



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 42

1993

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 3 of 1993: Roads Amendment Act, 1993.

EXPLANATORY NOTE:

- _____ Words underlined with solid line indicate insertions in existing enactments.
- [] Words in bold type in square brackets indicate omissions from existing enactments.

ACT

To amend the Roads Ordinance, 1972, so as to provide for the contribution of labour and transport costs to owners, lessees or occupiers of farms for the fencing off of trunk, main and district roads crossing such farms in certain cases, and the determination of the tariff of such contributions; and to provide for incidental matters.

(Signed by the President on 29 March 1993)

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

Amendment of section 40 of Ordinance 17 of 1972, as amended by section 16 of Ordinance 10 of 1974 and section 14 of Ordinance 18 of 1975.

1. Section 40 of the Roads Ordinance, 1972 (Ordinance 17 of 1972), is hereby amended -

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

“(1) The owner, lessee or occupier of a farm who wishes to fence off on both sides a trunk, main or district road that crosses such farm and that has not been fenced off in accordance with the standards prescribed by regulation, whether such road has already been built or not, shall apply in writing, [**through the Director of Roads,**] to the [**Executive Committee**] Minister of Works, Transport and Communication for approval to do so.”;

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

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“(3) The [**Executive Committee**] Minister of Works, Transport and Communication may grant or refuse the approval referred to in subsection (1) and may when granting it -

- (a) determine that the fence or fences concerned shall comply with a standard prescribed by regulation;
 - (b) impose such conditions as [it] he or she may in [its] his or her discretion determine.”;
- (c) by the substitution for subsection (4) of the following subsection:

“(4) Whenever the [**Executive Committee**] Minister of Works, Transport and Communication has approved such application [it] he or she may make a contribution to the applicant consisting of -

- (a) the material that is needed to fence off the road concerned on both sides in accordance with the standards prescribed by regulation; or
- (b) where the applicant has fenced off the road concerned or caused it to be fenced off, on both sides in accordance with the standards prescribed by regulation, the cost, calculated at a tariff determined by the [**Executive Committee**] Minister of Works, Transport and Communication from time to time, of the material that is needed to fence it off in that way:

Provided that -

- (i) if the [**Executive Committee**] Minister of Works, Transport and Communication when granting such approval imposes a condition that until such time as the building of the road concerned has been completed across the farm concerned, the road concerned need be fenced off on one side only, a *pro rata* portion of the contribution in terms of this subsection

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may be made at the erection of the fence with which the road is so fenced off on one side; and

- (ii) any contribution in terms of this subsection shall be reduced by the value of any grant for which the fence or fences concerned qualify or did qualify; and
 - (iii) no compensation shall be paid to the owner, lessee or occupier concerned in respect of loss of grazing or any cost of providing water as a result of the erection of such fence or fences.”;
- (d) by the substitution for subsection (5) of the following subsection:

“(5) The [Executive Committee] Minister of Works, Transport and Communication may, for any reason which [it] he or she deems fit, decide that a trunk, main or district road, or any portion thereof, shall be fenced off on both sides in accordance with the standards prescribed by regulation, and, when [it] he or she so decides [it] he or she may make a contribution to the owner, lessee or occupier of the farm crossed by the road concerned, consisting of -

- (a) the material that is needed to fence off the road concerned on both sides in accordance with the standards prescribed by regulation; or
- (b) where the owner, lessee or occupier of any farm crossed by the road concerned has fenced off such road or caused it to be fenced off, on both sides in accordance with the standards prescribed by regulation, the cost, calculated at a tariff determined by the [Executive Committee] Minister of Works, Transport and Communication from time to time of the material that is needed to fence it off in that way; and
- (c) where the owner, lessee or occupier of a farm has so fenced off or caused it to be so fenced off, on both sides, the cost,

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calculated at a tariff determined by the Minister of Works, Transport and Communication of the transport and labour incurred in connection with such fencing off:

Provided that any contribution in terms of this subsection shall be reduced by the value of any grant for which the fence or fences concerned qualify or did qualify.”;

- (e) by the substitution for subsection (5A) of the following subsection:

“(5A) Whenever the [Executive Committee] Minister of Works, Transport and Communication has decided in terms of subsection (5) that a trunk, main or district road, or any portion thereof, shall be fenced off in accordance with the standards prescribed by regulation, the owner, lessee or occupier of the farm crossed by the road concerned shall complete the erection of such fence or fences within six months from the date determined by the [Executive Committee] said Minister or within such other period as the [Executive Committee] said Minister may determine: Provided that the [Executive Committee] said Minister may at any time extend such period on such conditions as [it] he or she may determine.”;

- (f) by the substitution for subsection (6) of the following subsection:

“(6) Whenever the [Executive Committee] Minister of Works, Transport and Communication has supplied any fencing material to the owner, lessee or occupier of a farm in terms of subsection (4) or (5) for the fencing off of a trunk, main or district road crossing such farm in accordance with the standards prescribed by regulation, such owner, lessee or occupier shall -

- (a) use the material thus supplied to him or her solely for the erection of the fence or fences for which it had been supplied; and

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- (b) except as provided in subsection (5)(c), at his or her own expense erect the said fence or fences or cause it to be erected in accordance with the standards prescribed by regulation; and
- (c) complete the erection of such fence or fences within six months from the date on which the material has been supplied to him or her or within such other period as the [Executive Committee] said Minister may determine: Provided that the [Executive Committee] said Minister may at any time extend such period on such conditions as [it] he or she may determine.”; and
- (g) by the substitution for subsection (7) of the following subsection:

“(7) Should the erection of such fences not be completed within the period referred to in subsection (5A) or (6)(c) or, if the period has been extended, within such extended period, the [Executive Committee] Minister of Works, Transport and Communication may complete the erection thereof or cause it to be completed and, where the erection of such fences has been approved in terms of subsection (1), recover the cost incurred in such completion from the person who had to erect the fence or cause it to be erected.”.

Short title.

2. This Act shall be called the Roads Amendment Act, 1993, and shall be deemed to have come into operation on 1 July 1992.
