

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain uneven numbered pages as the other language is printed on even numbered pages.



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1324.

6 Julie 1988

No. 1324.

6 July 1988

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Wet 74 van 1988: Wet op die Suid-Afrikaanse Padraad, 1988.

No.74 of 1988: South African Roads Board Act, 1988.

SOUTH AFRICAN ROADS BOARD ACT, 1988

Act No. 74, 1988

ACT

To establish a South African Roads Board and a Toll Roads Committee; to determine the functions of that board and of that committee; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 23 June 1988.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—
- 5 (i) "Board" means the South African Roads Board established by section 2; (viii)
- (ii) "committee" means a committee established under section 9, and includes the Toll Roads Committee; (iv)
- 10 (iii) "Department" means the Department of Transport; (ii)
- (iv) "Director-General" means the Director-General: Transport; (iii)
- (v) "employee" means an employee as defined in section 1 (1) of the Public Service Act, 1984 (Act No. 111 of 1984); (x)
- (vi) "local authority" means a local authority as defined in section 1 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983);
- 15 (vii) "Minister" means the Minister of Transport Affairs; (v)
- (viii) "National Road Fund" means the National Road Fund referred to in section 2 of the National Roads Act, 1971 (Act No. 54 of 1971); (vi)
- (ix) "officer" means an officer as defined in section 1 (1) of the Public Service Act, 1984; (i)
- 20 (x) "Toll Roads Committee" means the Toll Roads Committee established by section 6. (ix)

Establishment of South African Roads Board

2. (1) There is hereby established a board to be known as the South African Roads Board.
- 25 (2) The Board shall be a juristic person.

Constitution of Board

3. (1) The Board shall consist of eight members, appointed by the Minister, of whom—
- 30 (a) one shall be the Director-General, who shall also be the chairman of the Board;
- (b) two shall be officers in the Department, nominated by the Director-General, and who in his opinion have adequate knowledge of the planning, construction and maintenance of roads;
- 35 (c) one shall be a person nominated by the Administrators of the four provinces and who, in the opinion of the said Administrators, has adequate knowledge of the planning, construction and maintenance of roads;

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- (d) one shall be a person who is in the service of a local authority and who has wide experience of, and has shown ability in relation to, matters connected with the planning, construction and maintenance of roads; and
- 5 (e) three shall be persons, one from each of the categories of persons nominated in terms of subparagraphs (i), (ii) and (iii), respectively, of subsection (2) (b), who are not in the service of the State and who shall be persons who have wide experience of, and have shown ability in relation to, matters connected with the planning, construction and maintenance of roads or with transport, commerce, finance, mining or agriculture.
- 10 (2) To enable him to—
- (a) make the appointment contemplated in subsection (1) (d), the Minister shall by notice in writing invite as many nominations as he may deem necessary from bodies which the Minister, after consultation with the Minister of Constitutional Development and Planning, deems to be representative of local authorities;
- 15 (b) make the appointments contemplated in subsection (1) (e), the Minister shall by notice in writing invite as many nominations as he may deem necessary from bodies which, in the opinion of the Minister, represent the interests of—
- 20 (i) organized commerce, industry, mining and agriculture;
- (ii) road users;
- (iii) persons concerned in the planning, design, construction and maintenance of roads.
- (3) When nominations have been invited in terms of the provisions of subsection 25 (2) and no or insufficient nominations are lodged with the Minister within a period determined for the lodging of such nominations in the notice inviting such nominations, the Minister may, subject to the provisions of subsection (1) (d) or (1) (e), as the case may be, instead of a person nominated by virtue of the provisions of subsection (2), appoint as a member of the Board any other person whom he thinks 30 fit.

Term of office of members of Board

4. (1) Subject to the provisions of subsection (2), a member of the Board shall hold office upon such conditions and for such period as the Minister may determine when making the appointment: Provided that—
- 35 (a) individual members of the Board may be so appointed by the Minister for different periods and upon different conditions;
- (b) the Minister may at any time amend the conditions subject to which a member of the Board has been appointed.
- (2) Notwithstanding the provisions of subsection (1), a person appointed in terms 40 of the provisions of section 3 (1) (e) as a member of the Board shall be so appointed for a period not exceeding four years.
- (3) Subject to the provisions of section 3 a member of the Board shall upon the expiration of his term of office be eligible for reappointment by the Minister.

Powers, functions and duties of Board

- 45 5. (1) The Board shall with effect from the date contemplated in section 3 (1) of the Transport Deregulation Act, 1988, exercise the powers and perform the functions and duties transferred to it by that section.
- (2) The Board shall in the exercise of its powers and the performance of its functions and duties take into consideration—
- 50 (a) existing and contemplated road facilities; and
- (b) existing and contemplated transport facilities.

Establishment of Toll Roads Committee

6. There is hereby established a committee to be known as the Toll Roads Committee.

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Constitution of Toll Roads Committee

7. (1) The Toll Roads Committee shall consist of—
- (a) a chairman appointed by the Minister out of the members of the Board referred to in section 3 (1) (b);
 - 5 (b) a member of the Board, other than a member referred to in section 3 (1) (a) or (b), designated by the Board; and
 - (c) not more than three other persons co-opted under the provisions of section 10 as members of the Toll Roads Committee and who shall be persons who, in the opinion of the Board, possess wide experience of, and have shown ability in relation to, the adaptation of roads as toll roads and the operation of such toll roads, or transport, commerce or finance: Provided that at least two of the persons so co-opted shall be persons who are not in the service of the State.
- 10 (2) Persons co-opted under section 10, as contemplated in subsection (1) (c), as 15 members of the Toll Roads Committee shall, notwithstanding the provisions of section 10 (1), be so co-opted for a period not exceeding four years.

Functions of Toll Roads Committee

8. The Toll Roads Committee shall—
- (a) exercise the powers and perform the functions and duties delegated or assigned to it by the Board in terms of section 9 (3);
 - 20 (b) monitor the execution of concession agreements concluded in terms of section 9A of the National Roads Act, 1971 (Act No. 54 of 1971); and
 - (c) in exercising its powers and performing its functions and duties also take into consideration the effect which the erection of any toll gate as contemplated in section 9 of the National Roads Act, 1971, will have on the transport of persons residing within a radius of 20 kilometres from such toll gate.
- 25

Committees of Board

9. (1) The Board may establish committees to assist it in the performance of its 30 functions and duties and may from among its members appoint such persons as members of any such committee as it may deem fit.
- (2) The Board shall designate one of the members of a committee established under subsection (1) as the chairman thereof.
- (3) The Board may delegate or assign, subject to such conditions as it may deem 35 fit, to any committee established under subsection (1) or to the Toll Roads Committee, any of its powers, functions or duties, but shall not be divested of any power, function or duty so delegated or assigned and may amend or withdraw any decision made by such committee in the exercise of a power or the performance of a function or duty so delegated or assigned.

40 Co-option of persons as members of committees

10. (1) A committee may, after having obtained the consent of the Board, co-opt any person—
- (a) to serve on that committee for such period as the committee may determine; or
 - 45 (b) to attend a particular meeting of the committee; or
 - (c) to take part in the consideration by the committee of a particular matter at a particular meeting of the committee.
- (2) A person co-opted in terms of the provisions of subsection (1), shall serve on the committee in question or attend the relevant meeting of the committee, as the 50 case may be, in an advisory capacity and shall, subject to the provisions of subsection (3), not be entitled to vote at any meeting of that committee.
- (3) The Minister may, on the recommendation of the chairman of the Board, direct, in respect of a particular person co-opted in terms of the provisions of subsection (1), that that person be allowed to vote—

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- (a) at all meetings of the committee in question during such period as the Minister may determine in the direction; or
- (b) at a particular meeting, so determined by the Minister, of the committee in question,
- 5 and may at any time amend or withdraw such direction.

Persons disqualified from membership of Board or committee, vacation of office and filling of vacancies

11. (1) No person shall be appointed as a member of the Board or of a committee or be co-opted as a member of a committee if he—
- 10 (a) is an unrehabilitated insolvent;
- (b) has at any time been convicted of any offence for which he has been sentenced to imprisonment without the option of a fine for a period of not less than twelve months, unless he has received a grant of amnesty or a free pardon, or unless the period of such imprisonment expired at least five
- 15 years before the date of his appointment or co-option; or
- (c) is of unsound mind, and has been so declared by a competent court.
- (2) A member of the Board or of a committee shall vacate his office if he—
- (a) becomes subject to any disqualification mentioned in subsection (1);
- (b) in writing tenders his resignation as a member, in the case of the Board, to
- 20 the Minister, or, in the case of a committee, to the chairman of such committee;
- (c) has been absent without the leave of the Board, in the case of a member of the Board, or without the leave of the committee in question, in the case of a member of a committee, from three consecutive meetings of the Board or
- 25 such committee, as the case may be; or
- (d) is relieved of his office under subsection (3).
- (3) A member of the Board or of a committee may at any time be relieved of his office by the Minister if such a member—
- (a) has failed to comply with a condition of his appointment;
- 30 (b) has, in the opinion of the Minister, been guilty of improper conduct;
- (c) is, in the opinion of the Minister, unable to perform efficiently his duties as such a member; or
- (d) is found by the Minister to have contravened a provision of section 14.
- (4) Any vacancy on the Board or on a committee arising from a circumstance
- 35 referred to in subsection (2) of this section and any such vacancy caused by the death of a member, shall be filled by the appointment, in the case of such a vacancy on the Board, by the Minister, or, in the case of such a vacancy on a committee, by the Board, subject to the provisions of sections 3 and 9 and of subsection (1) of this section, of another person as a member of the Board or of the committee in question,
- 40 as the case may be, and every member so appointed shall hold office for the unexpired portion of the period for which the vacating member was appointed.

Acting chairman

12. If the chairman of the Board or of a committee cannot attend any meeting of the Board or of the committee in question, as the case may be, he may designate any
- 45 other member of the Board or of the committee, as the case may be, as acting chairman for the purposes of such meeting.

Meetings of Board and of committees

13. (1) The Board or a committee shall hold meetings at such times and places as may from time to time be determined by the chairman of the Board or of the
- 50 committee in question, as the case may be, or, in his absence, by the acting chairman concerned who has been designated in terms of section 12.
- (2) The chairman or any acting chairman designated in terms of section 12 shall preside at every meeting of the Board or of the committee in question, as the case may be, which he is required to attend, and if neither the chairman nor the acting

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chairman concerned is able to attend a meeting, the acting chairman concerned shall designate one of the other members of the Board or of the committee in question, as the case may be, to preside at that meeting.

- (3) The quorum for a meeting of the Board shall be five of the members thereof:
 5 Provided that at least—
 (a) two of the members appointed in terms of the provisions of section 3 (1) (a) and (b); and
 (b) two of the members appointed in terms of the provisions of section 3 (1) (e), shall be present at the meeting.
- 10 (4) The quorum for a meeting of the Toll Roads Committee shall be three of the members thereof: Provided that two members of the Toll Roads Committee who are also members of the Board shall be present at the meeting.
- (5) The quorum for a meeting of a committee, other than the Toll Roads Committee, shall be the majority of its members.
- 15 (6) A decision of the majority of the members present at any meeting of the Board and a decision of the majority of the members entitled to vote who are present at any meeting of a committee, shall be the decision of the Board or the committee in question, as the case may be, and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.
- 20 (7) A decision of a committee shall be deemed to be a decision of the Board, save in so far as the Board may otherwise direct.
- (8) A committee shall not have the power to amend or set aside any decision of the Board.
- (9) The Board as well as any committee shall cause minutes to be kept of every
 25 meeting thereof.

Impartiality and validity of decisions

14. (1) If—
 (a) a member of the Board or of a committee (including, in the case of a committee, a co-opted member), in his personal capacity;
 30 (b) any near relation of such a member; or
 (c) any person who or body which is represented by such a member, has any direct or indirect financial interest in any matter to be dealt with at any meeting of the Board or the committee in question, such member shall not—
 (i) attend that meeting;
 35 (ii) in any other manner take part in the consideration of such matter by the Board or the committee in question, as the case may be; or
 (iii) in any manner endeavour to influence the opinion or vote of any other member of the Board or the committee in question, as the case may be, in connection with the said matter:
- 40 Provided that the provisions of paragraph (c) shall not be construed as also relating to the representative capacity of any member in relation to any institution, authority, sector or department of State envisaged in section 3 (1).
- (2) No decision taken by the Board or a committee or act performed under authority of the Board or a committee shall be invalid by reason only of an interim
 45 vacancy on the Board or such a committee, or of the fact that a person who was not entitled to sit as a member of the Board or such a committee or to attend any meeting of the Board or such a committee, sat as a member or attended such meeting at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the Board or
 50 the committee in question, as the case may be, who were present at the time and entitled to sit as members or to attend the meeting.

Remuneration and allowances of members of Board and of committees

15. (1) Subject to the provisions of subsection (2), a member of the Board or of a committee shall be paid such remuneration and allowances from the National Road
 55 Fund as may in each case be determined by the Minister with the concurrence of the Minister of Finance.
- (2) A member of the Board or of a committee who is a person in the service of the State shall not, in respect of the services rendered by him as chairman, acting

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chairman or a member of the Board or of a committee, be paid any remuneration in addition to his salary as a person in the service of the State, nor shall such member be paid any allowance in respect of subsistence or transport costs at a rate higher than that applicable to him as a person in the service of the State.

- 5 (3) A person who is co-opted in terms of the provisions of section 10 as a member of a committee and who is not in the full-time service of the State may, in respect of his services as such a co-opted member and expenditure incurred by him in connection with the rendering of such services, be paid such remuneration (if any) and allowances from the National Road Fund as the Minister may, with the
10 concurrence of the Minister of Finance, from time to time determine generally in respect of such co-opted persons or in respect of a particular person so co-opted.

Secretarial work of Board and committees

16. (1) The secretarial work incidental to the performance by the Board or a committee of its functions and duties shall be performed, subject to the control and
15 directions of the Director-General, by such officers or employees in the Department as may be designated for that purpose by the Director-General.

(2) All executive and administrative work arising out of the performance by the Board or a committee of its functions and duties, shall be undertaken by the Department.

20 Financing and adjustment

17. (1) Expenditure incurred by the Board or a committee in the exercise of its powers and the performance of its functions and duties, shall be defrayed from moneys made available from the National Road Fund by the Minister.

(2) There shall be paid from the National Road Fund into the State Revenue
25 Fund, at such times as may be determined by the Minister with the concurrence of the Minister of Finance, such amounts as may be so determined as recoverable amounts in respect of—

- (a) remuneration paid by the State to a member of the public service in that
30 capacity, who is a member of the Board or of a committee or who is co-opted as a member of a committee and who, in the opinion of the Minister, devotes the whole or a substantial portion of his time to his functions in the latter capacity;
- (b) contributions paid by the State to a pension or provident fund in respect of
35 a member of the public service in that capacity, who is a member of the Board or of a committee and who, in the opinion of the Minister, devotes the whole or a substantial portion of his time to his functions in the latter capacity;
- (c) expenditure of State money occasioned by the application of the provisions of section 16.

40 Annual report

18. (1) The Board shall as soon as practicable after 31 March of each year but not later than 31 December of that year submit to the Minister a report (hereinafter referred to as the annual report) giving particulars regarding the activities of the Board and of each committee during the year which has ended on the first-
45 mentioned date.

(2) The Board shall in the annual report make specific mention of any matter in connection with which any recommendation made by the Board or a committee to the Minister during the relevant year was not acted upon.

(3) The Minister shall lay a copy of the annual report upon the Table in Parliament
50 within thirty days after it has been received by him if Parliament is then in session, or, if Parliament is not then in session, within thirty days after the commencement of its next ensuing session.

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Short title and commencement

19. (1) This Act shall be called the South African Roads Board Act, 1988, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

5 (2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.