

**ROADS ACT**

Act 29 of 1966 – 15 May 1967

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**ROADS ACT**  
**PART I – GENERAL**

**1. Short title**

This Act may be cited as the Roads Act.

**2. Interpretation**

In this Act—

“advertisement”—

- (a) means a word, letter, model, design, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed for the purpose of, advertisement, announcement or direction; and
- (b) includes an advertising structure, and references to the display of advertisements shall be construed accordingly;

“advertising structure” means any hoarding or similar structure or apparatus, whether mechanical, electrical, electronic or in any other form, used, or adapted for use, for the display of advertisements;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

“apparatus” includes a structure constructed for the lodging of apparatus;

“carriageway” means that part of a road designed and constructed to be used for vehicular traffic, or used or reasonably usable for that purpose;

“Commissioner of Police” includes a police officer not below the rank of Chief Inspector;

“competent person” means a land surveyor, a civil engineer, an architect or any other person having the prescribed qualifications;

“cycle track” means a portion of a road, exclusive of the carriageway, set aside for use solely by persons riding bicycles;

“footpath” means a portion of a road, exclusive of the carriageway, set aside for use solely by pedestrians;

“fronting” includes adjoining and abutting;

“highway authority” means the authority responsible for the construction, care and maintenance of a road or class of roads;

“hours of darkness” means the time between a quarter of an hour after sunset and a quarter of an hour before sunrise;

“local authority” means an urban authority or a district council, as the case may be, as defined in the Local Government Act;

“Minister” means the Minister to whom responsibility for the subject of land transport is assigned;

“owner”, in relation to an advertising structure, includes—

- (a) the person who is the owner of the advertising structure;
- (b) in respect of an advertising structure situate on State land, or Pas Géométriques, the lessee of the site;
- (c) in respect of a leased advertising structure, the person who receives rent or, if the advertising structure were to be let, would be entitled to receive the rent, whether for his own benefit or that of another person; or
- (d) where the owner cannot be found or ascertained, the person whose product or service is being advertised by means of the structure;

“planning area” means an area declared as such under section 6 of the Town and Country Planning Act;

“premises” includes land and buildings;

“private road” has the meaning assigned to it in section 5;

“public road” means a road of a class described in section 3;

“road” means a highway and any other road to which the public has access, and any public place to which vehicles have access, and includes any bridge, ford, culvert or other work in the line of such road;

“road reserve” means any part of a road, other than the carriageway, footpath and cycle track;

“structure” includes—

- (a) a building, pole, power line, petrol pump, machinery, wall, plantation or hedge and any other object which could, in like manner, cause an obstruction;
- (b) a bridge, culvert or other construction of a similar nature; and
- (c) an external alternation or addition to a structure;

“undertaker” means the person by whom a statutory power to execute undertakers’ works is exercisable;

“undertakers’ works” means works executed or to be executed on behalf of the State or any other person for a purpose, other than road purposes, of the following kinds—

- (a) placing, inspecting, maintaining, adjusting, repairing, altering, renewing, changing the position of or removing an apparatus;
- (b) breaking up or opening a road, tunnelling or boring under a road, breaking up or opening a sewer, drain or tunnel for the purposes of works referred to in paragraph (a) and other works requisite for or incidental to those purposes; and
- (c) laying any pipeline, wire or cable on or over a road;

“works” includes a pipe, tube, tunnel, permanent excavation or quarry, and any irrigation works, borehole or well, and any addition or alteration to such works.

[S. 2 amended by s. 3 of Act 17 of 1982 w.e.f. 18 September 1982; s. 3 of Act 18 of 1983 w.e.f. 18 September 1983; s. 48 (3) of Act 46 of 1984 w.e.f. 16 July 1984; s. 12 (1) of Act 28 of 1990 w.e.f. 3 September 1990; s. 23 (2) of Act 48 of 1991 w.e.f. 12 March 1992; s. 30 (1) of Act 6 of 1998 w.e.f. 20 July 1998; s. 165 (17) (a) of Act 36 of 2011 w.e.f. 15 December 2011; s. 25 (a) of Act 27 of 2012 w.e.f. 1 January 2013.]

### 3. Classification of roads

(1) For the purposes of this Act, roads shall be classified as—

- (a) motorways;
- (b) main roads;
- (c) urban roads; and
- (d) rural roads.

(2) Motorways and main roads shall be those roads so designated and classified by the Minister by regulations.

(3) Notwithstanding any other enactment, urban roads shall be all roads within the boundaries of a town which are not motorways or main roads and have either been dedicated to public use or have been accepted as a regular maintenance responsibility of a local authority.

(4) Rural roads shall be all roads outside the boundaries of a town which are not motorways or main roads and have either been dedicated to public use or have been accepted as a regular maintenance responsibility by Government or a district council.

### 4. Highway authorities

(1) For each class of roads as described in section 3, there shall be a highway authority which shall be responsible for the construction, care, maintenance and improvement of that class of road.

(2) The highway authority shall be—

- (a) for motorways and main roads, the Mauritius Land Transport Authority; and
- (b) for urban roads and rural roads, the appropriate local authority.

[S. 4 amended by s. 30 (1) Act 6 of 1998 w.e.f. 20 July 1998.]

#### 4A. Authorisation for roadworks

(1) Any person who wishes to—

- (a) dig across or along a public road for any purpose; or
- (b) undertake any excavation work on a public road,

shall, not less than 14 days before the start of the work, apply to the highway authority for authorisation.

(2) The highway authority may, when granting an authorisation, impose such conditions relating to the reinstatement of the road by the applicant as it deems fit.

(3) Notwithstanding any other enactment, any person who—

- (a) without the written authorisation of the highway authority—
  - (i) digs across or along a public road for any purpose; or
  - (ii) undertakes any excavation work on a public road; or
- (b) does not comply with a condition imposed by the highway authority under subsection (2),

shall commit an offence.

(4) Without prejudice to any prosecution under subsection (3), the highway authority may cause the road to be reinstated and claim any costs incurred in such reinstatement from the offender.

(5) Any person who commits an offence under this section shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 4A inserted by s. 3 of Act 16 of 1994 w.e.f. 18 June 1984.]

#### 5. Private roads

(1) Any road in any area which has not been dedicated to public use, or has not been accepted as a regular maintenance responsibility by Government, the Road Development Authority or a local authority, shall be deemed to be a private road.

(2) Any road which may be required on, or for purposes of access to, any land, whether State land, *Pas Géométriques* or private property, shall be deemed to be a private road.

(3) Subject to this Act, no money provided for the construction, care, maintenance and improvement of public roads shall be expended by or under the authority of any highway authority on any private road.

(4) Responsibility for the construction, care, maintenance and improvement of a private road shall rest with the owner of the land on which the road exists or is to be constructed or, if the owner cannot be found, with the occupier of the land served by the road, including the premises fronting the road.

(5) In case of doubt whether a road is a private road for the purposes of this Act, the onus shall rest on the person contending that the road should

be maintained by the highway authority to prove that the road has been dedicated to public use or accepted as a regular maintenance responsibility by Government, the Road Development Authority or a local authority.

[S. 5 amended by s. 23 (2) of Act 48 of 1991 w.e.f. 12 March 1992; s. 30 (1) of Act 6 of 1998 w.e.f. 20 July 1998.]

**6.** —

**7. Public roads dedicated to public use**

(1) All public roads shall be deemed to be dedicated to public use, subject to such restriction of use as may be prescribed.

(2) A highway authority may enter and, subject to this Act, carry out any works and exercise any powers in relation to a public road for which it is responsible.

**8. End of public use**

(1) The Minister may, after consultation with the local authority concerned, by regulations, direct that a road shall cease to be dedicated to the use of the public from a date to be specified in the regulations.

(2) Where the Minister is satisfied that it is in the public interest so to do, he may, by regulations, modify the course of a main road or motorway.

(3) Any regulations made under this section shall specify—

- (a) the land over which the road previously passed; and
- (b) the land over which the modified road passes.

(4) Where any regulations are made under subsection (2), the land over which the road previously passed shall cease to be dedicated to the use of the public.

[S. 8 amended by s. 3 of Act 13 of 1991 w.e.f. 15 June 1991.]

**9. Width of roads**

(1) The Minister may, by regulations, prescribe the width of a road, or class of roads.

(2) The centre line of a road shall, in every case, lie down its carriageway unless the Minister otherwise provides by regulations.

**10. Improvement line for widening road**

(1) Where, in the opinion of a highway authority—

- (a) a road for which it is responsible is narrow or inconvenient, or without any sufficiently regular boundary line; or
- (b) it is necessary or desirable that the road be widened,

the authority may prescribe, in relation to one side or both sides of the road, or at or within a distance of 15 yards from any road corner, an improvement line to which the road is to be widened.

(2) (a) Subject to subsection (3), where an improvement line prescribed under subsection (1) is in force, no new structure shall be erected and no permanent excavation below the level of the road shall be made, nearer to the centre line of the road than the improvement line, except with the consent of the authority which prescribed the line.

(b) The authority may give its consent for such period and subject to such conditions as it thinks expedient.

(c) The prohibition imposed by this subsection shall not apply to undertakers' works.

(3) Where an improvement line has been prescribed, any person aggrieved by the decision to prescribe the line, or by the refusal of consent under subsection (2), or by the period for which the consent is given, or any condition attached to it, may appeal to the Minister, whose decision shall be final.

(4) A highway authority may revoke an improvement line which it has prescribed, where, in the opinion of the authority, such line is no longer necessary or desirable.

(5) The First Schedule shall apply to the prescription of an improvement line and to the revocation of the line.

(6) No person shall be entitled to recover from the authority which prescribes an improvement line any compensation, unless his property has been injuriously affected by the prescription of the line.

(7) No compensation shall be payable under subsection (6) on account of any structure erected, contract made, or other thing done, after the date on which a plan showing the improvement line was deposited in accordance with paragraph 2 of the First Schedule, not being work done for the purpose of finishing a structure, the erection of which had begun before that date, or of carrying out a contract made before that date.

#### **11. Prescription of a building line**

(1) Subject to this section, a highway authority may, with the approval of the Minister, prescribe, in relation to one or both sides of a road for which it is responsible, a frontage line for building which shall be known as a "building line".

(2) (a) Where a building line is in force, no new structure other than a boundary wall or fence, shall be erected, and no permanent excavation of the road shall be made, nearer to the centre line of the road than the building line, except with the consent of the authority which prescribed the line.

(b) The authority may give its consent for such period and subject to such conditions as it thinks expedient.

(c) The prohibition imposed by this subsection shall not apply to undertakers' works.

(3) A highway authority may revoke a building line which it has prescribed, where, in the opinion of the authority, the line is no longer necessary or desirable.

(4) The First Schedule shall apply to the prescription of a building line and to the revocation of the line.

(5) No person shall be entitled to recover from the authority which prescribes a building line any compensation unless his property has been injuriously affected by the prescription of such line.

(6) No compensation shall be payable under subsection (5)—

- (a) unless the claim is made within 3 months from the date on which the building line was prescribed, or, where the claimant is a person to whom a notice of the prescription of the line was required to be given under paragraph 3 of the First Schedule, within 3 months from the date on which such a notice was given to him; or
- (b) on account of anything done after the date on which a notice of the proposal to prescribe the line was served, not being a thing done for the purpose of finishing a building, the erection of which had begun before that date, or of carrying out a contract made before that date.

## **12. Power to fix frontage line**

(1) Where a structure situated on a road, or in front of it, has been taken down in order to be rebuilt or altered, the highway authority responsible for the road, may, with the approval of the Minister, prescribe the line in which any structure, or its front, to be built or rebuilt in the same situation, shall be erected, and any such new structure, or its front, shall be erected accordingly.

(2) The authority shall pay compensation to the owner or other person immediately interested in the structure for any loss or damage he may sustain in consequence of the prescription of the line.

## **13. Consent to move building forward**

(1) No person shall, without the consent of the highway authority concerned—

- (a) erect or bring forward a building on a road, beyond the front main wall of the building on either side of it on the same road; or
- (b) build any addition to a building beyond the front main wall of the building or on either side of it on the same road.

(2) Any person aggrieved by the withholding of a consent required under this section may appeal to the Minister, whose decision shall be final.

## **14. Removal of projection from buildings**

(1) A highway authority may, by written notice to the owner or occupier of any structure, require him to remove or alter any porch, shed, projecting window, step, cellar, cellar door, cellar window, design, sign, signpost, showboard, window shutter, wall, gate, fence, or other obstruction or projection which has been erected or placed against or in front of the structure and is an obstruction to safe or convenient passage along the road.



(2) Any person aggrieved by a decision of a highway authority under subsection (1) may appeal to the Minister, whose decision shall be final.

(3) Subject to any order made on appeal, any person who fails to comply with a notice served under this section, within 21 days from the date of service of the notice on him, shall commit an offence and the highway authority may remove the obstruction or projection to which the notice relates and recover the expenses reasonably incurred in so doing from that person as if it were a civil debt.

(4) —

(5) A projection which is erected or placed against or in front of a structure, and which by reason of its being insecurely fixed or of defective construction or otherwise is a source of danger to persons lawfully using a road, shall be deemed for the purposes of this section to be an obstruction to safe or convenient passage along the road.

#### **15. Door opening onto roads**

(1) A door, gate or bar put up on any premises shall not be so put up as to open outwards on a road beyond the boundary line between the premises and the road unless, in the case of a door, gate or bar which is put up on a public building, the highway authority responsible for the road consents to its being otherwise put up.

(2) Where a door, gate or bar is put up on any premises in contravention of subsection (1), the highway authority responsible for the road may, by notice in writing to the owner or occupier of the premises, require him to alter, so as not to open outwards, the door, gate or bar.

(3) Any person, on whom a notice under subsection (2) is served and who fails to comply with the notice within 21 days from the date of service of the notice on him, shall commit an offence and the highway authority may do the work required by the notice and recover the expenses reasonably incurred in so doing from that person as if it were a civil debt.

#### **16. Hoardings to be set up**

(1) (a) Any person who proposes to erect or take down a structure on a road or to alter or repair the outside of a structure shall, before beginning the work, erect a close boarded hoarding or fence to the satisfaction of the highway authority responsible for the road so as to separate the building from the road.

(b) The obligation imposed by this subsection may, with the consent of the highway authority, be dispensed with.

(2) Where a person has, in compliance with subsection (1), erected a hoarding or fence, he shall—

- (a) where the highway authority so requires, make a convenient covered platform and handrail to serve as a footway for pedestrians outside the hoarding or fence;

- (b) maintain the hoarding or fence and any platform and handrail in good condition to the satisfaction of the authority during such time as the authority may require;
- (c) where the authority so requires, sufficiently light the hoarding or fence and any platform and handrail during the hours of darkness; and
- (d) remove the hoarding or fence and any platform and handrail when so required by the authority.

(3) Any person aggrieved by the refusal of a consent under subsection (1), or by a requirement of a highway authority under subsection (2), may appeal to the Minister, whose decision shall be final.

(4) Subject to any order made on appeal, any person who contravenes this section shall commit an offence in respect of each day during which the contravention subsists.

#### **17. Hoardings to be securely erected**

(1) No person shall use, for any purpose, a hoarding or similar contrivance that is on, or adjoins, a road unless it is securely fixed to the satisfaction of the highway authority responsible for the road.

(2) Any person who contravenes this section shall commit an offence in respect of each day during which the contravention subsists.

#### **18. Obstruction to view at corners**

(1) (a) Where a highway authority thinks it necessary, for the prevention of danger arising from obstruction to the view of persons using a road, to impose restrictions with respect to any land at or near any corner or bend in the road or any junction of the road with another road, the authority may, subject to this section, serve a written notice, together with a plan showing the land to which the notice relates on the owner or occupier of the land—

- (i) directing him to alter any wall, building, fence, hoarding, paling, or to prune any tree, shrub or other vegetation on the land so as to cause it to conform with the notice; or
- (ii) restraining him, either absolutely or subject to such conditions as may be specified in the notice, from causing or permitting any wall, building, fence, hoarding, paling, tree, shrub, or other vegetation to be erected or planted on the land.

(b) A notice under this subsection may be withdrawn by the authority which gave the notice.

(2) A notice restraining the erection of a building on land shall not be served by a highway authority which is not the local authority for the area in which the land is situated, except with the consent of that authority.

(3) A copy of the notice under subsection (1) (a) (i) shall be served on the owner or on the occupier of any land whichever of the 2 did not receive service of the notice.

(4) A notice under subsection (1) (a) (ii) shall not prevent the owner or occupier of any land from executing or permitting the reconstruction or repair, in such manner as not to create any obstruction to the view of persons using the adjacent roads, of any wall, building, fence, hoarding or paling which were on the land before the service of the notice and specified in the notice.

(5) A restriction imposed by a notice under subsection (1) shall come into force on the service of the notice, and, while in force, shall be binding on the successor in title to every owner and on every occupier of the land to which it relates.

(6) A person on whom a notice has been served under subsection (1) may appeal against any requirement or restriction imposed by the notice to the Minister, whose decision shall be final.

(7) A person on whom a notice is served under subsection (1) may, notwithstanding anything in any lease or other agreement, do all such things as may be necessary for complying with the notice.

(8) Subject to this section, where a person on whom a notice has been served under subsection (1) contravenes the notice, he shall, without prejudice to any other proceedings which may be instituted against him, commit an offence, and the highway authority may do any work required by the notice, or pull down any work performed in breach of the notice, and recover the expenses reasonably incurred in so doing from that person as if it were a civil debt.

(9) A person sustaining loss in direct consequence of a notice served under subsection (1) or a person who proves that his property is injuriously affected by restrictions imposed by a notice shall, if he makes a claim within 3 months from the date of service of the notice, be entitled to recover, from the authority by whom the notice was served, compensation for the injury sustained.

(10) A person on whom a notice is served under subsection (1) shall be entitled to compensation for any expenses reasonably incurred by him in carrying out any directions contained in the notice.

(11) Nothing in this section shall authorise the service of a notice with respect to any wall forming part of an ancient monument or other object of archaeological interest, except with the consent of the Minister.

## **19. Control of points of access**

(1) (a) No person shall construct, form or lay out any new access, or widen or otherwise alter any existing access, or change the user of such access to a motorway or main road without the approval in writing of the highway authority.

(b) The highway authority may impose such conditions as it thinks fit before signifying its approval.

(2) A highway authority may, by notice in writing, require the owner or occupier of any premises served by an access to any public road, other than an access suitable for pedestrians or cyclists only, and used for that purpose only, to alter or close the access within such time as may be notified in the notice, where the Minister is satisfied that the existing access is, or may become, a source of danger to traffic by virtue of its location and any access required in its place shall be dealt with as if it were a new access in accordance with subsection (1).

(3) A person aggrieved by any decision of the highway authority under this section may appeal to the Minister, whose decision shall be final.

(4) Any person who fails to comply with subsection (1) or (2), or contravenes any condition attached to any permission granted under subsection (1), shall commit an offence.

(5) Without prejudice to any proceedings which may be instituted, the highway authority may, after the expiry of the time specified in a notice under subsection (2), execute any works required to be performed in pursuance of the notice and the authority may recover the cost of providing any new access as if it were a civil debt.

**20.** —

**21. Control of structures**

(1) The Minister may, by notice under the hand of the Permanent Secretary—

- (a) require the owner of any building and land to—
  - (i) provide service roads to give access to such building or land from any motorway or main road; or
  - (ii) provide parking space and space for the loading and unloading of goods to such building or land;
- (b) prohibit the erection of any structure with a frontage on the boundary line between any premises and a motorway or main road;
- (c) subject, in respect of any road in a planning area, to prior consultation with the local authority for such area or the Town and Country Planning Board, prohibit the erection of any structure or the carrying out of any works on or under land within 300 feet of the centre line of any motorway or main road; or
- (d) require the owner of any land adjoining a road, upon which scrap metal, scrap iron or scrap heaps of any kind are deposited, to erect a fence, hedge or wall so as to screen such scrap from the road.

(2) Any person who fails to comply, within the time granted by the Minister, with a notice issued under subsection (1) shall commit an offence, and

the Minister may cause any work specified in the notice to be carried out and may recover from the person the expenses reasonably incurred in the work as if it were a civil debt.

## 22. Control of advertisements

(1) Notwithstanding any other enactment, but subject to sections 23 and 24, no person shall erect or display an advertisement which is visible from a road without the written permission of the highway authority.

(2) The highway authority may, when granting the permission, specify the specifications to which the advertisement shall conform, the period during which the advertisement may be displayed and the manner, place and circumstances in which and the conditions on which the advertisement may be displayed.

(2A) (a) Where a written permission is granted under subsection (2) and the person intends—

- (i) to effect alterations in the nature of the advertisement or in the manner in which it is being displayed; or
- (ii) to remove the advertising structure,

he shall give written notice of his intention, not later than 30 days before the alteration or removal, as the case may be, to the highway authority.

(b) The highway authority shall, on receipt of a notice of intention relating to—

- (i) paragraph (a) (i)—
  - (A) give its written permission to the person for the alteration, in conformity with its specifications; or
  - (B) refuse, in writing, to give its permission, stating the reasons for the refusal,

not later than 15 days from the date of receipt of the notice; or

- (ii) paragraph (a) (ii), exercise control on the removal.

(c) Where a written permission is given or the advertising structure is removed pursuant to paragraph (b), the highway authority shall, not later than 15 days from the date of the written permission or the removal, forward a copy of the written authorisation, or provide in writing the particulars and the date of the removal, as the case may be, to the Director-General.

(3) The highway authority may, at any time, by written notice to the owner, alter or revoke a permission.

(4) Nothing in this section shall authorise the placing of an advertisement on a public structure or tree.

[S. 22 amended by s. 25 (b) of Act 27 of 2012 w.e.f. 1 January 2013.]

### 23. Removal or alteration of advertisements

(1) Where an advertisement, which is visible from a road—

- (a) is being displayed without the written permission of the highway authority or after the expiration or revocation of the permission;
- (b) does not conform to the specifications specified in the written permission to display the advertisement, or is being displayed in a manner or place or in circumstances or under conditions other than those specified in the permission; or
- (c) is placed contrary to section 22 (3) or (4),

the highway authority may, by notice in writing, require the owner of the advertisement to remove it, or to effect such alterations in the nature of the advertisement or in the manner, place or circumstances in which it is being displayed and within such period as may be specified in the notice.

(2) Where the owner of the advertising structure fails, within the period prescribed, to comply with the notice, he shall commit an offence and the highway authority shall have right of access to the advertising structure and cause it to be removed and may recover the cost of such removal from that owner as if it were a civil debt.

(3) For the purposes of this section, a person authorising the display of an advertisement shall be deemed to be displaying such advertisement.

[S. 23 amended by s. 25 (c) of Act 27 of 2012 w.e.f. 1 January 2013.]

### 24. Exceptions

Section 22 shall not apply to—

- (a) the display of an advertisement on a vehicle which is being used on a road if it is proved that the main purpose for which the vehicle is being used is not to display the advertisement;
- (b) the display, on a building, or site, or within 100 feet of a building or site, of an advertisement which, otherwise than on or over a road—
  - (i) merely discloses the name or nature of a business or undertaking carried on the site or the name of the owner or manager of the business or undertaking; or
  - (ii) relates solely to an article or service supplied in connection with a business or undertaking carried on in the building or on the site and provided the advertisement is displayed inside the building;
- (c) the display, at the entrance of premises, otherwise than on or over a road, of not more than one advertisement which relates solely to—
  - (i) a form of recreation which is or will be available on the land;

- (ii) an entertainment, meeting or sale which is being or is to be held on the land; or
- (iii) the sale or lease of the premises on which the advertisement is displayed;
- (d) the display, otherwise than on or over a road, of an advertisement which merely indicates—
  - (i) the name of a firm;
  - (ii) that a particular road or path is a private road or path or leads to a particular place; or
  - (iii) that a particular act is prohibited or permitted;
- (e) the display, otherwise than on or over a road, on or at a gate, of an advertisement which merely conveys—
  - (i) the name of a property or locality to which the gate gives access; or
  - (ii) a request or direction to close the gate; or
- (f) the display at a filling station, subject to the approval of the Minister, of an advertisement designed for the sole purpose of advertising the particular motor spirit sold and supplied, or distributed.

## **25. Advertisements**

Where an advertisement is likely to prove a danger to the travelling public or disfigures or injuriously affects the view of rural scenery or the natural beauty of a landscape or the amenities of any historic or public building or monument or of any place frequented by the public solely or mainly on account of its beauty or historical interest, the Minister may direct the highway authority concerned to cause the advertisement to be altered or removed in accordance with section 23.

*continued on page R28 – 15*





## **26. Disposal of surface water**

(1) A highway authority may, after consultation with the owner or occupier concerned, construct in or on a road for which it is responsible, culverts, ditches or other works for the diversion of surface water from or under the road into adjoining land.

(2) (a) Where a loss or damage is caused by water diverted under subsection (1), the highway authority shall pay to the owner or occupier of the adjoining land such amount of compensation as may be agreed at the time of the construction of the culvert, ditch or other works and, in default of any agreement, the amount shall be determined in the manner set forth in section 65.

(b) In the assessment of the amount of any compensation, regard shall be had to any increased benefit of the road to the owner or occupier of the land.

## **27. Discharge of water on roads**

(1) (a) No occupier of premises adjoining a road shall cause surface water from the premises to flow on to a road or into a road drain by whatever means without the written permission of the highway authority responsible for the road.

(b) No permission shall be granted unless the person making the application agrees to bear, and deposits a sum sufficient to cover, the expenses of the construction, enlargement or alteration of any road drain which the highway authority considers necessary.

(2) Any person aggrieved by a refusal of permission under subsection (1) may appeal to the Minister, whose decision shall be final.

## **PART II – CONSTRUCTION, CARE, MAINTENANCE AND IMPROVEMENT OF ROADS**

## **28. Construction and care**

(1) (a) Every highway authority shall, subject to the directions of the Minister, undertake the construction, care, maintenance and improvement of the roads or classes of road for which it is responsible.

(b) Where a local authority, being the highway authority, fails to maintain a road for the maintenance of which it is responsible, the Minister may, after giving notice to the highway authority, arrange for the works to be executed in such manner as it shall direct, and the cost of the works shall be deducted from any grant payable by Government to the local authority.

(2) (a) Liability to undertake the construction, care, maintenance and improvement of a road shall include liability to pay all the costs incurred in the construction, care, maintenance and improvement.

(b) The Minister may, at the request of a district council, direct that, for any period not exceeding 12 months and not overlapping 2 financial years, a rural road for which the district council is responsible shall be maintained out of funds controlled by the permanent secretary.

### **29. Highway authority may enter land**

A highway authority may, after notice has been served on the owner or occupier of any land by registered post, enter on the land for the purpose of surveying or setting out the course of any proposed road, and the owner or occupier shall not be entitled to any compensation except in respect of any damage or destruction caused by the highway authority in respect of improvements existing on the land at the time of the entry.

### **30. Power to construct and maintain diversions**

(1) (a) For the purpose of constructing, repairing, maintaining or improving a road, the highway authority responsible for that road may, on giving notice in writing to the owner or occupier of any land, construct and maintain temporary diversions over the land neighbouring such road, not being land occupied by buildings, orchards, gardens or other improvements.

(b) Where the owner or occupier of the land is not found, the notice required under this subsection may be posted up in a conspicuous place on the land.

(c) The highway authority may, with the concurrence of the owner or occupier, exercise the powers conferred by this subsection over land under cultivation.

(2) Where a diversion has been constructed by the highway authority within a road reserve or otherwise, the highway authority shall, when the diversion has ceased to be required for the purpose for which it was constructed, restore and make good, to the satisfaction of the Minister, the land over which the diversion was constructed.

(3) Where any damage is sustained by the owner or occupier of any land in consequence of the construction of a diversion on that land in exercise of the powers conferred by this section, the owner or occupier may recover, in respect of that damage, compensation as may be agreed upon or, in default of agreement, as may be determined in the manner set forth in section 65.

### **31. Power to reserve land for proposed roads**

(1) Where, during an investigation which is being made for the purpose of determining the course of a proposed road, the Minister has reason to believe that the owner of, or any person having any rights over or in, land over which the proposed road may run is, within a distance of 300 feet on either side of the centre line of the proposed course of the road, doing any act or intending to do any act which may interfere with the proposed road, he may, in writing, request the owner or person to cease doing such act forthwith.

(2) Where the owner or other person fails or refuses to comply with a request made under subsection (1), the Minister may, by notice published in the *Gazette* and in 2 daily newspapers, reserve a strip of land of a width not exceeding 300 feet on either side of the centre line against all use, and shall specify each property affected by the reservation and prescribe the manner in which the area reserved shall be demarcated.

(3) (a) Subject to this subsection, the publication of a notice under subsection (2) shall have the effect of prohibiting any activity on the land reserved, other than work in connection with the determination of the course of the proposed road.

(b) The Minister may permit such limited use of the land concerned as he may determine and subject to such conditions as he may impose.

(c) Where no action is taken under section 32 within 12 months of the publication of the notice, the reservation shall lapse.

(4) Any person who sustains any loss or damage by reason of the exercise by the Minister of any of the powers conferred upon him by this section shall be entitled to such compensation as may be agreed upon or, in default of agreement, as may be determined in the manner set forth in section 65.

### **32. Land reserved for proposed roads**

(1) (a) As soon as the course of any proposed road has been demarcated, the Minister may, by notice published in the *Gazette* and in 2 daily newspapers, reserve a strip of land 200 feet wide along the course.

(b) The notice under paragraph (a) shall include a description of the properties affected by the reservation, and shall specify the office at which plans showing the reserved strip of land may be inspected.

(2) (a) An owner of land affected by the reservation under subsection (1) shall be notified, by registered post, of the reservation and shall be informed of the place at which plans showing the reserved strip of land may be inspected.

(b) Where the owner is not found, the notice required under this subsection may be posted up in a conspicuous place on the land.

(3) The publication of a notice under this section shall have the effect of—

- (a) reserving the strip of land described in the notice for road purposes;
- (b) prohibiting any activity not connected with the construction of the road on the land so reserved without the Minister's prior written authorisation; and
- (c) cancelling any reservation made under section 31 (2) in respect of land affected by a reservation made under this section.

(4) Any land reserved under this section may be demarcated in such manner as the Minister may determine.

(5) The owner of any land reserved under this section who sustains any loss or damage shall be entitled to recover, in respect of the loss or damage, compensation as may be agreed upon or, in default of agreement, as may be determined in the manner set forth in section 65.

### 33. Modification of reservation

The Minister may withdraw or modify a reservation made under section 31 or 32 by giving notice in the *Gazette* and in 2 daily newspapers of the withdrawal or modification.

### 34. Unauthorised acts on reserved land

(1) Where, on any land reserved under section 31 or 32, a person does an act likely to impede the purposes for which the land has been reserved or which he has not been authorised by the Minister to do, the Minister may, by notice in writing, direct that person, at his own expense and within such period as shall be specified in the notice, to restore the land to its original condition.

(2) Where the person fails to comply with a direction under subsection (1) within the period specified, he shall commit an offence and the Minister may cause to be carried out such work as may be necessary to restore such land to its original condition and may recover from that person any expenses reasonably incurred in such work as if it were a civil debt.

### 35. Taking materials for roadworks

(1) A highway authority, or any person duly authorised by it may, at all reasonable times, enter on any land and take from it material (including water, other than water from a tap, artificial dam, furrow, well or borehole except with the consent of the owner) necessary for the construction, repair, maintenance or improvement of roads and for providing, in connection with the work, labour camps, access roads and space for stockpiling on such land and no compensation shall be payable except as provided in this section.

(2) (a) Where a highway authority considers it necessary to exercise the power conferred by subsection (1) it may, after consultation with the owner, select any place from where it may think suitable to take the materials.

(b) The owner of the land may, if he so considers, select another place on his land and, where such other place shall be found by the highway authority to be reasonably accessible and suitable as regards quantity and quality of materials, the materials shall be taken from the place selected by the owner.

(3) A highway authority shall not be entitled to take possession of materials on which a person has rightfully or *bona fide* expended any labour, or to take stone or other materials from a house, wall or other structure, except with the consent of the owner.

(4) (a) Where, in the exercise of the powers conferred on it by this section, a highway authority thinks it desirable for the purposes of obtaining materials to open a quarry or other excavation on a holding, it shall pay to the owner of the land such compensation for surface disturbances as may be determined in the manner set forth in section 65.

(b) Where a quarry is in a road reserve, no compensation shall be payable.

(5) (a) In addition to any compensation which may be payable under subsection (4), where land is entered upon for any purpose in accordance with the powers conferred by this section, the highway authority shall pay to the owner of the land, in respect of improvements physically damaged or destroyed, such compensation as may be agreed upon or, in default of agreement, as may be determined in the manner set forth in section 65.

(b) Compensation shall only be payable for buildings, fences, trees, crops, constructions or improvements constructed or planted inside a road reserve when such construction or planting has taken place before the road reserve has been designated by notice in the *Gazette*.

(6) (a) A highway authority shall have the right, when constructing access roads to the sites of quarries or other places from which materials are to be obtained, of making openings in fences or hedges where necessary.

(b) Such openings shall be effectively closed by the highway authority against the straying of livestock during the operations and the fences properly restored on the completion of the work.

(7) Any quarry or other excavation made in the exercise of the powers conferred by this section which may be a source of danger shall, on the completion of the work, be securely fenced off, filled in, or otherwise made safe against danger to life and limb of persons or animals.

(8) A highway authority making a quarry or other excavation in accordance with the powers conferred by this section shall ensure that, in any case where such quarry or other excavation if left unfilled is likely to be a source of danger to health by becoming a breeding ground for mosquitoes or other water borne parasites, the quarry or other excavation is filled in to the extent necessary to prevent such danger.

(9) (a) Any owner aggrieved by the decision of a highway authority under this section may appeal to the Minister, whose decision shall be final.

(b) No materials shall be removed pending the determination of an appeal.

(c) Where the circumstances are such that, in the opinion of the highway authority, any delay in exercising any right under this section would be unreasonable, the highway authority may take the materials forthwith, and the Minister may make such subsequent order in the matter as he thinks fit.

(10) (a) For the purposes of this section, "owner" includes the actual occupier of a land.

(b) Nothing in this subsection shall prejudice the right of any other person having an interest in the land in respect of which compensation is payable under this section.

### **36. Parking of vehicles on private land**

A person employed by a highway authority in the construction or repair of a road may, after giving reasonable notice in writing to, and after consultation with, the owner or occupier of any land which will be affected—

- (a) park his vehicle and erect tents, huts or other temporary buildings on any site convenient to him, subject to the conditions that—
  - (i) no tents, huts or other temporary buildings shall be erected within 100 feet of a dwelling house; and
  - (ii) where the owner or occupier of the land objects to a site chosen for the erection of tents, huts or other temporary buildings, the matter shall be referred to the Minister, who may make such order thereon as he thinks just and reasonable;
- (b) place and store plant and equipment on private land where there is not sufficient room for those purposes on the road reserve;
- (c) take and otherwise make provision for water necessary for the proper execution of the work, provided it shall not be taken from a tap, artificial dam, furrow, well or borehole, except with the consent of the owner or occupier; and
- (d) cut down and remove trees or bush where necessary in the construction of public roads, provided that such trees, when cut down, shall belong to the owner of the land on which the trees were cut.

### **37. Contractors' rights**

(1) The rights granted to, and the obligations of, a highway authority under sections 35 and 36 may be exercised by a contractor under the supervision or direction of the highway authority engaged in the construction or repair of roads and on behalf of a highway authority.

(2) Where any damage is done by a contractor under the supervision or direction of a highway authority, any compensation payable under this Act shall be paid by the authority.

### **38. Power to undertake ancillary works**

(1) A highway authority may, for the purpose of protecting traffic along any road from danger, or of making the crossing of any road less dangerous to pedestrians, erect, light, maintain, alter or remove places of refuge in the road, and construct, light, maintain, alter, remove or close subways or overbridges for the use of pedestrians.

(2) A highway authority may construct and maintain works in the carriageway—

- (a) along any length of road for separating a part of the road which is to be used by traffic moving in one direction from a part of the road which is to be used by traffic moving in another direction;
- (b) at cross roads or other road junctions for regulating the movement of traffic; and
- (c) for providing places of refuge for the protection of pedestrians crossing the roads.

(3) The powers conferred by subsection (2) shall include the power to light the works, to pave, grass or otherwise cover them, to erect pillars, walls, rails or other fences, on, around or across them and to plant on them trees, shrubs, and other vegetation either for ornament or in the interests of safety.

(4) The power conferred by this section to construct any works shall include the power to alter or remove them.

### **39. Provision for footpaths**

A highway authority may provide, wherever it thinks it necessary or desirable for the safety or accommodation of pedestrians, proper and sufficient footpaths by the side of roads under its control, and provide, wherever it thinks necessary, for the safety or accommodation of ridden horses, driven livestock, agricultural machinery or pedal cyclists, grass or other margins or tracks by the sides of roads under its control.

### **40. Power to fence roads**

(1) Subject to subsection (2), a highway authority may erect and maintain fences or posts for the purpose of preventing access to a road for which it is responsible.

(2) This power shall not be exercised so as to—

- (a) interfere with a fence or gate required for the purpose of agriculture;
- (b) obstruct a right of way;
- (c) obstruct a means of access for the construction, formation or laying out of which planning permission has been granted under the Town and Country Planning Act; or
- (d) obstruct a means of access which was constructed, formed or laid out before the coming into force of this Act, unless it was constructed, formed or laid out in contravention of the Town and Country Planning Act.

### **41. Highway authority may plant trees**

(1) Without prejudice to section 38 (3), a highway authority may, along a road for which it is responsible, plant trees and shrubs and lay out grass

verges, and erect and maintain guards and fences and otherwise do anything expedient for the maintenance or protection of the trees, shrubs and grass verges.

(2) No tree, shrub, grass, verge, guard or fence shall be planted, laid out or erected under this section, or, if planted, laid out or erected, be allowed to remain, in such a situation as to hinder the reasonable use of the road by any person entitled to the use of the road, or to be a nuisance or injurious to the owner or occupier of premises adjacent to the road.

#### **42. Soil erosion**

(1) A highway authority may, by notice in writing to the owner or occupier of a land adjoining a road for which it is responsible, require him, within 21 days from the date of service of the notice, to execute such works as will prevent soil or refuse from that land from falling, or being washed or carried, on to the road or into any road drain in such quantities as to obstruct the road or choke the road drain.

(2) Any person who fails to comply, within the specified period, with a notice served under this section shall commit an offence in respect of each day during which the non-compliance subsists.

#### **43. Regulation of undertakers' works**

(1) No undertaker shall execute undertakers' works, in respect of a motorway, main road or road that may be specified by the Minister by notice in the *Gazette*, until he has submitted, to the highway authority responsible for the road, a detailed statement of the proposed undertakers' works and the probable date of the commencement of the works, and has obtained the approval of the highway authority for the execution of the works.

(2) An undertaker who is aggrieved by a decision of a highway authority disapproving the execution of undertakers' works may appeal to the Minister, who may make such order as he thinks fit and whose decision shall be final.

(3) Subsection (1) shall not apply in respect of the execution of emergency works on a road, but an undertaker executing emergency works shall give notice of the execution of the works to the highway authority responsible for the road.

(4) A highway authority which objects to the execution of works which an undertaker considers to be emergency works shall, immediately after receiving the notice under subsection (3), refer the matter to the Minister, who may make such order as he thinks fit and whose decision shall be final.

(5) An undertaker who executes works in contravention of this section shall commit an offence.

#### **44. Execution of undertakers' works**

(1) An undertaker shall execute works within roads in accordance with such proposals and details as may have been agreed under section 43, or in accordance with the Minister's decision, and with all such despatch as is reasonably practicable.



(2) (a) An undertaker shall execute any item of works of an incidental nature, and restore the road to a proper state of repair with all reasonable despatch after completion of any part of the works, to the reasonable satisfaction of the highway authority.

(b) The highway authority may, by agreement with the undertaker, undertake the reinstatement of the upper levels of the road at the undertaker's expense.

(3) Any undertaker who fails to restore the road to a proper state of repair in accordance with his obligations under this section shall commit an offence and the highway authority may, on any such non-compliance, restore the road to a proper state of repair at the undertaker's expense.

(4) (a) The undertaker shall be liable to pay to the highway authority the expenses reasonably incurred in remedying any subsidence or deterioration in restoration work carried out by or on behalf of the undertaker where the subsidence or deterioration takes place within 6 months of the completion of the restoration.

(b) The highway authority shall give reasonable notice to the undertaker before remedying the subsidence or deterioration.

(5) Where a highway authority carries out any work under this section at an undertaker's expense, the expense, if unpaid, may be recovered from the undertaker as if it were a civil debt.

#### **45. Warning and safety precautions**

(1) An undertaker, or a contractor employed by an undertaker, who is executing works shall, during and in connection with the execution of the works and of any restoration or other repair to any road occasioned by the works, ensure that—

- (a) so long as the road, or road reserve is open or broken up (except in a place to which the public has no right of access and is not permitted to have access), the works are adequately fenced and guarded and lighted in such a manner as to give adequate warning to the public during the hours of darkness;
- (b) traffic signs are so placed, and where so directed, operated and lighted in accordance with any directions given by the Minister;
- (c) no greater width or length of road than is reasonably necessary is open or broken up at any one time;
- (d) there is no greater obstruction to traffic on any road or interference with the normal use of the road than is reasonably necessary;
- (e) any spoil or other material not required for the execution of the works or of any consequent restoration or repair to the road is carried away as soon as it is reasonably practicable; and

- (f) any other condition imposed by a highway authority, when signifying its approval, is complied with.

(2) Any undertaker or contractor employed by an undertaker who fails to comply with subsection (1) shall commit an offence.

(3) Where an undertaker fails to comply with subsection (1) (a), (b), (e) or (f), the highway authority may do anything necessary for securing observance of that requirement, and the undertaker shall pay to the authority an amount equal to any cost reasonably incurred by the authority for so doing, and in default of payment the cost shall be recoverable as if it were a civil debt.

#### **46. Removal of apparatus**

(1) Where there is placed on a road an apparatus required only in connection with building operations or other works, the highway authority may, by notice in writing, on completion of the building operations or other works, require the undertaker to remove it.

(2) Where the apparatus is not removed within 8 days from the date of service of the notice, the authority may remove it, and the undertaker shall pay to the authority an amount equal to the cost reasonably incurred in the removal and in a restoration or repair to the road occasioned by the presence or removal of the apparatus.

(3) In default of payment, the cost shall be recoverable as if it were a civil debt.

#### **47. Limitation of time for works**

(1) Subject to this section, the power given to an undertaker to break up or open a road, being a power conferred for any purposes other than road purposes, shall not be exercisable on or under a road during the 12 months following—

- (a) the end of a period during which the use by vehicles of the carriageway of the road has been prohibited, or the width of the road available for vehicular traffic has been reduced to less than two thirds of its normal width, for the purpose of execution of works for road purposes; or
- (b) the completion of a resurfacing extending to one third or more of the width of the carriageway of the road.

(2) Subsection (1) shall not apply where—

- (a) the highway authority has given to the undertaker, at least 3 months before the date on which the works for road purposes or resurfacing, as the case may be, were substantially begun, a notice stating that the works were intended to be carried out, and specifying the date of their commencement; and
- (b) the works for road purposes or resurfacing, as the case may be, were substantially begun on, or within one month from, the date specified or, where undertakers' works were in progress in the

road on that date, within one month from the completion of the undertakers' works, or, in either case, within such extended period as may have been agreed upon between the highway authority and the undertaker.

(3) Nothing in this section shall apply to a breaking up or opening of a road—

- (a) for the carrying out of emergency works;
- (b) in relation to a part of a road other than a carriageway, for the carrying out of works relating only to the installation, maintenance, repair or removal of a main pipe, a service pipe or service line or overhead telegraph line or overhead electric cable;
- (c) in the case of works carried out by an undertaker, where the execution of the works is in fulfilment of an obligation imposed upon the undertaker by this Act and could not reasonably be effected without breaking up or opening the road, as the case may be; or
- (d) in the case of a breaking up or opening of a road executed with the consent of the highway authority concerned.

(4) Where an undertaker or a contractor employed by an undertaker breaks up or opens a road in contravention of this section—

- (a) he shall pay to the highway authority concerned an amount equal to any cost reasonably incurred by the highway authority in restoring or repairing the road and, in default of payment, the amount shall be recoverable as if it were a civil debt; and
- (b) without prejudice to his liability under paragraph (a), he shall commit an offence.

#### **48. Powers under other enactments**

The powers conferred by any other enactment on a public officer or on a statutory corporation shall, in so far as they relate to the performance of any work in or over or under a public road or road reserve, be exercised only in accordance with this Act.

### **PART III – PRIVATE ROADWORKS**

#### **49. Private roadworks**

(1) (a) Where it appears to a local authority that a private road within its area of jurisdiction is not, to its satisfaction, levelled, paved, metalled, flagged, channelled, drained or made good, the local authority may pass a resolution with respect to the road to execute road works, and the expenses incurred by the highway authority in executing those works shall, subject to this Act, be apportioned between the premises fronting the road.

(b) Where the local authority passes a resolution under paragraph (a) with respect to a part only of a road (not being a part extending for the

whole of the length of the road), the expenses shall be apportioned only between the premises fronting the length of the road which constitutes or comprises that part.

(2) (a) Where a local authority has passed a resolution under subsection (1), the highway authority shall employ a competent person to prepare—

- (i) a specification of the road works referred to in the resolution, with any necessary plans and sections;
- (ii) an estimate of the probable cost of the works; and
- (iii) a provisional apportionment of the estimated cost among the premises liable to be charged with these expenses under this Act,

and the specifications, plans, sections, estimate and provisional apportionment shall comprise the particulars prescribed in the Second Schedule, and shall be submitted to the local authority, who may, by resolution, approve them with or without modification or addition as it thinks fit.

(b) Where the road works referred to in the resolution include the sewerage of any road, the plans in that respect shall be subject to the approval of the Permanent Secretary.

(3) After the resolution has been approved, a notice containing the particulars specified in paragraph 5 of the Second Schedule shall be—

- (a) published in such manner as may be approved by the Minister;
- (b) posted in a prominent position in or near the road to which the resolution relates, at least once in each of 3 successive weeks; and
- (c) within 7 days from the date of the publication under paragraph (a), served on the owners of the premises shown in the provisional apportionment as liable to be charged,

and, during one month from that date, a copy of the resolution of approval, and all relevant documents shall be kept deposited at the local authority's office, and shall be open to inspection, free of charge, at all reasonable hours.

(4) Where a notice is served on an owner of premises under subsection (3) (c), it shall be accompanied by a statement of the sum apportioned on those premises by the provisional apportionment.

## **50. Incidental works**

A local authority may include, in road works to be executed under this Part with respect to a road, any works which it thinks necessary for bringing the road as regards sewerage, drainage, level or other matters, into conformity with any other roads, whether public roads or not, including the provision of separate sewers for the reception of sewage and of surface water respectively.

### 51. Provisional apportionment of expenses

(1) In a provisional apportionment of expenses of road works under this Part, the apportionment of expenses between the premises liable to be charged shall, subject to this section, be made according to the frontage of the respective premises.

(2) The local authority may, if it thinks just, resolve that, in settling the apportionment, regard shall be had to—

- (a) the greater or lesser degree of benefit to be derived by any premises from the works; and
- (b) the amount and value of works already effected by the owners or occupiers of the premises.

(3) The local authority may, if it thinks just, include in the apportionment any premises which do not front the road but have access to it through a Court, passage or otherwise, and which will, in the opinion of the authority, be benefited by the works, and may, by reference to the degree of benefit to be derived by those premises, fix the amount to be apportioned on them.

### 52. Objections to proposed works

(1) Within one month from the date of the publication of a notice under section 49 (3) (a), an owner of premises shown in a provisional apportionment of expenses as liable to be charged with any part of the expenses of executing roadworks with respect to a private road may, by written notice served on the local authority, object to its proposal on the ground that—

- (a) an alleged private road is not a private road or, as the case may be, that the alleged part of a private road is not a part of a private road;
- (b) there has been some material informality, defect or error in or in respect of the resolution, notice, plans, sections or estimate;
- (c) the proposed works are insufficient or unreasonable;
- (d) the estimated cost of the proposed works is excessive;
- (e) any premises ought to be excluded from, or inserted in, the provisional apportionment; or
- (f) the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection, or, where the provisional apportionment is made with regard to other considerations than frontage, in respect of the degree of benefit to be derived by any premises, or of the amount or value of any work already effected by the owner or occupier of premises.

(2) Where premises are owned jointly by 2 or more persons, a notice under subsection (1) may be given on behalf of those persons by one of their number, if he is authorised in writing by a majority of them to do so.

### 53. Setting aside of objections

Where an objection is made under section 52 within the specified period and is not withdrawn, the local authority may apply to the District Magistrate of the district where the private road is situated to have the objection set aside.

### 54. Power to amend specifications

(1) Subject to this section, the local authority may amend the specifications, plans, sections, estimate and provisional apportionment for any road works proposed under section 49.

(2) Where the local authority proposes to amend the estimate so as to increase its amount, before the amendment is made, a notice containing the particulars specified in paragraph 6 of the Second Schedule shall be—

- (a) published in such manner as the Minister may approve;
- (b) posted in a prominent position in or near to the road to which the resolution relates, at least once in each of 3 successive weeks; and
- (c) within 7 days from the date of the publication under paragraph (a), served on the owners of the premises shown in the provisional apportionment as liable to be charged,

and during one month from that date, a document certified by a competent person giving details of the amendment of the estimate, and of the consequential amendment of the provisional apportionment, shall be kept deposited at the office of the local authority and open to inspection, free of charge, at all reasonable hours.

(3) Where a notice is served on an owner of premises under subsection (2) (c), it shall be accompanied by a statement of the sum apportioned on those premises by the provisional apportionment as proposed to be amended.

(4) Within one month from the date of the publication of a notice under subsection (2) (a), an objection may be made and, if made, shall be heard and determined in the same manner as an objection to a provisional apportionment.

### 55. Final apportionment and objections

(1) Where any roadworks to be executed under this Part have been completed, and the expenses ascertained, the surveyor shall make a final apportionment by dividing the expenses in the same proportions as those in which the estimated expenses were divided in the original or amended provisional apportionment, as the case may be, and notice of the final apportionment shall be served on the owners of the premises affected.

(2) Within one month from the date on which the notice is served on him, the owner of any premises shown in the apportionment as liable to be charged may, by notice to the authority, object to the apportionment on the ground that—

- (a) there has been an unreasonable departure from the specifications, plans and sections; or

(b) the final apportionment has not been made in accordance with this section.

(3) An objection under this section shall be determined in the same manner as an objection to a provisional apportionment.

(4) The final apportionment shall, subject to any amendment made on the hearing of an objection under this section, be conclusive for all purposes.

#### **56. Recovery of expenses**

(1) A local authority may recover, from the owner of any premises in respect of which any sum is due for expenses on roadworks, the whole or any portion of that sum, together with interest from the date of the service of the notice of the final apportionment.

(2) The sum apportioned on any premises by the final apportionment, subject to any amendment made on the hearing of objections under section 55, together with interest from the date of the service of the notice of the final apportionment shall, until recovered, be a charge on the premises and on all interests in the premises.

(3) Any charge shall, in the event of non-payment, be treated as if it were a local rate, and shall be recovered in the manner set out in section 101 of the Local Government Act.

(4) A local authority may declare the expenses apportioned on any premises by a final apportionment made by the competent person, subject to any amendment made on the hearing of objections under section 55, to be payable by annual instalments within a period not exceeding 30 years, together with interest from the date of the service of the notice of the final apportionment, and any such instalment and interest may be recovered from the owner or occupier of the premises.

(5) The rate of interest that may be claimed on the sum apportioned on any premises by a final apportionment shall not exceed the prevailing Repo rate determined by the Bank of Mauritius.

[S. 56 amended by s. 22 of Act 26 of 2013 w.e.f. 21 December 2013.]

#### **57. Accounting provisions**

A local authority shall keep separate accounts of all money expended and recovered by it under this Part.

#### **58. Exemptions**

Places of worship and burial or cremation grounds shall be excluded when an apportionment is made under this Part, and the proportion of expenses in respect of those places or grounds shall be borne by the local authority carrying out the road works.

#### **59. Making of objections**

No objection which could be made under this Part shall be made in any proceeding or manner otherwise than as provided in this Part.

## 60. Adoption of private road

(1) (a) Where roadworks have been executed on a private road, the local authority may, by notice displayed in a prominent position in the road, declare the road to be a public road, and, on the expiry of the period of one month from the day on which the notice was first displayed in the road, the road shall become a public road.

(b) A road shall not become a public road by virtue of this subsection where, within that period, the owner of the road, or, if more than one, the majority in number of the owners, by notice to the local authority, object to such declaration.

(2) Where roadworks have been executed in a part only of a road, not being a part extending for the whole of the length of the road, subsection (1) shall apply as if, for references to the road, there were substituted references to the length of the road which constitutes or comprises that part.

(3) Where all roadworks have been executed on a private road to the satisfaction of the local authority, on the application of the majority in rateable value of the owners of premises in the road, the local authority shall, within the period of 3 months from the date of the application, by notice displayed in a prominent position in the road, declare the road to be a public road.

(4) A reference to a road in subsection (1) (a) shall not include a reference to a part of a road.

## 61. Power to require adoption

(1) A majority in number of the owners of land having a frontage on a built up private road, or as many of those owners as have between them more than half of the aggregate length of all the frontages on both sides of the road, may, by notice in writing, request the local authority to exercise its powers under section 49 to—

- (a) secure the carrying out of such road works in that road as the local authority requires before declaring the road to be a public road; and
- (b) declare the road to be a public road,

and on receipt of the notice, the local authority shall proceed to exercise the powers conferred upon it under this Part.

(2) For the purposes of this section a road shall be deemed to be built up if the aggregate length of the frontages on both sides of that road constitutes at least one half of the aggregate length of all the frontages on both sides of that road.

(3) This section shall apply to a part of a road as it applies to a road, which the owners of land having a frontage on that part of the road elect to treat as constituting a road for the purposes of this section.

[S. 61 amended by s. 3 of Act 26 of 2002.]



## **PART IV – APPEALS AND DETERMINATION OF COMPENSATION**

### **62. Appeals to Minister**

An appeal to the Minister under section 10, 13, 14, 16, 18, 19, 27, 35 or 43 (2) shall not be receivable unless—

- (a) the notice of appeal is forwarded to the Permanent Secretary so as to reach him not later than 21 days from the date of notification of the decision of the highway authority;
- (b) the notice is in writing and states the grounds of the appeal; and
- (c) a copy of the notice is served on the highway authority within the period specified in paragraph (a).

### **63. Appeals to Magistrate**

(1) An appeal to a District Magistrate under section 20 shall be by way of plaint with summons, and shall be heard and determined according to the procedure prescribed by the District and Intermediate Courts (Civil Jurisdiction) Act.

(2) The plaint shall state the grounds of appeal and shall be lodged within 21 days of the date of notification of the decision of the highway authority.

### **64. Hearing and determination of objections**

(1) (a) An application to a District Magistrate under section 53, 54 or 55 shall be by way of plaint with summons, and shall be heard and determined according to the procedure prescribed by the District and Intermediate Courts (Civil Jurisdiction) Act.

(b) The plaint shall state the grounds on which the local authority seeks to set aside the objection.

(2) The District Magistrate may, on the hearing of the application, quash or amend the resolution of approval, specification, plan, section, estimate, provisional or final apportionment, and may adjourn the hearing to allow the highway authority to serve further notices.

(3) The costs of any proceedings before a District Court in relation to an objection under this Act shall be at the discretion of the District Magistrate who may, if he thinks fit, direct that the costs he orders an objector to pay shall be paid in the first instance by the highway authority, and charged as part of the expenses of the works on the premises of the objectors in such proportions as appears just.

### **65. Determination of compensation**

(1) Where compensation is payable as a result of a power conferred by this Act, the amount of the compensation shall, in default of agreement, be determined by the District Magistrate of the district where the road giving rise to such compensation is situated, on the application of the person claiming the compensation.

(2) The application shall be by plaint with summons, and shall be heard and determined according to the procedure prescribed by the District and Intermediate Courts (Civil Jurisdiction) Act.

(3) (a) A party who is dissatisfied with a determination of a District Magistrate under subsection (2) may appeal to the Supreme Court against the determination in accordance with the procedure prescribed by section 37 of the District and Intermediate Courts (Civil Jurisdiction) Act, and the appeal shall be heard as if it were an ordinary civil appeal.

(b) Where the appeal is made by a highway authority, it shall not be required to furnish security to cover the costs of appeal.

## **PART V – MISCELLANEOUS**

### **66. Offences**

Any person who, otherwise than in accordance with this Act—

- (a) encroaches on a road or road reserve by making or erecting a structure, fence, ditch, or other obstacle, or by planting trees, bushes, canes or otherwise;
- (b) leaves, or allows to fall, on a road or footpath any timber, stones or other material so as to obstruct the same or endanger persons using the road;
- (c) digs up, removes or alters, in any way, the soil or surface of a road;
- (d) fills in, or obstructs, any ditch or drain made to carry water off a road, whether on the road or elsewhere, or deposits any matter in the ditch or drain, or, by making dams, ditches, drains or other works, causes the flooding of a road;
- (e) causes or allows any timber, sledge, plough or other heavy material or thing, not being wholly raised above the ground on wheels to which pneumatic or solid rubber tyres have been fitted, to be moved along or across a road;
- (f) allows filth, drain water or noxious water, or any other thing likely to injure any road or footpath, or to cause inconvenience to persons having access on it, to run or lie on the road or footpath from any premises belonging to or occupied by him;
- (g) fails, during the night, to place a light near any article or thing, hole or trench, left by him on a road or footpath, and whereby the passage along the road may be endangered or obstructed;
- (h) destroys, breaks, injures or removes a lantern or lamp hung up by a highway authority, a local authority or an undertaker, or in compliance with paragraph (g), or extinguishes the light in the lantern or lamp without lawful authority;
- (i) wilfully damages a post, rail, fence, tree, hedge, shrub or grass erected or planted on, or by the side of, a road;

- (j) without lawful authority, breaks, cuts, throws, pulls down, defaces or injures a sign post, mile stone, stake, barrier, parapet or work of any description placed on or near a road for the public convenience;
- (k) throws or flings a stone, staff or missile of any kind so as to cause injury to a person or vehicle travelling along a road, or to startle or injure any horse, mule, bullock, or other beast of burden on a road;
- (l) fires off fireworks, or ignites an explosive substance, on a road or road reserve, or within such proximity of a road so as to cause injury or damage to a person, animal or vehicle on the road; or
- (m) flies a kite on or over a road,

shall commit an offence.

#### **66A. Placing signs and slogans**

(1) Where a sign or slogan is written or otherwise placed on, or in the vicinity of, a road, and it appears to a police officer not below the rank of Inspector to be necessary or expedient in the interests of public safety or public order so to do, the police officer may remove or obliterate the sign or slogan.

(2) Any person who writes on a road or in the vicinity of a road, a sign or slogan which is prejudicial to public safety or public order shall commit an offence.

(3) The Commissioner of Police may prohibit the use of a road or the use of a vehicle on a road, on which, or in the vicinity of which, there is a sign or slogan which, in his opinion, is prejudicial to public safety or public order.

[S. 66A inserted by Act 30 of 1991.]

#### **66B. Obstructing road**

(1) Any person who, without lawful authority, makes or erects a structure, fence, ditch or other obstacle on a road so as to—

- (a) obstruct the road; or
- (b) cause danger to any person or property,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) Where 2 or more persons obstruct a road in a manner likely to be prejudicial to public safety or public order, every such person shall commit an offence.

[S. 66B inserted by Act 30 of 1991.]

#### **67. Removal of structures encroaching on roads**

Without prejudice to any penalty that may be incurred under section 73, the highway authority concerned may require, by notice in writing, the owner of a structure which encroaches on a road to pull down the structure within such time as may be specified in the notice and, in default, the structure may be pulled down by the highway authority, and the cost reasonably incurred in the work shall be recoverable from the owner as if it were a civil debt.

**68. Obstruction of view of road by plantations**

(1) No person shall plant canes or other crops nearer the outer border of a public road than 5 feet, exclusive of any ditch or drain alongside the road, or than such other distance as may be determined by the highway authority in any particular case.

(2) Where, in the opinion of the Commissioner of Police, the clear view of a road is obstructed by a hedge, fence, screen, tree or other growth standing or existing upon any land adjoining the road in such manner as to be likely to cause danger or inconvenience to persons using the road, he may, by notice in writing, require the owner or occupier of the land to trim, cut or remove the hedge, fence, screen, tree or other growth as he shall direct.

(3) Any owner or occupier who fails to comply with the notice within 14 days of its service upon him, shall commit an offence, and the Court may, on conviction of the owner or occupier, authorise the Permanent Secretary to cause the hedge, fence, screen, tree or growth to be trimmed, cut or removed as such Court thinks expedient, at the expense of the owner or occupier, and the expense shall be recoverable as if it were a civil debt.

**69. Trees and hedges to be lopped and trimmed**

(1) Where, in the opinion of a highway authority, a road for which it is responsible, or the lighting over such road, or the passage on it, is likely to be injured, impeded or obstructed on account of trees or hedges on any land adjoining the road, it may, by notice in writing, require the owner or occupier of the land to lop the trees, or trim the hedges, within such time as may be specified in the notice.

(2) Any person who fails to comply with a notice served under subsection (1) shall commit an offence and the highway authority may, on such non-compliance, cause the trees to be lopped, or the hedges to be trimmed, at the expense of that person, and the expense shall be recoverable against that person as if it were a civil debt.

**70. Roads not to be encumbered with articles**

(1) Where an article encumbers a road and impedes, or is likely to impede, a free passage on it, or may be hurtful or dangerous to a person having access to the road, an officer acting under the highway authority responsible for that road, a police officer or an officer of a local authority shall remove the article at the expense of its owner or of the person who has left or caused it to be left on the road, and the expense shall be recoverable as if it were a civil debt.

(2) Where an article removed under subsection (1) is not claimed within 3 days of its removal, after a notice in writing to its owner, or to the person entitled to its possession, or where the owner or person is not known, after posting up the notice to some prominent object on the road as near as may be to the place where the article was found, the officer who removed the article may sell, with the permission of the authority for that road, that article by public auction, with or without publication of notices of the sale.

(3) The proceeds of a sale under subsection (2) shall, after deduction of all expenses lawfully incurred, be paid into the hands of the District Cashier of the district where the article was found.

[S. 70 amended by s. 165 (17) (b) of Act 36 of 2011 w.e.f. 15 December 2011.]

#### **71. Animals straying on roads**

(1) An animal found straying or lying on a road without a person in charge of it shall be liable to be seized by any person and taken to the nearest police station, or to any other place destined for that purpose.

(2) —

(3) Where it is shown to the satisfaction of a District Magistrate that an animal seized and impounded under subsection (1) is afflicted with an infectious disease, the District Magistrate may order that the animal be destroyed.

(4) Any person who rescues, or attempts to rescue, an animal from the custody of the person effecting its seizure under this section, or any person who lets loose, or attempts to let loose, an animal impounded under this section from the place where it has been impounded, or any person, who, for such a purpose, pulls down, destroys or causes damage or injury to that place shall commit an offence.

#### **72. Animals causing damage to roads**

Any person who owns an animal or has the right to the possession or custody of an animal, not being one used for draft or carriage, shall commit an offence where the animal causes damage or injury to a part of a road, or to a person, animal or vehicle passing on the road, unless he proves that he has taken reasonable steps to prevent the animal from going on the road.

#### **73. Penalties**

Any person who—

- (a) commits an offence under this Act;
- (b) without lawful excuse, refuses or neglects to do anything he is by this Act required to do;
- (c) without lawful excuse, contravenes a notice served on him under this Act; or
- (d) without lawful excuse contravenes this Act,

shall, on conviction, be liable, where no special penalty is provided, to a fine of not less than 5,000 rupees nor more than 25,000 rupees and to imprisonment for a term not exceeding 12 months.

[S. 73 amended by s. 165 (17) (c) of Act 36 of 2011 w.e.f. 15 December 2011.]

#### **74. Regulations**

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) In particular and without prejudice to the generality of subsection (1), any regulations made under subsection (1) may—

- (a) provide for the construction and upkeep of a road or a bridge, ford, pontoon or culvert;
- (b) prohibit a practice which may lead to obstruction of, or damage to, a road;
- (c) declare a portion of a road to be a footpath or cycle track;
- (d) prescribe the forms to be used;
- (e) prescribe the fees payable for appeals, documents and services under this Act and the circumstances in which fees may be refunded;
- (f) require information to be furnished as to any road; and
- (g) prescribe the qualifications required to be a competent person within the meaning of this Act.

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### **FIRST SCHEDULE**

[Sections 10 and 11]

1. Before a line is prescribed, the highway authority shall consult the local authority of the area in which the road is situated in relation to the road to which the line is to be prescribed.

2. A line which a highway authority proposes to prescribe shall be shown on a plan, which shall be deposited at the office of the highway authority, and may be inspected by any person, free of charge, at all reasonable hours during a period of 1 month from the date at which it is so deposited.

3. As soon as the plan has been so deposited, the highway authority shall give notice of the proposal to prescribe the line, and of the times and place at which the plan may be inspected, to every owner and occupier of land affected.

4. The highway authority shall consider an objection to the proposed line made within 6 weeks from the date on which the notices under paragraph 3 were given, and may then prescribe the line.

5. Not later than 3 weeks after the date on which the highway authority prescribed the line, it shall prepare a plan, duly certified, on which the line shall be shown, and shall give notice of the prescribing of the line, and of the times and place at which the plan may be inspected, to every owner and occupier of land affected.

6. Where the highway authority revokes the line, it shall give notice of the revocation to every owner or occupier of land affected, and shall indicate on the plan, prepared in accordance with paragraph 5, the extent to which the line has been revoked.

**SECOND SCHEDULE**

[Section 49]

1. The specifications shall describe generally the works and things to be done and, in the case of structural works, shall specify, as far as may be practicable, their foundation, form, material and dimensions.
2. The plans and sections shall show the constructional character of the works, and any connections with existing streets, sewers, or other works, and the lines and levels of works, subject to any limits of any deviation as may be indicated on the plans and sections respectively.
3. The estimate shall show the particulars of the probable cost of the whole works, including an additional charge in respect of surveys, superintendence and notices.
4. The provisional apportionment shall state the amounts charged on the respective premises, and the names of the respective owners or reputed owners, and shall also state whether the apportionment is made according to the frontage of the respective premises or not, and the measurements of the frontages, and any other considerations on which the apportionment is based.
5. A notice under section 49 shall contain—
  - (a) a statement that the local authority has resolved to execute the works on the private road in question;
  - (b) the address of the offices of the authority at which a copy of the resolution of approval, and the approved documents or copies thereof, by the competent person, may be inspected, and the times at which, and the period during which, they may be inspected; and
  - (c) a statement that an owner of premises liable to be charged with any part of the expenses of executing the works may object to the proposal to execute the works, giving the period during which the objection may be made.
6. A notice under section 54 shall contain—
  - (a) a statement that the authority proposes to amend the estimate so as to increase the amount thereof, specifying the former amount and the amount to which it is to be increased;
  - (b) the address of the offices of the authority at which a document certified by the competent person giving details of the proposed amendment and of the proposed consequential amendment of the provisional apportionment may be inspected, and the times at which, and the period during which, it may be inspected; and
  - (c) a statement that an owner of premises liable to be charged with any part of the expenses of executing the works may object to the proposed amendments, giving the period during which the objection may be made.

