Act

No. 7 of 2023

I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
8th February, 2023

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An Act to provide for the administration, classification and regulation of public roads; and to provide for matters incidental thereto

ENACTED by the Parliament of Malawi as follows—

PART I — PRELIMINARY

Short title and commencement

1. This Act may be cited as the Public Roads Act, 2023, and shall come into operation on such date as the Minister may appoint by notice published in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

"Administration" means the Roads Fund Administration established under section 3 of the Roads Fund Administration Act; Cap. 69:08

"advertisement" includes any structure or apparatus erected, or intended to be erected, for the display of advertisements;

"alternative land", in relation to land, means land which, in accordance with any written law, can be made available to an occupier who suffers disturbance;

"Authority" means the Roads Authority established under section 3 of the Roads Authority Act; Cap. 69:07

"authorized officer" means an officer of the Authority or an officer of a road authority;

"carriageway" means the part of a road designed and constructed to be used for vehicular traffic or used or reasonably usable for the time being for that purpose but does not include a cycle track;

"centre of the road" means the centre of the carriageway;

"compensation board" means a compensation board constituted in accordance with section 60;

"cycle track" means a portion of a road exclusive of a carriage way set aside for use solely by persons riding pedal cycles;

"Deeds Registrar" means the Deeds Registrar appointed in accordance with section 3 of the Deeds Registration Act; Cap. 58:02

"existing road" means a road over which the public exercised a right of way prior to the coming into force of this Act whether or not such road has been designated a public road under this Act;

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

"Fund" means the Roads Fund established under section 18 of the Roads Fund Administration Act; Cap. 69:08

"improved land" means land on which there is a legally authorized improvement;

"improvement" means any work on land which has increased the value of such land in comparison with land in a similar area covered with natural vegetation and includes—

(*a*) clearing land for agricultural purposes;

(*b*) the erection, alteration or enlargement of buildings;

(*c*) the installation of electricity supply;

(*d*) the construction or improvement of a wall, road, bridge or permanent fence;

(*e*) planting a live hedge;

(*f*) contouring of land, land drainage and works of reclamation or irrigation;

(*g*) the making and improvement of water courses;

(*h*) the provision of water supply for agricultural or domestic purposes;

(*i*) the installation of fixed machinery, laying out and cultivating gardens, nurseries and orchards; and

(*j*) the application to land of purchased manure, including artificial manure, to the extent to which such work has so increased the value of the land;

"local government authority area" means the area over which a local government authority exercises jurisdiction;

"local government authority" has the meaning assigned thereto in the Local Government Act; Cap. 22:01

"occupier", in relation to land, means any person lawfully occupying such land;

"owner", in relation to private land, means any person, other than a mortgagee not in possession, entitled, with or without the consent of any other person, to dispose of an interest in the land and, in relation to public or customary land, means the Minister responsible for lands;

"pedal cycle" has the meaning assigned thereto in the Road Traffic Act; Cap. 69:01

"private road" means any road constructed by any person, not being a road authority, and passing through a land which is either private or public;

"public place" includes any public way or place, other than a building, to which for the time being the public are entitled or permitted to have access either with, or without, condition;

"public road" means any road classified as such in accordance with section 7;

"right of way" means the right to use a road;

"road" means any highway or other road to which the public have access and any place to which vehicles have access and any road in any residential area, whether access to it is restricted or not, and includes any bridge, causeway, culvert, dam, ditch, drain, embankment, fence, ferry, ford, pontoon, guide post, kilometre post or other works in the line of such road, any existing road and works in a road reserve constructed or maintained in accordance with this Act;

"road authority" means any authority responsible for the construction, rehabilitation, care and maintenance of any road or class of road pursuant to this Act;

"road furniture" includes traffic lights, sign posts, traffic signs, hard rails and fences that provide information to road users;

"road maintenance" means all works to preserve and to sustain the condition of the road, including riding quality, road shape, drains, culverts, bridges and other road facilities;

"road reserve" means any land reserved for use as a road reserve in accordance with section 17;

"storm water" means all flow of water directly due to rainfall, before such water joins a stream;

"stream" means a watercourse of natural origin through which water flows either continuously or intermittently, whether or not such watercourse is dry during any period of the year and whether or not its conformation has been changed by artificial means, and includes swamps and marshes, whether forming the source or found upon the course of, or feeding such watercourse;

"structure" includes—

(*a*) any building, pole, power line, petrol pump, machinery, wall, plantation, fence or hedge and any other object which could in like manner cause an obstruction; and

(*b*) any external alteration or addition to a structure;

"surface rights", in relation to land with respect to which compensation is claimed, means the rights of a claimant to any interest in the crops, structures and other improvements on the land and, in the case of agricultural land which is used by a road authority for a temporary purpose or for taking materials and use of which is resumed by the owner or occupier or some person

claiming through or under him, includes the difference between the value, for agricultural purposes, of the surface soil before such soil was affected by works or things authorized by this Act and the value for such purpose of the surface soil as it is when use is so resumed;

"traffic sign" means any object or device, whether fixed or portable, for conveying warning, information, requirements, restrictions, or prohibitions of any description prescribed or authorized under this Act to traffic on any road, and includes any line or mark on a road that serves said purpose;

"traffic signal" means a road sign which by means of automatic signals, alternately directs traffic to stop and permits traffic to proceed;

"undertaker" means a road authority, body or person by whom a statutory power to execute works of an undertaker is exercisable in the capacity in which that power is vested in it;

"works of undertakers" means any works, including works executed or to be executed on behalf of the Government, for any purpose, other than construction or maintenance of a road, being works of any of the following kind—

(*a*) placing apparatus, inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, or changing the position of apparatus or removing it; or

(*b*) breaking up or opening a road, for the purpose of works referred to in paragraph (a), and tunnelling or boring under a road for those purposes, breaking up or opening a sewer, drain or tunnel for those purposes, and other works requisite for or incidental to those purposes, and includes laying of any pipeline, wire or cable on, over or under any road;

"valuation date", in relation to the assessment of compensation for any property or interest therein, means the date at which the value of the property or interest therein is to be assessed; and

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

PART II—ADMINISTRATION OF ROADS

Overall administration

3.—(1) The Minister shall be responsible for the overall administration and implementation of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister shall be responsible for—

(*a*) initiating and implementating the national road policy and defining its linkages with other modes of transport;

(*b*) creating an environment that nurtures, encourages and sustains the participation of private sector in the financing, the maintenance, the construction and the management of roads in Malawi;

(*c*) providing adequate network of roads for movement of goods and people, in Malawi and beyond;

(*d*) facilitating the continued development of the country's rural roads;

(*e*) promoting the construction of economically justified and environmentally friendly and safe roads; and

(*f*) enforcing appropriate road standards, designs and specifications.

Responsibilities of the Authority Cap. 69:07

4. Subject to the Roads Authority Act, the Authority shall be responsible for ensuring that public roads are constructed, maintained and rehabilitated as provided under this Act.

Responsibilities of local government authorities Cap. 22:01

5. Subject to the Local Government Act, local government authorities shall be responsible for—

(*a*) the construction, maintainance and rehabilitation of public roads as provided under this Act, within the respective jurisdiction of the local government authorities; and

(*b*) the mobilization of resources towards management of such roads.

Responsibilities of the Administration Cap. 69:08

6. Subject to the Roads Fund Administration Act, the Administration shall be responsible for raising, administering and managing the Fund.

PART III—CLASSIFICATION AND DESIGNATION OF ROADS AND ROAD RESERVES

Division I—Classification and Designation of Roads

Classification and vesting of roads

7.—(1) All roads shall be categorized as either public roads or private roads.

(2) A public road shall be classified as—

(*a*) a main road;

(*b*) a secondary road;

(*c*) a district road;

(*d*) a community road;

(*e*) an urban road; or

(*f*) an unclassified road.

(3) The Minister may, by notice published in the *Gazette*, designate any road to be a public road in accordance with this Act, and the road so designated shall vest in the Republic as public land.

(4) The use of all public roads shall be subject to such restrictions for users as the Minister may prescribe.

Main roads

8.—(1) Main roads shall be—

(*a*) any international or national arterial road being an inter-territorial road defined as such under any written law; or

(*b*) any territorial road so designated by the Minister by notice published in the *Gazette*.

(2) The Authority shall be the responsible road authority for all main roads, including main roads in a local government authority area.

(3) All expenses incurred in the planning, designing, construction, care and maintenance of a main road shall be borne by the Authority.

(4) The Authority shall, prior to the commencement of any works, inform the relevant local government authority of any new construction, major improvements and maintenance activity affecting a main road within the jurisdiction of the local government authority.

Secondary roads

9.—(1) A secondary road shall be any arterial road or collector road between main centres of population and other traffic generators of national importance so designated by the Minister by notice published in the *Gazette*.

(2) The Authority shall be the responsible road authority for all secondary roads, including secondary roads in any local government authority area.

(3) All expenses incurred in the planning, designing, construction, care and maintenance of a secondary road shall be borne by the Authority.

(4) The Authority shall inform the relevant local government authority of any new construction, major improvements and maintenance activity affecting a secondary road within the jurisdiction of the local government authority.

District roads

10.—(1) A district road shall be any collector road and a link between local centres of population and other traffic generators in

any district so designated by the Minister by notice published in the *Gazette*, after consulting the local government authority concerned.

(2) The relevant local government authority shall be the responsible road authority for a district road.

(3) The expenses of planning, designing, construction, care and maintenance of a district road shall be borne by the relevant local government authority.

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(4) Subject to the Roads Fund Administration Act, a local government authority shall be eligible to receive from the Fund, such funds as the Administration may, from time to time, determine towards the cost of construction, rehabilitation, care and maintenance of district roads for which the local government authority is the road authority.

Community roads

11.—(1) A community road shall be any road that primarily provides access to land adjacent to the collector network serving travel over relatively short distances, and includes all rural roads not classified as arterial roads or collector roads, branch roads, estate roads, local access roads and private roads so designated by the Minister by notice published in the *Gazette*, after consultating the local government authority concerned.

(2) The relevant local government authority shall be the responsible road authority for a community road.

(3) All expenses incurred in the planning, designing, construction, care and maintenance of a community road shall be borne by the local government authority.

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(4) Subject to the Roads Fund Administration Act, a local government authority shall be eligible to receive from the Fund, such funds as the Administration may, from time to time, determine towards the cost of construction, rehabilitation, care and maintenance of community roads for which the local government authority is the road authority.

Urban roads

12.—(1) The Minister may, after consultations with the local government authority concerned and by notice published in the *Gazette*, designate the following roads as urban roads—

(*a*) a collector road which is—

(*i*) a road linking a local centre with any other local centre;

(*ii*) a road linking a local centre with a ward centre; or

(*iii*) a road within an urban carrying through traffic which predominantly originates from out of town and links with either a main road or a secondary road; or

(*b*) an access road which is a road within an urban area that links a collector road and other minor roads within the vicinity and collects or distributes traffic between residential, industrial and principal business centres of a city, a municipality or a town, as the case may be.

(2) The relevant local government authority shall be the responsible road authority for an urban road.

(3) All expenses incurred in the planning, designing, construction, care and maintenance of an urban road shall be borne by the local government authority concerned.

(4) Subject to the Roads Fund Administration Act, a local government authority shall be eligible to receive from the Fund, such funds as the Administration may, from time to time, determine, towards the costs of construction, care and maintenance of urban roads for which the local government authority is the road authority. Cap. 69:08

Private roads

13.—(1) A road authority may—

(*a*) authorize the establishment of a private road in any area within its jurisdiction; or

(*b*) designate any existing road, other than a public road, to be a private road, subject to such conditions as the road authority may prescribe.

(2) A private road may be used by the public, subject to such conditions as the owner of the land may determine.

(3) Where a public road is inaccessible or becomes impassable, a road authority may order the owner of a private road, subject to such conditions as the road authority may prescribe after consultating the owner or occupier of the land, to temporarily open the private road to the general public, until such time as the public road is accessible or becomes passable, as the case may be.

(4) Any damage to a private road caused by any additional traffic as a result of the road having been opened to the general public in accordance with subsection (3) shall be repaired by the relevant road authority.

Change in classification of roads

14.—(1) A road authority may apply, in writing, to the Minister for the change in classification of any road or any part thereof.

(2) The Minister may, if satisfied with the application made pursuant to subsection (1), change the classification of the road by notice published in the *Gazette*.

(3) Any change pursuant to subsection (2) shall comply with section 7.

Alteration to management, closure and declassification of public roads

15.—(1) A road authority shall publish a notice in the *Gazette* and in two newspapers, of wide circulation in the area concerned, of any proposal to—

(*a*) cease responsibility for the construction, care and maintenance of any road or any part thereof;

(*b*) close a road, or any part thereof, as a result of the deviation of the permanent alignment of any public road; or

(*c*) remove the classification of any public road for which it is responsible.

(2) A notice under subsection (1) shall—

(*a*) give particulars of the proposal;

(*b*) clearly describe the road to be affected; and

(*c*) call upon any person objecting to the proposal to lodge any objection, in writing, to the office of the road authority within one month of the date of publication of such notice.

(3) A copy of the notice referred to in subsection (1) shall also be posted at a conspicuous place outside the office of the road authority responsible for the road.

(4) A road authority shall consider and notify the Minister of any objection lodged pursuant to subsection (2) (*c*) and shall make appropriate recommendations to the Minister.

(5) The Minister may after—

(*a*) considering any objection made under subsection (2) (*c*);

(*b*) considering the recommendations of the road authority under subsection (4); and

(*c*) registration of such plans, if any, as are required under section 52,

by notice published in the *Gazette* and in two newspapers, circulating in the area concerned, declare whether the proposal shall proceed or not.

(6) Where the declaration under subsection (5) is that the road or part thereof be used as a private road, the notice shall state that such road or part thereof, shall cease to be a public road and thereupon the road or part thereof—

(*a*) shall vest as a private road in the owners of the land adjoining the road or part thereof, unless immediately prior to becoming a public road it was customary land; and

(*b*) if immediately prior to becoming a public road, the land was customary land, the road shall be dealt with in accordance with the Customary Land Act, and, in either case, the road

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(*e*) an urban road; or

(*f*) an unclassified road.

(3) The Minister may, by notice published in the *Gazette*, designate any road to be a public road in accordance with this Act, and the road so designated shall vest in the Republic as public land.

(4) The use of all public roads shall be subject to such restrictions for users as the Minister may prescribe.

Main roads

8.—(1) Main roads shall be—

(*a*) any international or national arterial road being an inter-territorial road defined as such under any written law; or

(*b*) any territorial road so designated by the Minister by notice published in the *Gazette*.

(2) The Authority shall be the responsible road authority for all main roads, including main roads in a local government authority area.

(3) All expenses incurred in the planning, designing, construction, care and maintenance of a main road shall be borne by the Authority.

(4) The Authority shall, prior to the commencement of any works, inform the relevant local government authority of any new construction, major improvements and maintenance activity affecting a main road within the jurisdiction of the local government authority.

Secondary roads

9.—(1) A secondary road shall be any arterial road or collector road between main centres of population and other traffic generators of national importance so designated by the Minister by notice published in the *Gazette*.

(2) The Authority shall be the responsible road authority for all secondary roads, including secondary roads in any local government authority area.

(3) All expenses incurred in the planning, designing, construction, care and maintenance of a secondary road shall be borne by the Authority.

(4) The Authority shall inform the relevant local government authority of any new construction, major improvements and maintenance activity affecting a secondary road within the jurisdiction of the local government authority.

District roads

10.—(1) A district road shall be any collector road and a link between local centres of population and other traffic generators in

any district so designated by the Minister by notice published in the *Gazette*, after consulting the local government authority concerned.

(2) The relevant local government authority shall be the responsible road authority for a district road.

(3) The expenses of planning, designing, construction, care and maintenance of a district road shall be borne by the relevant local government authority.

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(4) Subject to the Roads Fund Administration Act, a local government authority shall be eligible to receive from the Fund, such funds as the Administration may, from time to time, determine towards the cost of construction, rehabilitation, care and maintenance of district roads for which the local government authority is the road authority.

Community roads

11.—(1) A community road shall be any road that primarily provides access to land adjacent to the collector network serving travel over relatively short distances, and includes all rural roads not classified as arterial roads or collector roads, branch roads, estate roads, local access roads and private roads so designated by the Minister by notice published in the *Gazette*, after consultating the local government authority concerned.

(2) The relevant local government authority shall be the responsible road authority for a community road.

(3) All expenses incurred in the planning, designing, construction, care and maintenance of a community road shall be borne by the local government authority.

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(4) Subject to the Roads Fund Administration Act, a local government authority shall be eligible to receive from the Fund, such funds as the Administration may, from time to time, determine towards the cost of construction, rehabilitation, care and maintenance of community roads for which the local government authority is the road authority.

Urban roads

12.—(1) The Minister may, after consultations with the local government authority concerned and by notice published in the *Gazette*, designate the following roads as urban roads—

(*a*) a collector road which is—

(*i*) a road linking a local centre with any other local centre;

(*ii*) a road linking a local centre with a ward centre; or

(*iii*) a road within an urban carrying through traffic which predominantly originates from out of town and links with either a main road or a secondary road; or

(*b*) an access road which is a road within an urban area that links a collector road and other minor roads within the vicinity and collects or distributes traffic between residential, industrial and principal business centres of a city, a municipality or a town, as the case may be.

(2) The relevant local government authority shall be the responsible road authority for an urban road.

(3) All expenses incurred in the planning, designing, construction, care and maintenance of an urban road shall be borne by the local government authority concerned.

(4) Subject to the Roads Fund Administration Act, a local government authority shall be eligible to receive from the Fund, such funds as the Administration may, from time to time, determine, towards the costs of construction, care and maintenance of urban roads for which the local government authority is the road authority. Cap. 9:08

Private roads

13.—(1) A road authority may—

(*a*) authorize the establishment of a private road in any area within its jurisdiction; or

(*b*) designate any existing road, other than a public road, to be a private road, subject to such conditions as the road authority may prescribe.

(2) A private road may be used by the public, subject to such conditions as the owner of the land may determine.

(3) Where a public road is inaccessible or becomes impassable, a road authority may order the owner of a private road, subject to such conditions as the road authority may prescribe after consultating the owner or occupier of the land, to temporarily open the private road to the general public, until such time as the public road is accessible or becomes passable, as the case may be.

(4) Any damage to a private road caused by any additional traffic as a result of the road having been opened to the general public in accordance with subsection (3) shall be repaired by the relevant road authority.

Change in classification of roads

14.—(1) A road authority may apply, in writing, to the Minister for the change in classification of any road or any part thereof.

(2) The Minister may, if satisfied with the application made pursuant to subsection (1), change the classification of the road by notice published in the *Gazette*.

(3) Any change pursuant to subsection (2) shall comply with section 7.

Alteration to management, closure and declassification of public roads

15.—(1) A road authority shall publish a notice in the *Gazette* and in two newspapers, of wide circulation in the area concerned, of any proposal to—

(*a*) cease responsibility for the construction, care and maintenance of any road or any part thereof;

(*b*) close a road, or any part thereof, as a result of the deviation of the permanent alignment of any public road; or

(*c*) remove the classification of any public road for which it is responsible.

(2) A notice under subsection (1) shall—

(*a*) give particulars of the proposal;

(*b*) clearly describe the road to be affected; and

(*c*) call upon any person objecting to the proposal to lodge any objection, in writing, to the office of the road authority within one month of the date of publication of such notice.

(3) A copy of the notice referred to in subsection (1) shall also be posted at a conspicuous place outside the office of the road authority responsible for the road.

(4) A road authority shall consider and notify the Minister of any objection lodged pursuant to subsection (2) (*c*) and shall make appropriate recommendations to the Minister.

(5) The Minister may after—

(*a*) considering any objection made under subsection (2) (*c*);

(*b*) considering the recommendations of the road authority under subsection (4); and

(*c*) registration of such plans, if any, as are required under section 52,

by notice published in the *Gazette* and in two newspapers, circulating in the area concerned, declare whether the proposal shall proceed or not.

(6) Where the declaration under subsection (5) is that the road or part thereof be used as a private road, the notice shall state that such road or part thereof, shall cease to be a public road and thereupon the road or part thereof—

(*a*) shall vest as a private road in the owners of the land adjoining the road or part thereof, unless immediately prior to becoming a public road it was customary land; and

(*b*) if immediately prior to becoming a public road, the land was customary land, the road shall be dealt with in accordance with the Customary Land Act, and, in either case, the road

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authority shall cease to be responsible for the construction, care and maintenance of the road.

(7) Where the declaration under subsection (5) is that the public shall cease to use the road or part thereof, the Minister shall, by notice published in the *Gazette* and in two newspapers, circulating in the area concerned, declare that the road or part thereof shall be closed to use by the public, and thereupon the road or part thereof shall cease to be a public road and the land on which it was constructed may be disposed of or dealt with in any manner in which public land may properly be disposed of or dealt with.

Designation of new roads and compensation

16.—(1) A road authority may apply to the Minister, in a prescribed manner, for the Minister to designate a road as a public road in accordance with the classification under section 7.

(2) A road authority shall ensure that, prior to making any application under subsection (1)—

(*a*) the construction of the road to be designated is complete; and

(*b*) the registration of plans for that road under the Deeds Registration Act has been done. Cap. 58:02

(3) The Minister may, upon receipt of an application under subsection (1) and upon being satisfied that the proposed designation is in the public interest, designate a road as a public road.

(4) Upon a designation by the Minister under subsection (3), the road shall vest in the Republic as public land and the land on each side of the road to the extent specified in such notice shall be a road reserve.

Division 2—Road Reserves

Designation of a road reserve

17.—(1) There shall be a road reserve for each road as prescribed under section 18.

(2) The Minister may, by notice published in the *Gazette*, designate the width of a road reserve outside any planning area declared under the Physical Planning Act, in accordance with section 18. Act No. 7 of 2016

Width of road reserve and effect of reservation

18.—(1) The width of a road reserve shall be—

(*a*) for a main road, sixty metres;

(*b*) for a secondary road, thirty-six metres;

(*c*) for a district road, thirty-six metres;

(*d*) for an urban road, thirty-six metres; and

(*e*) for a community road, eighteen meters.

(2) The centre line of the width for a road reserve shall be measured from the centre line of the carriageway.

(3) Where any existing road is designated as a public road under section 7, the land included within the boundaries of the width described in subsection (1), shall be reserved for use as a road and become a road reserve.

Change in width of road reserve

19.—(1) A road authority may apply to the Minister, in writing, for the change of width of any road reserve.

(2) The Minister may, if satisfied with the application made pursuant to subsection (1), by notice published in the *Gazette*, change the width of any road reserve.

(3) Any change pursuant to subsection (2) shall, with the necessary modifications, be in accordance with sections 14 and 15.

Entry into road reserve

20. A road authority may, at any time, enter upon land comprising a road reserve for the purpose of exercising any powers conferred on it by this Act.

Damage to structures in a road reserve and compensation

21.—(1) Where a road authority intends to carry out any works in a road reserve, in a manner likely to cause damage to any structure which existed prior to the designation of the road as a public road, the road authority shall give to the owner or occupier of the land prior notice, in writing, of its intention to carry out the works.

(2) The notice period under subsection (1) shall be—

(*a*) in the case of a building, not more than three months; and

(*b*) in the case of any other structure, not more than one month,

from the date of the notice.

(3) Where in carrying out the works notified under subsection (1) the owner or occupier of the land suffers damage as a result of the works, the road authority shall pay compensation, in accordance with Part VI, to the owner or occupier of the land with respect to the damage caused.

(4) An owner or occupier of the land desiring to be compensated pursuant to subsection (3) shall—

(*a*) in the case of a building, within three months; and

(*b*) in the case of a any other structure, within one month;

or such extended time, as the road authority may allow, submit a claim for compensation, in writing, to the road authority.

Activity in a road reserve

22.—(1) A person shall not, without a written consent of the relevant road authority, do any of the following in a road reserve—

(*a*) erect or alter any structure;

(*b*) plant any tree or bush; or

(*c*) cultivate or prepare for cultivation the land, unless the order declaring the land as a road reserve is made after commencement of the cultivation or preparation for cultivation.

(2) A road authority shall consult with, and have regard to the views of the Commissioner for Physical Planning before granting any consent to erect or alter a structure in the road reserve.

(3) Where a road authority grants consent under subsection (1) or a person acquires any interest in land in a road reserve and the road authority subsequently intends to carry out any works on the land, the person to whom consent was granted or acquired interest in the land shall not be entitled to compensation for any improvement done on the land.

Service of notice on a road authority

23. Where an occupier or owner of land in a road reserve or any person seeks to effect service of a document on a road authority pursuant to this Act, service shall be deemed to have been satisfied by serving the notice upon a road authority in whose jurisdiction the concerned land is situated.

PART IV—EXECUTION OF ROAD WORKS

Control points of access, structures, etc.

24.—(1) The Minister may, after consultations with the Minister responsible for Physical Planning, make regulations prescribing the number, location and design of points of access to main, secondary, district, community and urban roads.

(2) Without prejudice to the generality of subsection (1), the regulations shall—

(*a*) require owners of buildings and property to provide service roads to give access to the buildings and property; and

(*b*) prohibit erection of buildings with direct frontage to any road or road reserve.

Construction, care and maintenance of road

25.—(1) A road authority shall be responsible for the construction, care and maintenance of roads for which it is responsible.

(2) Except as otherwise provided under this Act, the responsibility to undertake the construction, alteration, care and maintenance of a public road includes the responsibility to pay all the costs incurred in such construction, alteration, care and maintenance.

(3) Where a road authority fails to maintain a public road under its charge or any part thereof, the Minister may, after giving reasonable notice to the road authority, arrange for the maintainance works to be carried out in such manner as the Minister may direct.

(4) A road authority may—

(*a*) enter upon any land to carry out any works and exercise any powers in relation to a public road or any proposed public road for which it is responsible;

(*b*) restrict the use of any public road or part thereof, under its charge, and may, for such purpose, use traffic signs or other notices in accordance with this Act or any written law;

(*c*) without prejudice to the generality of paragraph (*b*)—

(*i*) prohibit the entry of vehicles on a cycle track or footpath;

(*ii*) control the use of pedal cycles and movement of animals on a carriageway or footpath; and

(*iii*) forbid any pedestrian from using any part of a road; and

(*d*) subject to the special or general directions of the Minister and the payment of compensation in accordance with Part VI—

(*i*) widen or divert any public road within the limits of a road reserve;

(*ii*) require the removal of any tree or structure on a road reserve; and

(*iii*) where the owner of a tree or structure fails to remove the same after being required to do so, remove the tree or structure.

(5) Where a road is widened or diverted in accordance with subsection (4) (*d*) (*i*)—

(*i*) the land occupied by the widened or diverted road shall be deemed to have been declared public land and hence shall vest in the Republic as public land; and

(*ii*) thereupon the land bordering the road on each side, as prescribed under section 18, shall become road reserve without designation or other formality.

(6) A road authority shall prepare and accordingly register the plan, if any, relating to the widening or deviation as may be prescribed in regulations made hereunder.

(7) Any land which ceases to be part of a public road as a result of works under subsection (4) (*d*) (*i*) shall, vest in the owner of the adjoining land, upon the terms and conditions upon which he holds such land without formal transfer, unless such land was, immediately before becoming a public road, customary land.

Power to enter upon land for survey or investigation

26.—(1) A road authority may, for the purpose of carrying out a survey for a proposed road or conducting any investigation in connexion with a road, authorize, in writing, any member or officer of the road authority or other person, to enter upon any land with such assistants, workmen, apparatus, instruments, vehicles and tools as may be necessary for the survey or investigations.

(2) Entry under subsection (1) shall be made after giving prior notice in writing to the owner or occupier of the land concerned and the entry shall be during the day time.

(3) Subject to Part VI, no other compensation shall be payable to an owner or occupier of land with respect to any entry made pursuant to this section.

Power to control traffic

27.—(1) Where a road authority is satisfied that by reason of repair or construction works required or in progress on or near a public road for which it is charged with, it is desirable that the road be closed to traffic or to traffic of a particular classification or description, or that the use of the road be restricted in any way, the road authority may, by order, prohibit or restrict the use of the road, or any part thereof in such manner as may be specified in the order.

(2) The road authority shall publish in the *Gazette*, the order under subsection (1) twice, at least fourteen days and seven days before the effective date.

(3) Where the road authority is satisfied that, owing to the likelihood of danger to the public or serious damage to the road, it is necessary to prohibit or restrict the use of a road forthwith, it may make an order prohibiting or restricting the use of the road or any part thereof forthwith, without publication of the notice specified in subsection (2).

(4) A road authority may, at any time, by means of suitable barriers close or restrict the use of a road under its charge or any part thereof for the purposes of repair or reconstruction.

(5) Where a road is closed or access thereto is restricted in accordance with this section—

(*a*) the road authority shall redirect the affected traffic to an alternative route;

(*b*) wherever possible the alternative route shall be provided within or adjacent to the road reserve concerned; and

(*c*) all reasonable steps shall be taken to display adequate traffic signs in accordance with the Road Traffic Act, giving reasonable warning to traffic using the road. Cap. 69:01

(6) A person who fails to comply with the controls under this section commits an offence.

Power to control land for proposed roads

28.—(1) Where, during or after a survey by a road authority for the purpose of determining the line or the course of a proposed road, the road authority has reason to believe that any person is doing or intending to do any act or thing likely or calculated to interfere with the survey or construction of the proposed road, the road authority may order the person , in writing, to cease or desist from doing such act or thing.

(2) Where any person fails or refuses to comply with an order under subsection (1), the road authority may request the Minister to issue a notice, by notice published in the *Gazette*, designating such land as the road authority considers appropriate in relation to the proposed road as controlled land for road purposes.

(3) A notice under subsection (2) shall specify the owner or occupier of the land and shall describe the area or areas so controlled.

(4) A notice under subsection (2) shall have the effect of prohibiting all activities on the designated land, other than an activity which the Minister or the road authority may, after consulting the Minister responsible for physical planning, authorize in writing, on such conditions as the Minister considers appropriate.

(5) A notice under this section shall lapse after the expiration of twelve months, except to the extent that it is continued as to any part of the land affected by a reservation effected under section 52.

(6) As soon as possible, after publication of a notice under subsection (2), the road authority that is carrying out the investigation shall lodge with the Deeds Registrar, two copies of a plan or plans showing the boundaries of the land affected by the notice.

(7) No person shall be eligible for compensation with respect to any loss or damage suffered by reason of the exercise by the Minister of the powers conferred by this section.

Power to take materials for road works

29.—(1) Subject to subsection (3), a road authority, or an authorized officer, may enter upon any land and—

(*a*) take therefrom any material, including water, necessary for the construction, maintenance or repair of a road or proposed road for which the road authority is charged with; and

(*b*) designate land for a labour camp, access road and space for stockpiling, and no compensation shall be payable except as provided under this section.

(2) No water shall be taken from an artificial dam, well or borehole pursuant to subsection (1), except with the consent of the owner or occupier of the land.

(3) The powers conferred under subsection (1) shall not be exercisable—

(*a*) on any land within the boundaries of a city, municipality or township;

(*b*) on any land comprised in any mineral right, non-exclusive prospecting licence, claim, permit, or other authority subsisting under the Mines and Minerals Act; and Act No. 8 of 2019

(*c*) in an area protected under the Environment Management Act. Act No. 19 of 2017

(4) A road authority may, where it exercises powers conferred under subsection (1), after prior consultation with the owner or occupier of the land, select any place from which to take the materials.

(5) Notwithstanding subsection (4), the owner or occupier of the land may propose an altenative place on the land from which the road authority may take the materials, and if the road authority finds the altenative place to be reasonably accessible and suitable with respect to quantity and quality of the materials, the road authority shall take the materials from the altenative place.

(6) A road authority shall not take possession of materials on which any person, other than its servant, has expended labour, or from a house, wall or other structure.

(7) The rights conferred on a road authority by this section shall be exercisable from time to time and the compensation provided for shall be payable from time to time with respect to each occasion on which such rights are exercised, and to the extent of any new loss or damage suffered by the owner or occupier of the land on each occasion.

(8) Whenever land is entered in accordance with the powers conferred by this section, compensation shall be paid by the road authority to the owner or occupier of the land with respect to surface rights in accordance with Part VI.

(9) The valuation date, for the purpose of compensation under subsection (8), shall be the date when the owner or occupier of the land suffered the loss or damage which gave rise to the claim.

(10) A person shall claim compensation under this section within six months of any loss or damage suffered.

(11) Where the land affected by the exercise of powers conferred by this section—

(*a*) is unimproved land;

(*b*) is not customary land; and

(*c*) exceeds, in area, one per centum of the area of the total estate of the person who is the owner or occupier thereof on the date of entry, compensation shall be paid to the owner or occupier for the value of any area so affected, in excess of the one per centum referred to in paragraph (c) to the extent to which the land so affected has been rendered less valuable for agricultural purposes, and in no case shall compensation be paid with respect to the value of the materials taken.

(12) A road authority may, where necessary, make an opening in a fence when constructing an access road to the site of quarry, excavation or other place from which materials are to be obtained.

(13) A road authority shall effectively close the opening referred to in subsection (12) against the straying of livestock during the operations and shall properly restore the fence on completion of the work.

(14) A road authority shall, on completion of any quarry or other excavation made in exercise of the powers conferred by this section, securely fence off, fill in or otherwise make safe any source of danger against danger to life and limb of persons or animals, including addressing any risk of the area becoming a breeding ground for water-borne parasites.

(15) Notwithstanding subsection (15), where circumstances are such that in the opinion of the road authority any delay in exercising any right under this section would be undesirable and occasion significant delays in implementation of the works, the road authority may take the materials forthwith, and the Minister may make such subsequent order in the matter as the Minister deems fit.

(16) An owner or occupier of land aggrieved by a decision of a road authority under this section may appeal to the Minister.

(17) The Minister may make regulations with respect to the procedure on appeals made under subsection (16).

Power to cut and remove trees

30. A road authority may, after consultation with an owner or occupier of land adjacent to any public road, enter upon the land for the purpose of cutting or removing the whole or any part of a tree which—

(*a*) overhangs such road;

(*b*) obstructs or interferes with light from a public lamp;

(*c*) obstructs or interferes with a traffic sign;

(*d*) endangers or obstructs the passage of vehicles;

(*e*) grows in a way that is likely to cause damage to the road; or

(*f*) interferes with the proper performance or maintenance of the road.

Power to undertake ancillary works

31.—(1) A road authority may, for the purpose of protecting traffic on any public road from danger or making the crossing of any road less dangerous to pedestrians—

(*a*) erect, light, maintain, alter or remove places of refuge on the road; and

(*b*) construct, light, maintain, alter, remove or close any subway or overbridge for the use of pedestrians.

(2) A road authority may undertake and maintain works in the carriageway—

(*a*) along any length of a public 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, whether at all time or at particular times only, by traffic moving in another direction;

(*b*) at public cross roads or other public road junctions for regulating the movement of traffic; and

(*c*) for providing places of refuge for the protection of pedestrians crossing a public road.

(3) The powers conferred by subsection (2) include power to—

(*a*) light any such works;

(*b*) pave, plant grass or otherwise cover works or any part of the works;

(*c*) erect pillars, walls, rails or other fences on, around or across works or any part of the works; and

(*d*) plant trees, shrubs and other vegetation, either for ornamental purposes or in the interest of safety.

(4) The power conferred by this section to construct works includes the power to alter or remove the works.

Regulation of works of undertakers

32.—(1) No undertaker shall execute any work on a public road or road reserve, except in accordance with this Act.

(2) Where a road authority objects to any works or emergency works carried out or proposed to be carried out by an undertaker, on any public road or road reserve and the road authority is unable to reach an agreement with the undertaker with respect to the objection, the road authority may refer the matter to the Minister, for a decision.

(3) The decision of the Minister on any reference under subsection (2) shall be final.

Execution of works of undertakers

33.—(1) An undertaker shall execute—

(*a*) works on a public road or road reserve in compliance with such proposals and details—

(*i*) as may have been agreed to under section 32 (2); and

(*ii*) the decision of the Minister pursuant to section 32 (3), with reasonable dispatch; and

(*b*) any works of an incidental nature and restore the road to a proper state of repair, with all reasonable dispatch, after completion of any part of the works to the reasonable satisfaction of the road authority concerned.

(2) A road authority may, upon agreement with an undertaker, reinstate the affected part of the road at the expense of the undertaker.

(3) Subject to receiving a written notice from a road authority, an undertaker shall be liable to pay to the road authority the cost of remedying any subsidence or deterioration of reinstatement work carried out by the undertaker if the subsidence or deterioration takes place within twelve months of the completion of the works and the subsidence or deterioration is attributable to defective workmanship or use of defective materials.

Undertakers to provide warning and safety precautions

34.—(1) An undertaker who is executing works on a public road shall, at its expense, ensure the restoration or other repair to any road occasioned thereby.

(2) An undertaker shall observe the following requirements during and in connexion with the execution of the works—

(*a*) whenever a road or road reserve is open or broken up, except in a place to which the public has no access and is not permitted to have access, the works are adequately fenced and guarded and all reasonable steps are taken to keep the works lighted in such manner as to give adequate warning to the public during night time;

(*b*) traffic signs are placed, and where so directed, operated and lighted in accordance with any directions which may be given by the Minister;

(*c*) no greater width or length of the 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 and no

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 requirement imposed in accordance with any regulations made by the Minister or any relevant road authority are complied with.

(3) Where an undertaker fails to satisfy an obligation to which the undertaker is subject by virtue of subsection (2) as regards any requirement mentioned in paragraph (*a*), (*b*) or (*c*) thereof, the road authority may do anything necessary for securing observance of that requirement and the undertaker shall pay to the road authority an amount equal to any cost reasonably incurred in so doing.

(4) An undertaker who fails to comply with subsection (2) and (3) shall be liable to an administrative penalty of K100,000 for each day of such failure.

Construction of an access road

35.—(1) An owner or occupier of land situated adjacent to a public road who does not have reasonable access to the public road may apply to a road authority for a permit to construct an access road over any land lying between his land and the public road.

(2) An application under subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed fee and a sketch or plan of the proposed access road.

(3) Where permission to construct an access road is granted, the road authority may, on reasonable grounds and upon giving fourteen days notice in writing to the owner of the access road, order the cancellation or alteration of the alignment of the access road.

Provision for pedestrians, cyclists, etc

36.—(1) A road authority may, where it considers it necessary or desirable, provide—

(*a*) proper and sufficient footpaths on the sides of a road under its control for the safety, or accommodation, of pedestrians; and

(*b*) other margins or tracks by the side of a road under its control for the safety or accommodation of ridden horses, driven livestock, agricultural machinery, pedal cyclists or other special types of traffic.

(2) A road authority may control the manner of use of the footpaths, margins and tracks by different classes of the public.

(3) Where there is a proposal to provide a footpath, margin or track on land which is not public land, then sections 25 (4) (*d*) and

25 (5) shall apply to such proposal as though the road was being widened.

Ferries, pontoons and bridges

37.—(1) A road authority may construct and operate a ferry or pontoon to facilitate the crossing of any river or stream.

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(2) A ferry or pontoon operated under this section shall be operated in accordance with the Inland Waters Shipping Act.

(3) A road authority may construct a bridge over a river or stream and over or under a railway line or inland waterway.

(4) Nothing in subsection (3) shall derogate the rights, powers, duties and functions conferred upon a railway company by the Railways Act.

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Provision of cattle grids

38. The Minister may, on the recommendation of the Authority, make regulations controlling the construction of cattle grids on any public road and providing for the recovery by a road authority of the cost incurred in constructing and maintaining any cattle grid.

Speed limit

39. A road authority may prescribe a speed limit for a public road under its charge or sections thereof, as the Minister may approve.

Storm water from roads

40.—(1) A road authority may construct and keep open and unobstructed, ditches, drains, culverts and other works in, through, under or over, land adjoining or near a road or road reserve for draining, protection, preservation, improvement, repair, construction or diversion of a public road.

(2) Subject to subsections (3) and (5), a road authority may, discharge onto any land adjoining, or near, a public road or road reserve, any storm water flowing from a road or from a ditch, drain, culvert or other work referred to in subsection (1)

(3) Where storm water discharged under subsection (2) is likely to affect any adjoining land, the road authority shall, prior to carrying out any works for the discharge of the storm water, consult the owner or occupier of the land likely to be affected by the water and, so far as possible, agree with the owner or occupier a suitable place for the discharge.

(4) Where no agreement has been reached under subsection (3), the matter shall be referred to a relevant local government authority or the Minister, as the case may be, who shall advise on a suitable place, and the road authority shall act according to that advice.

(5) Where the storm water is not discharged into a stream or other proper outlet, the road authority shall pay to the owner or occupier of the land, compensation with respect to the cost of the works

reasonably necessary to be done by such owner or occupier to prevent any damage likely to be caused by such storm water.

(6) Save as provided for under subsection (5), a road authority shall not be liable otherwise with respect to the consequences of such discharge.

Storm water from land adjoining

41.—(1) An owner or occupier of land adjoining or near a land adjoining a public road who constructs a drain or contour ridge for the purpose of improving or protecting his property, shall not cause or permit storm water to discharge from such drain or contour ridge on to a public road or into an existing road drain beside or under a public road without the permission of the road authority concerned.

(2) Where a person applies for a permit under subsection (1), the road authority concerned shall only grant the permission if the applicant agrees to pay expenses of any additional drain or enlargement or alteration of an existing road drain which is considered necessary by the road authority.

(3) Where the road authority refuses to grant the permission or any dispute as to the necessity of an additional drain or enlargement or alteration of a drain arises, the matter shall be referred to the Minister for decision, who may, before making the decision, consult with the Minister responsible for water development.

Temporary diversions

42.—(1) A road authority may, after giving prior written notice of its intention to the owner or occupier of land, enter upon the land and construct or maintain thereon, a temporary diversion of a road for the purpose of facilitating the construction, deviation, repair or maintenance of a public road.

(2) No road authority shall construct a diversion on improved land without—

(*a*) the approval of the Minister; and

(*b*) the concurrence of the owner or occupier of the land.

(3) Subject to Part VI, no compensation shall be payable with respect to any entry or acts under this section.

(4) Where a road authority has exercised any power under this section and the diversion is no longer required for the purpose for which it was constructed, the road authority shall make good the land affected thereby to the extent necessary to prevent soil erosion.

Erection of temporary premises

43.—(1) Nothing contained in this Part shall prevent—

(*a*) an authorized officer from making a temporary use of any part of a public road, for purposes of executing a public service; or

(*b*) a road authority from granting an authorization to any person to erect temporary fences and enclosures upon a public road for the purpose of building, pulling down or repairing their houses and other buildings or for the erection of temporary decorations.

(2) Any person may apply, in a prescribed manner, to a road authority for an authorization to erect a temporary fence or enclosure on any public road for the purpose of building, pulling down or repairing a structure or erection of temporary decorations.

(3) The length and breadth of an enclosure under subsection (1) shall be described in the authorization.

(4) A person authorized under this section shall provide sufficient—

(*a*) room for vehicles to pass;

(*b*) lighting from sunset to sunrise; and

(*c*) road signs at conspicuous places.

(5) A person who fails to comply with subsection (4) commits an offence.

Prevention of damage, obstruction etc, to roads

44.—(1) A person shall not, otherwise than in accordance with this Act—

(*a*) encroach on any public road or road reserve by making, erecting or altering any structure, ditch or other obstacle or by planting trees or otherwise;

(*b*) leave, place or negligently allow to fall on a public road any object, of whatever material, so as to obstruct the road or endanger persons using the road;

(*c*) deposit rubbish, debris or other material on a public road;

(*d*) intentionally or negligently damage, in any way, any part of a public road;

(*e*) gather, heap up or take away any gravel, crushed stone, sand, soil or other material from a public road;

(*f*) fill in, or obstruct, any ditch or drain made to carry water off a public road or road reserve;

(*g*) construct a dam, ditch, drain or carry out any works that cause flooding of, or damage to, a public road;

(*h*) cause or allow any heavy object, material or thing, not being wholly raised above the ground on wheels, to be moved along or across a public road;

(*i*) cause or permit soil or refuse from his premises or land to

be washed on to a public road;

(*j*) obstruct free passage on a public road by exposing goods or merchandise of any description thereon; or

(*k*) cause, permit or suffer any damage to a public road as a result of failure to comply with any written law limiting the type, weight or dimension of vehicles or load carried thereon.

(2) Subsection (1)(*a*) shall not apply to a barrier of a pattern and in a position approved by a road authority and duly erected in accordance with any written law.

(3) A road authority may, by notice in writing, order any person who contravenes subsection (1) to do or desist from doing a specified act, including carrying out specified remedial measures to mitigate the impact of the breach, within the period stated in the notice.

(4) Where a person fails to comply with an order given under subsection (3) within the prescribed period, the road authority may carry out the action specified in the order or implement any measure as would stop the breach.

(5) The road authority may recover the cost incurred in implementing the order under subsection (4) as a civil debt from the person to whom the order was addressed.

(6) A driver of a vehicle which transports road construction materials or other similar materials shall cover the materials to prevent them from falling off or being blown by wind, spilling onto the road or causing harm to other road users.

(7) A road authority may exempt any person, in writing and on such terms and conditions as the road authority may impose, from application of this section.

(8) Subject to subsection (6), a person who contravenes subsection (1), (3) or (6) commits an offence.

Construction of special roads

45.—(1) A road authority may construct or maintain—

(*a*) a public road, or part thereof, for the exclusive use of specified kind of traffic or traffic moving in one direction; or

(*b*) adjacent to a public road, a track or passage for the exclusive use of pedestrians or ridden or driven animals.

(2) A road authority may, in exercise of the powers conferred under subsection (1) —

(*a*) give orders prohibiting the use of a public road by any class or classes of traffic; or

(*b*) regulate or restrict the manner in which a public road, or any part thereof, may be used.

(3) Where the road authority exercises its power under subsection (2), the road authority shall erect appropriate traffic signs, at such places and in such manner as the road authority determines necessary.

Works at railway crossing

46.—(1) An undertaker executing works on a public road at a railway level crossing shall comply with—

(*a*) any agreed specifications for the execution of the works; and

(*b*) terms and conditions imposed upon him by the authority having the management of the railway, for purposes of—

(*i*) securing the safety of persons employed in connection with the works; and

(*ii*) ensuring that interference with traffic on the railway caused by the execution of such works is reduced, so far as is practicable.

(2) An undertaker who fails to comply with subsection (1) commits an offence.

Removal of apparatus

47.—(1) Where—

(*a*) apparatus required in connexion with building operations or other work on land adjacent to a public road is placed on the public road or in a road reserve; and

(*b*) the apparatus is not removed after completion of the building or other works, a road authority may give the undertaker a notice in writing to remove the apparatus.

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

Contractors may exercise rights granted to road authority

48.—(1) A contractor may exercise the rights granted to, and the obligations of, a road authority under sections 29, 40, 42 and 51, under the supervision or direction of the road authority engaged in the construction or repair of public roads or proposed roads and on behalf of any road authority.

(2) Any damage done by a contractor for which compensation is payable under this Act shall be paid by the road authority concerned.

Powers exercised by electricity undertakers

49. Where any written law confers power on any person to make an electricity undertaking in relation to a public road or street which requires to be exercised with the consent or approval, or subject to the requirement or superintendence of a road authority, the power shall, in so far as it relates to the doing of work in, or over, any road, street, road reserve or street margin, be exercised in accordance with this Part.

Limitation of time in which works may be executed

50.—(1) A statutory power of undertakers to break up or open a public road, being a power conferred for any purposes other than road purposes or purposes of a railway undertaking, shall not be exercisable on, or under, any road during the twelve months following either—

(*a*) the end of any period during which the use by vehicles of the carriageway of such road has been prohibited or the width thereof available for vehicular traffic has been reduced to less than two-thirds of its normal width for the purposes 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 such road.

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

(*a*) a road authority has given a written notice to the undertaker concerned, at least three months before the date on which the works for road purposes or resurfacing, as the case may be, have substantially began, stating the works 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, have substantially began on, or within one month of the date so specified or, if any works of undertakers were in progress in the road on that date, within one month from the completion of such works of undertakers or in either case within such extended period as may have been agreed between the road authority and the undertaker concerned.

(3) Nothing in this section shall apply to any breaking up or opening of a public road in any of the following cases—

(*a*) for the carrying out of any emergency works;

(*b*) in relation to any part of a road other than a carriageway, in the case of works relating only to the installation, maintenance, repair or removal of a service pipe or service line or overhead telegraph line or overhead electric cable;

(*c*) where the execution of such works by an undertaker is in fulfillment 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; and

(*d*) in the case of any breaking up or opening of a road, executed with the consent of the road authority concerned.

(4) Any undertaker who fails to comply with this section—

(*a*) shall be liable to pay, to the road authority concerned, an amount equal to any cost reasonably incurred by the road authority in restoring or repairing the part of the road affected; and

(*b*) without prejudice to its liability under paragraph (a), commits an offence.

Road authorities and employees may park vehicles, erect huts, etc, on private land

51. A road authority and persons employed by it in the construction or repair of a public road or proposed public road, may, after giving reasonable notice to, and after consultation with the owner or occupier of private land affected or which will be affected—

(*a*) park vehicles and erect tents, huts or other temporary buildings on any site convenient to it or them, subject to the conditions that—

(*i*) no tents, huts or other temporary buildings shall be erected within one hundred and eighty metres of any dwelling house without the consent of the occupier of the dwelling house; and

(*ii*) where the owner or occupier of such land objects to any 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 may deem just and reasonable;

(*b*) place and store plant and equipment on the land outside the road reserve where there is insufficient room on the road reserve;

(*c*) take and otherwise make provision for water necessary for the proper execution of the work and for animals and labourers, however, no water shall be taken from any artificial dam, furrow, well or borehole save with the consent of the owner; and

(*d*) cut down and remove trees or bushes on land forming part of a road reserve where necessary in the construction or repair of public roads and, when cut down, such trees shall belong to the owner or occupier of the land upon which the said trees were cut.

PART V — RESERVATION OF LAND

Reservation of land

52.—(1) Where the course of any proposed road has been demarcated, the Minister shall, as soon as possible, by notice published in the *Gazette* and in at least two newspapers of widest circulation in the area, reserve a strip of land not exceeding sixty metres wide along the course of the proposed road, and shall notify such reservation, in writing, by registered post or by delivery to the individual owners or occupiers of the land so reserved.

(2) A notice referred to in subsection (1) shall include a list of the properties affected by the reservation and shall specify the office at which plans showing the reserved strip of land may be inspected.

(3) The publication of a notice under subsection (1) shall have the effect of —

(*a*) reserving the strip of land described in the notice for road construction purposes and authorizing the construction of a road thereon;

(*b*) prohibiting any activity upon the land so reserved; and

(*c*) canceling any control effected under section 27 of land not included in such notice.

(4) A road authority shall, as soon as possible after land is reserved under this section, lodge a copy of the plan showing the course of the proposed road with the Surveyor General and the Deeds Registrar.

(5) The Minister may, after consulting with the Minister responsible for land, make regulations regarding the scale and nature of the plans provided under this section and any other plans referred to in this Act and the registration and inspection thereof.

(6) The registration of a reservation under this section shall not debar the owner or occupier of the affected land from transferring or otherwise dealing with the land, but the assessment of compensation shall not be affected or influenced in any way by such transfer or dealing.

(7) Where in the construction of the road any variation in the course of the road is found necessary or desirable, a fresh plan shall, before designation of the road under section 16, be prepared and lodged in accordance with subsection (4) showing the actual course of the road as completed, and compensation shall be adjusted according to the loss or damage actually suffered.

Withdrawal or modification of control or reservations

53. The Minister may withdraw or modify any control or reservation made under section 28 or section 52, by notice published in the Gazette, and subsequently serving the notice on the Deeds

Registrar, the Surveyor General and the owner or occupier of land affected by the withdrawal or modification.

Unauthorized acts on controlled or reserved land

54.—(1) Where a person does an act—

(*a*) calculated to impede the purposes for which the land has been controlled or reserved; or

(*b*) which has not been authorized by the Minister or a road authority, on land controlled or reserved under sections 18, 28, 52 or 53, the Minister or the road authority may, by notice in writing, order the person to restore the land to the condition in which it was immediately before the act, within the period specified in the notice.

(2) A person who fails to comply with the order under subsection (1) commits an offence.

(3) Where the person fails to comply with the order under subsection (1), the Minister or the road authority may cause to be carried out such work as may be necessary to restore the land and may recover the expense incurred in carrying out the restoration work from that person as a civil debt.

PART VI — COMPENSATION

Assessment of compensation generally and for surface rights

55.—(1) An owner or occupier of land having an interest in land or surface rights affected by the exercise of powers conferred by this Act may be paid compensation as is provided for under this Part according to the nature and extent of their respective interests.

(2) Where an owner or occupier of customary land or private land is entitled to compensation, compensation shall be limited to existing surface rights, and shall be assessed as follows—

(*a*) with respect to customary land, the amount of compensation shall be assessed in accordance with section 56;

(*b*) with respect to private land, the amount of compensation shall be based on the loss or damage suffered by the owner or occupier of the land arising from damage to, or destruction of, the interest in surface rights of the owner or occupier of the land valued at the valuation date; and

(*c*) where, the owner or occupier of the land is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change, but shall not include any sum with respect to improvements on land in a road reserve effected after the land is declared to be a road reserve.

(3) The loss or damage suffered by the owner or occupier of land under subsection (2)(*b*) includes—

(*i*) the damage, if any, sustained by the owner or occupier of the land by reason of the severance of the land from the owner's or occupier's other land; and

(*ii*) the damage occasioned by any other injurious matter affecting the other property, movable or immovable, of the owner or occupier of the land.

Compensation for land which becomes public land

56.—(1) Where an owner or occupier of land is entitled to compensation with respect to customary land which has become public land under this Act, subject to subsection (3), the owner or occupier shall be entitled to reasonable compensation with respect to disturbance which shall be assessed, after consultation with a traditional authority of the area in which the land is situated, and be based on the loss suffered by the owner or occupier of the land arising from damage to or destruction of his interest in the surface rights on such land under the relevant customary law, but may include compensation for other disturbance—

(*a*) where the owner or occupier of the land has to move his residence or place of business;

(*b*) where no alternative land can be made available to owner or occupier of the land and the land remaining available to owner or occupier for agricultural purposes is not, in the opinion of an agricultural officer, an economic unit; and

(*c*) where alternative land is made available to the owner or occupier and the making of the alternative land, equally as fit for cultivation as the land of which the owner or occupier has been deprived is likely to involve a loss in terms of money, materials or work, but in assessing compensation under this paragraph, the total compensation for disturbance shall not in one case exceed the total of —

(*i*) what would have been the value of the land in its improved condition at the valuation date less its value at such date in an unimproved condition if it had been freehold land;

(*ii*) the damage, if any, sustained by the owner or occupier by reason of severing such land from other land occupied by him; and

(*iii*) the reasonable expenses, if any, incidental to a change of residence or place of business if, in consequence of the matters giving rise to the claim, he is compelled to effect such change.

(2) Where an owner or occupier of land is entitled to compensation with respect to private land which has become public land, the person interested in such land shall, according to his respective interest therein, be entitled to compensation which shall.

subject to subsection (3), be assessed in accordance with section 57.

(3) In the case of land which was a road reserve, no compensation shall be paid with respect to improvements effected since the land became a road reserve.

Matters to be considered when assessing compensation for alienated land

57.—(1) In assessing the amount of compensation payable under this Part, only the following matters shall be taken into consideration—

(*a*) the market value of land or interest therein of the claimant at the valuation date;

(*b*) the damage, if any, sustained by the owner or occupier of the land, at the valuation date, by reason of the severance of such land from owner or occupier's other land or other injuries, affecting the owner or occupier's other property, moveable or immovable, by reason of the exercise of the powers conferred by this Act;

(*c*) where, in consequence of the matters giving rise to the claim, the claimant is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to the change;

(*d*) any increase in the value of the other land or other benefit of the owner or occupier at the valuation date likely to accrue from the construction of the road; and

(*e*) the relief obtained by the claimant as a result of the taking of the land from the necessity of carrying out in whole or in part any order or direction against the land taken made under any written law for the time being in force relating to the use and protection of land when the work required by the order or direction has not been commenced or completed at the valuation date.

(2) For the purpose of subsection (1)(a)—

(*a*) where the market value has been increased by means of any improvement made by the claimant or his predecessor in interest within two years before the valuation date such increase shall be disregarded, unless it is proved that the improvement was made in good faith and not in contemplation of the construction of the road; and

(*b*) the following matters shall be disregarded—

(*i*) any enhancement of the market value due to the proposal to construct or extend the road;

(*ii*) any increased value thereof due to use of the land or any premises thereon which is contrary to law;

(*iii*) any damage sustained by the claimant which, if caused by a private person, would not be a good cause of action;

(*iv*) the special suitability or adaptability of the land for road purposes;

(*v*) the degree of urgency which has led to the taking of the land; and

(*vi*) any unwillingness of the owner or occupier of the land to part with the interest in the land.

(3) For the purpose of subsection (1) (*d*), the increase in value of the other land and the other benefit likely to accrue shall, where the land forms part of an estate—

(*a*) not less than one hundred and sixty hectares and not more than four hundred hectares in extent, be deemed equal in value to two per centum of the total area of the estate; and

(*b*) exceeding four hundred hectares in extent, be deemed equal in value to four per centum of the total area of the estate, however—

(*i*) where the land taken is improved land, this subsection shall not operate to deprive the person interested, of compensation with respect to damage to or destruction of surface rights existing at the valuation date of the land taken; and

(*ii*) where the land taken forms part of an estate less than one hundred and sixty hectares in extent, it shall not, in the absence of evidence, be assumed that there is any increase in the value or other benefit to be taken into consideration.

Compensation for crops, trees and utility service facilities, etc

58. A person shall not be entitled to compensation where the person—

(*a*) cultivates crops or grow trees in a road reserve; or

(*b*) erects or lays utility service facilities or any other structure in a road reserve.

Claims for compensation

59.—(1) Every claim for compensation under this Act shall—

(*a*) be made, in writing, addressed to a road authority liable to pay the compensation;

(*b*) within three months from the date when the damage or destruction was caused; and

(*c*) give particulars of the amount claimed and the basis of the claim.

(2) Where a claim in subsection (1) is in respect of customary land, the claim may be made orally to the chief for the area, who

shall forward the claim to the officer responsible for land matters within the district and such officer shall in turn forward the claim to the relevant road authority.

(3) On receipt of a claim, a road authority responsible shall agree to pay the claim, or forthwith make a written offer to the claimant in settlement thereof.

(4) For purposes of this Part, the "valuation date" for compensation shall be—

(*a*) for purposes of any construction, care and maintenance of a road or road reserve in accordance with section 25, the date when notice of intention to enter was given by the road authority concerned;

(*b*) for purposes of carrying out any survey or investigations in accordance with section 26, the date when notice of intention to enter was given;

(*c*) for purposes of constructing and keeping open and clean ditches, drains, culverts and other works in, through, under or over, land adjoining or near a road or road reserve for the draining, protection, preservation, improvement, repair, construction or diversion of any public road in accordance with section 40, the date of entry on the adjoining land; and

(*d*) for purposes of constructing a temporary diversion under section 42, the date when notice of intention to enter was given.

Compensation board

60.—(1) Where compensation has not been agreed within two months after the date of the claim, the assessment of compensation may be referred, by a road authority or the claimant, as the case may be, to a compensation board constituted in accordance with this section.

(2) A compensation board shall consist of—

(*a*) a resident magistrate nominated by the Judicial Service Commission; and

(*b*) two assessors appointed by the Minister.

(3) A compensation board shall have jurisdiction with respect to all claims for compensation under this Act, irrespective of the amount claimed.

(4) Where compensation is related to disturbance of an occupier of any customary land, a compensation board may consult a relevant chief in the land and any other relevant experts as it may deem necesary.

(5) A compensation board shall, after giving the claimant and a road authority concerned, an opportunity to be heard, proceed to assess the amount of compensation, and the compensation board may award a reasonable amount of compensation and costs as may be necessary in the circumstances of the claim.

(6) A compensation board may, where it deems appropriate and just, extend the time for making a claim prescribed under this Part.

(7) The Minister may, in consultation with the Chief Justice, make rules regulating—

(*a*) how a compensation board will be constituted; and

(*b*) the procedure to be followed by a compensation board.

Appeals to the High Court

61. Any person dissatisfied with a decision of a compensation board may appeal to the High Court, within thirty days of the decision, by way of petition.

PART VII– TRAFFIC SIGNS, ADVERTISEMENTS AND STRUCTURES

Traffic signs

62.—(1) A road authority shall erect necessary traffic signs on public roads under its jurisdiction, as may be prescribed under this Act or any written law.

(2) Subject to, and in conformity with, such general or other traffic signs directions, a road authority may cause or permit traffic signs to be placed on or near any road in its area.

(3) An authority managing a railway line may place traffic signs at a level crossing without obtaining prior permission of a road authority.

(4) A road traffic sign shall be of such specification as the Minister may prescribe.

(5) A road authority may give directions for the placing on any road of a traffic sign of any prescribed type or authorized specification.

(6) A person who removes, mutilates, obscures or in any way damages or interferes with or, attaches any notice or other thing to any traffic sign, without the permission of the road authority concerned, commits an offence and shall, upon conviction, be liable to a fine of K15,000,000 and to imprisonment for three years.

(7) The Minister may, by regulations, create exemptions to the application of this section or any part thereof.

Temporary traffic signs

Cap. 69:01

63.—(1) Where a need arises to erect or place a temporary traffic sign on a road, a person, acting under a general or specific written authorization of a road authority may, subject to the Road Traffic Act, erect or place the temporary traffic signs on the road.

(2) A temporary traffic sign under this section may indicate such prohibitions, restriction or other requirements relating to vehicular traffic, as may be necessary or expedient to prevent traffic in consequence of an accident or other unforeseen or extraordinary circumstances.

(3) A traffic sign placed in accordance with subsection (1) shall be removed as soon as the circumstance or work on account of which it was erected or placed ceases to exist or is completed.

Control of advertisement and structures

64.—(1) A person shall not erect, place or display an advertisement or construct a structure for purposes of displaying advertisements on a public road or a road reserve, without prior written approval of the road authority concerned.

(2) A road authority may grant or refuse an application for erection, placement or display of an advertisement or structure on such terms and conditions as the road authority may determine appropriate.

(3) A road authority may prescribe—

(*a*) specifications for advertisements and structures, to be erected, placed or constructed;

(*b*) the period during which the advertisement or structure, may be displayed, erected, placed or constructed; and

(*c*) the manner, place, conditions or circumstances under which an advertisement or structure can be erected, placed or displayed on a public road.

(4) A road authority may, at any time, alter the terms and conditions attached to an approval granted under subsection (2) or revoke the approval.

(5) A road authority may, by notice in writing, require the owner of any object or device, whether fixed or portable, which obstructs the line of vision of road users or a line of vision to a traffic sign, to modify or remove the object or device.

(6) Where the owner of the object or device fails to comply with a notice under subsection (5), the road authority may remove or modify the object or device and recover, summarily, as a civil debt from the owner, the expenses incurred in removing or modifying the object or device.

Removal or alteration of advertisements and structures

65.—(1) Where an advertisement or structure erected, placed, displayed or constructed on a public road pursuant to this Part—

(*a*) is erected, placed, displayed or constructed without the written approval of a road authority or after the expiration or revocation of the approval;

(*b*) does not comply with any terms and conditions prescribed under section 64 (2); or

(*c*) is displayed in a manner, at a place, in circumstances or under conditions other than those specified in the approval in accordance with section 64 (3), the road authority may, by a written notice, order the person erecting, placing, displaying the advertisement or constructing the structure to remove the advertisement or structure, as the case may be or effect such alteration in the nature of the advertisement or structure or in a manner, place or circumstance, as the case may be, in which it is being displayed or erected as may be specified in the notice.

(2) A person who fails to comply with an order under subsection (1) shall be liable to an administrative penalty of K500,000 and a further penalty of K50,000 for each day of continued default.

(3) Notwithstanding the penalty imposed under subsection (2), the road authority may cause the advertisement or structure to which the order relates to be removed or altered as specified in the order and the road authority may recover the cost of the removal or alteration as a civil debt from the person to whom the order was addressed.

PART VIII – OFFENCES AND PENALTIES

Destroying a road reserve or road furnitures

66.—(1) A person who, without approval of a road authority—

(*a*) destroys, puns up, defaces, breaks or damages any milestone, lamp post, or bridge, arch, wall, dam, drain, sluice, lock or embankment, abutment, mound, lamp post, traffic light, railing, chain or fence, road reserve, edge marker, marker posts or any other road furniture or facility on a public road or erected at or near any pit opened or used for getting road materials;

(*b*) removes any fence, post, stone, log or other thing laid or erected by a road authority, on or in any public road, for the temporary prevention of the use of the road, or for preventing danger or injury to persons passing along the road;

(*c*) gathers, heaps up or takes away any stone, gravel, sand or other material, or any dirt or soil from a public road;

(*d*) cultivates or constructs anything in a road reserve;

(*e*) makes or causes to be made any drain, dam, ditch, drain, watercourse or speed hump upon or across a public road, or otherwise breaks up or damages the surface of any public road; or

(*f*) constructs a structure which projects over or encroaches upon a public road, commits an offence and shall, upon conviction, be liable to a fine of K20,000,000 and imprisonment for five years.

(2) Notwithstanding the penalty imposed under subsection (1), a court may order—

(*a*) where the convict has gained, financially or materially, from the commission of the offence, that the gain be paid or transferred to the relevant road authority;

(*b*) the convict to restore the road, road furniture or road reserve to its original state; or

(*c*) where the road authority has restored the road, road furniture or road reserve, that the cost incurred by the road authority be recovered from the offender.

Causing damage, obstruction, etc to a public road

67.—(1) A person who, in such manner as to cause damage to the public road—

(*a*) drives or permits a motor vehicle, trailer or engineering plant to be driven on a public road;

(*b*) conducts or permits to conduct any business on the road shoulders or pedestrian walkways of a public road; or

(*c*) drives or permits to be driven any animal from, on, off or into any public road, commits an offence and shall, upon conviction, be liable to a fine of K25,000,000 and imprisonment for five years.

(2) A person who—

(*a*) obstructs or causes to be obstructed the passage of water from a public road or from any ditch or drain leading from the road;

(*b*) being the owner or occupier of any land adjacent or contiguous to a public road, permits any water, filth or other matter or thing to flow from such land into or upon the public road;

(*c*) causes accumulation of objects, dirt or rubbish from his land which is likely to impede the flow of the water in any ditch or drain on a public road;

(*d*) hauls or draws upon any public road any object or other thing, other than a wheeled vehicle, or causes any object or other

thing which shall be carried wholly or in part upon a wheeled vehicle to drag or trail upon such public road to damage the road;

(*e*) digs up, adds, removes or alters in any way or permits such acts to be done on the soil or surface of a public road or a road reserve or, if the digging, alteration, addition is done for the purpose of moving a vehicle, the road condition is not restored thereafter to its previous state; or

(*f*) spills any product or substance on a public road which damages or is likely to damage the road, commits an offence and shall, upon conviction, be liable to a fine of K25,000,000 and imprisonment for five years.

(3) Notwithstanding the penalty prescribed under this section, a court may order the convict to pay the cost of repairing the damaged road.

Restriction on rails, pipes etc over public roads

68.—(1) A person who fixes or places an overhead rail, beam, restriction on pipe, cable, wire or other similar apparatus over, along or across a public road, without the written consent of the relevant road authority, commits an offence and shall, upon conviction, be liable to a fine of K15,000,000 and imprisonment for three years.

(2) The court may, in addition to the penalty under subsection (1), order the convict to—

(*a*) remove the overhead rail, beam, restriction on pipe, cable, wire or apparatus; and

(*b*) repair any damage occasioned by the fixing or placing of the overhead rail, beam, restriction on pipe, cable, wire or apparatus that was fixed or placed over, along or across the public road.

Obstruction of authorized officers

69.—(1) A person who resists, obstructs, hinders, molests another person acting in the discharge of any duty or the performance of any act which the other person is authorized or required to perform under this Act commits an offence.

(2) A person who incites, assists or procures another person to commit an offence under subsection (1), commits an offence.

(3) A person convicted of an offence under subsection (1) or (2) shall be liable to a fine of K15,000,000 and imprisonment for three years.

General penalty

70.—(1) A person who commits an offence under this Act, for which no penalty has been specifically prescribed, shall be liable to a fine of K25,000,000 and imprisonment for five years.

(2) A court may, in addition to the penalty under subsection (1), order—

(*a*) order the offender referred to in subsection (1) to pay the relevant road authority expenses incurred or to be incurred in the process of making good such damage or act; or

(*b*) if the damage is attributable to a vehicle, order the owner of the vehicle to pay the relevant road authority the expenses referred to in paragraph (a).

(3) A certificate of a relevant road authority, as to the cost of making good any damage caused by an offence under this Act, shall be *prima facie* evidence of the cost of the required works to make good the damage caused by the offence.

PART IX — MISCELLANEOUS

Service of notices

71.—(1) A notice under this Act shall be served on an owner or occupier of customary land by delivering the notice to the traditional authority of the area in which the land is situated.

(2) Where a notice is served on a traditional authority under subsection (1), the traditional authority shall, immediately, deliver the notice to, and inform the owner or occupier of the land of the purport and effect of the notice.

(3) A notice under this Act shall, where practicable, be served on an owner or occupier of private land by delivering the notice to the person named therein.

(4) Where the person named in a notice to be served under subsection (3) cannot be traced after reasonable inquiry, the notice may be served by —

(*a*) deliverying the notice to an adult member of the family of the owner or occupier of the private land or where no adult member of the family is available by deliverying the notice to any adult person at the last known residential address of the owner or occupier of the private land;

(*b*) fixing the notice on the outer door of the house in which the person therein named ordinarily dwells or carries on business; or

(*c*) fixing the notice on a conspicuous place on the land.

(5) A copy of a notice served under this section shall be fixed on a notice board of the local council under whose jurisdiction the land in question is situated.

(6) Where it is uncertain as to who owns the land in question,

notice shall be served by deliverying a copy of the notice to every person who claims to be interested in the land.

(7) An occupier of land who is served with a notice under this Act, relating to land of which he is not the owner, shall, forthwith deliver the notice to the owner of the land and inform that owner of the land of the purport and effect of the notice.

(8) Where the name of an owner or occupier of land is not known and has not been ascertained after reasonable inquiry, it shall be sufficient to address a notice under this Act to the owner or occupier by that description and give an adequate description of the land in question.

(9) Where an owner of land is not in Malawi, a notice under this Act shall be served by post to the last known address of the owner of the land and the notice shall be deemed to have been duly served on such person on the date when it would ordinarily be delivered in due course of post.

(10) Where prior notice to the owner of land is required to be given before a power of entry under this Act is exercised and the owner of the land is not in Malawi, the requirement shall be deemed to be satisfied by deliverying the notice to the occupier of the land.

(11) Where this Act requires that the owner or occupier of land should be consulted and the owner or occupier of the land cannot be found after reasonable inquiry, it shall be sufficient to serve a notice of the intended consultation on the the owner or occupier of land as prescribed under this section, informing him of the matter with respect to which consultation is required.

Indemnity of a road authority

72. A road authority shall not be liable for any loss or damage caused to any person or property—

(*a*) as a result of—

(*i*) the condition of a public road; or

(*ii*) the failure of the public road to sustain the weight of a vehicle; or

(*b*) by reason of—

(*i*) use of a public road; or

(*ii*) the placing of anything on, under or over, or maintenance of the public road.

Liability of road authorities and authorized officers

73.—(1) An authorized officer shall not be personally liable for any action, claim or demand whatsoever for—

(*a*) anything done or omitted to be done by a road authority;

(*b*) a contract entered into by a road authority; or

(*c*) any matter or thing done or omitted to be done by the authorized officer, if the matter or thing was done or omitted to be done, or the contract was entered into *bonafide* in pursuance of the duties of the road authority or authorized officer with respect to any public road, and any expense incurred by the authorized officer in connexion with any such action, claim or demand, shall be paid by the road authority.

(2) Nothing in subsection (1) shall debar a suit where an act or omission has been occasioned by negligence on the part of the road authority, or an authorized officer as would create liability under any other written law.

(3) The liability of a road authority under any other written law with respect to any injury, damage or loss which may accrue to any person or property through the failure of any public road to sustain any vehicle shall be limited to liability for physical damage to such person or property caused by such failure within the prescribed road reserve width.

Plans of public roads

74.—(1) The Minister shall cause a survey of each public road to be conducted and a plan thereof to be prepared and shall, from time to time, cause follow-up surveys to be conducted updated plans to incorporate any change or alteration to the plan to be prepared.

(2) The plans or survey shall be authenticated by a licensed surveyor or other public officer authorized by the Minister.

(3) The Minister shall lodge copies of the survey and plan under subsection (1) with the Surveyor General and Lands Registrar.

Regulations

75.—(1) The Minister may make regulations for the carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may—

(*a*) authorize any road authority to demand and receive a toll from a person using a bridge, ferry or pontoon maintained by the road authority and the regulations may provide exemptions from payment of the toll;

(*b*) restrict the use of public roads or a class of public roads;

(*c*) regulate, subject to any other written law, the construction of public roads crossing over tramways or railways;

(*d*) provide for the safety of the public in the use of public roads;

(*e*) prescribe and regulate the fixing of mileposts or stones, road furniture, advertisements and billboards on public roads;

(*f*) prescribe the width of roads and bridges;

(*g*) regulate the management of road reserves;

(*h*) prescribe criteria and procedure for classification of roads;

(*i*) governing the execution of works, including emergency works, by undertakers;

(*j*) prescribe a scheme to protect the environment and promote sustainable development in the road sector; and

(*k*) prescribe anything that needs to be prescribed under this Act or in furtherance of the objectives of the Act.

(3) Notwithstanding section 21(e) of the General Interpretation Act, the regulations made under this section may create offences the contravention of which may attract a fine not exceeding K5,000,000 and imprisonment for term not exceeding twelve months.

76.—(1) The Public Roads Act is hereby repealed.

Repeal and savings
Cap. 69:02

(2) Any subsidiary legislation made under the Act repealed by subsection (1), in force immediately before the commencement of this Act—

(*a*) shall remain in force, unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act; and

(*b*) may be replaced, amended or repealed by subsidiary legislation made under this Act.

77. Any—

Transitional

(*a*) act done;

(*b*) notice issued;

(*c*) consent granted;

(*d*) authorization granted;

(*e*) direction given;

(*f*) restriction imposed;

(*g*) claim made;

(*h*) action commenced; and

(*i*) any other power or authority exercised,

under the Act repealed under section 76 immediately prior to the commencement of this Act, shall be deemed to have been done, under this Act.

Passed in Parliament this fifteenth day of December, two thousand and twenty-two.

FIONA KALEMBA
Clerk of Parliament