dispute.
- (4) The Minister may delegate any authority to investigate any matter related to a dispute to any officer within the Department and may also withdraw the delegation of authority at any time.
- (5) The Minister must issue a written decision-
- (a) confirming the original decision of the Department;
 - (b) reversing the original decision of the Department;
 - (c) amending the decision of the Department; or
 - (d) redirecting the person submitting the dispute to a competent authority.

- (6) The Minister may not hear or decide any dispute which is-
 - (a) frivolous or does not clearly state the nature of the claim, or
 - (b) a potential offence.
- (7) If a person is not satisfied with the decision of the Minister under this section, the person is entitled to utilise any other remedy he or she has under this Act or any other law.

Part XV

Regulations

Regulations

- 44. (1) The Minister may make regulations regarding any matter as he or she may deem necessary or expedient for the efficient administration of this Act.
- (2) The Minister may make different regulations under subsection (1) in respect of different categories of provincial roads.
- (3) Regulations developed under this Act must be based on the principle of equitable road access to all communities within the Province.

Part XVI

Provincial roads administration and good governance

Provincial roads administration and good governance principles

- 45. Administration of the provincial road network is governed by the principles enshrined in section 195 of the Constitution and any national or provincial policy or legislation addressing good governance and public service delivery.

Part XVII

Ministerial liability

Claims against the Minister

- 46. A claim may not lie against the Minister for roads which are not provincial roads or where the Minister has performed his or her duties in accordance with the standard of care generally acceptable for the construction and maintenance of provincial roads.

Indemnification

- 47. Where the Minister has authorised construction or maintenance of a road which is not a provincial road, the responsible authority or municipality must indemnify the Minister against all claims which are not related to work undertaken or performed by the Minister or which are not as a result of the wilful or negligent action or omission on the part of the Minister.

Part XVIII
Offences and penalties

Offences

48. (1) A person who-
- (a) contravenes any provision of this Act, where the contravention is not elsewhere declared an offence;
 - (b) fails to comply with any notice served upon him or her under this Act;
or
 - (c) willfully obstructs, resists or hinders any official in the lawful exercise of any power conferred under this Act, is be guilty of an offence.
- (2) Every fine imposed and paid for a contravention of or failure to comply with this Act must be paid into the Provincial Revenue Fund.

Penalties

49. A person guilty of an offence under this Act is liable for a fine or imprisonment not exceeding five years, or to both a fine and imprisonment.

Part XIX
Service of notice

Service of notice

50. Notice prescribed under this Act to the owner or occupier of any property may either be served personally upon him or her or his or
- (a) in the case of an owner, by registered post or mail to a known address of the owner or of his or her representative, or if there is no known address, by registered post to the occupier, or if there is no person in occupation, by being affixed in a conspicuous place on the property; or
 - (b) in the case of an occupier, by registered post or mail to his or her known address or to the address of the property or to the occupier's known representative.

Part XX
Repeal of prior statutes, regulations and ordinances and interpretation of this Act

Repeal and amendment of laws and savings

51. (1) Subject to the provisions of subsection (2), the laws referred to in the Schedule are repealed to the extent indicated in the third column thereof.

- (2) Notwithstanding the repeal of the laws referred to in subsection (1)-
- (a) anything done under that law which is capable of being done under a provision of this Act, is deemed to have been done under the relevant provision of this Act;
- (b) any proceedings commenced under that law, must be continued and concluded as if such law had not been repealed, provided that any appeals arising therefrom must be dealt with in accordance with the provisions of this Act.
- (3) If there is a conflict between this Act and any other law affecting provincial roads and the administration of provincial roads in the Province, this Act must prevail.

Inconsistencies between different texts

52. In the event of an inconsistency between different texts of this Act, the English text prevails.

State bound

53. This Act binds the state.

Short title and date of commencement

54. This Act is called the KwaZulu-Natal Provincial Roads Act, 2001.

SCHEDULE

No. and Year of Law	Title or Subject	Extent of Repeal or Amendment
No. 10 of 1968	Roads Ordinance, 1968	The whole.
No. 19 of 1978	Roads Ordinance Amendment, 1978	The whole.
No. 23 of 1981	Roads Ordinance Amendment, 1981	The whole.
No. 11 of 1978	KwaZulu Roads Amendment Act, 1978	The whole.
No. 21 of 1940	Advertising on Roads and Ribbon Development Act, 1940	The whole.
No. 22 of 1944	Advertising on Roads and Ribbon Development Amendment Act, 1944	The whole.
No. 28 of 1952	Advertising on Roads and Ribbon Development Amendment Act, 1952	The whole.

No. 16 of 1962	Advertising on Roads and Ribbon Development Amendment Act, 1962	The whole.
No. 16 of 1966	Advertising on Roads and Ribbon Development Amendment Act, 1966	The whole.
No. 6 of 1976	Advertising on Roads and Ribbons Development Amendment Act, 1976	The whole.
No. 2 of 1979	Advertising on Roads and Ribbon Development Amendment Act, 1979	The whole.
No. 43 of 1985	Advertising on Roads and Ribbon Development Amendment Act, 1985	The whole.