

Mr Esterhuizen

# OFFICIAL GAZETTE

EXTRAORDINARY  
OF SOUTH WEST AFRICA.



# BUITENGEWONE OFFISIËLE KOERANT

UITGAWE OF GESAG.

VAN SUIDWES-AFRIKA.

PUBLISHED BY AUTHORITY.

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The following Draft Ordinance, which will be introduced during the next Session of the Legislative Assembly, is published for general information.

J. NESER,  
*Secretary for South West Africa.*  
Administrator's Office,  
Windhoek.

Die volgende Ontwerpordnansie, wat gedurende die volgende Sessie van die Wetgewende Vergadering voorgelê sal word, word vir algemene inligting gepubliseer.

J. NESER,  
 *Sekretaris van Suidwes-Afrika.*  
Kantoor van die Administrateur,  
Windhoek.

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## DRAFT ORDINANCE

To amend and consolidate the laws of the Territory relating to roads and outspans, and to make provision for matters incidental thereto.

BE IT ORDAINED by the Legislative Assembly of the Territory of South West Africa as follows:—

1. The laws mentioned in the Schedule of this Ordinance are hereby repealed, together with the provisions of any other law inconsistent with this Ordinance.

2. In this Ordinance, unless the context clearly indicates some other meaning—

“board” shall mean the Roads Board constituted under section nine;

“bridge” shall include a culvert and/or causeway; “construct/construction” shall include the surveying or beaconing-off of land, the clearing of tree-stumps, and all other construction work in connection with a road or with bridges, piers, ferries, drifts or causeways in the course of such road or proposed road, and all approaches, cuttings, embankments, subways, culverts, sumps, drains, dams, kerbs, fences, parapets and any alteration, diversion or improvement of such road, as well as any work or thing forming part of, or connected with, road construction;

“maintain/maintenance” shall include the repair and care of a road and of any construction in the course thereof, or forming part thereof, as well as any work or thing in connection with such repair or care thereof;

“district” shall mean the district or part thereof under the jurisdiction of the board;

“local authority” shall mean a town council constituted under the provisions of the Municipal Ordinance, 1949 (Ordinance 3 of 1949), as amended, or a village management board constituted under the provisions of the Village Management Boards Ordinance, 1937 (Ordinance 16 of 1937), as amended;

## ONTWERPORDONNANSIE

Ter wysiging en konsolidering van die Gebiedswette op paatse en uitspanplekke, en ter reëling van verbandhoudende sake.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN as volg:—

1. Die wette genoem in die bylaag van hierdie Ordonnansie word hierby herroep, tesame met elke ander wetsbepaling wat strydig is met hierdie Ordonnansie.

2. Tensy die sinsverband klaarblyklik 'n ander bedoeling aandui, beteken in hierdie Ordonnansie —

„raad” die Padraad ingestel ingevolge artikel nege;

„brug” ook 'n deurlaat en/of 'n sementdrif;

„aanlê” en „aanleg” ook die opmeting of afbakening van grond, die uitgraving van boomstompe, en alle ander bouwerk in verband met 'n pad of in verband met brúe, pons, vere driewe, sementdriewe in die loop van so 'n pad of voorgestelde pad, en alle opritte, deurgrawings, walle, duikweë, deurlate, slote, riole, damme, kunstene, omheininge, weringsmuure en afskuttinge, sowel as enige verandering, verlegging of verbetering van so 'n pad, en enige werksaamheid of saak wat deel is van die padbouwerk of wat daarmee in verband staan;

„instandhouding” en „instandhou” ook die herstel en versorging van so 'n pad en van elke aanleg in die loop daarvan, of wat deel is daarvan, as ook enige werksaamheid of saak wat in verband met sodanige herstelwerk of versorging staan;

„distrik” die distrik of landsreek wat die raad se regsgebied uitmaak;

„plaaalike bestuur” 'n stadsraad ingestel ingevolge die bepalinge van die Munisipale Ordonnansie 1949 (Ordonnansie 3 van 1949) soos gewysig, of 'n dorpsbestuur ingestel ingevolge die bepalinge van die Ordonnansie op Dorpsbesture 1937 (Ordonnansie 16 van 1937) soos gewysig.

"*magistrate*" shall mean the magistrate of a magisterial district, and shall include any other officer lawfully acting as such;

"*owner*" shall mean—

- (a) in respect of land of which the title deeds have been registered in the Deeds Office of the Territory, the registered owner;
- (b) any lessee of Crown land, whether the contract of lease in terms of which he is in possession of the land has been registered in the Deeds Office of the Territory or not;

"*public road*" shall mean any road proclaimed or assigned or being proclaimed or assigned as a public road under the provisions of this Ordinance or of any other Ordinance;

Provided that, saving paragraphs (d), (e) and (f) of section five and Chapter IV hereof, the provisions of this Ordinance shall not apply within the area of any local authority;

"*trunk road*" shall mean a public road forming part of the road system connecting the Territory as a whole with surrounding territories, which has been proclaimed a "trunk road" under this Ordinance;

"*main road*" shall mean a public road connecting important centres within the Territory, which has been proclaimed a "main road" under this Ordinance;

"*district road*" shall mean a public road carrying a reasonable amount of traffic which has been proclaimed a "district road" under this Ordinance;

"*road*" shall include any road, bridge, pont or ferry, excluding private bridges or pons or ferries, and any drift or causeway in the course of such road, and all approaches, cuttings, embankments, subways, culverts, sloods, drains, dams, kerbs, fences, parapets, guards and any other work or thing forming part of, or connected with, such road;

"*roadway*" shall mean that part of a public road designed, constructed or intended for use by vehicles;

"*road reserve*" shall mean that part of a public road adjoining the roadway on either side;

"*grazing area*" shall mean an area of land set aside as public grazing ground for travelling stock in terms of section forty-two of this Ordinance;

"*farm*" shall include pieces of land registered as a farm or portion of a farm in the Deeds Office of the Territory, and, for the purposes of Chapter VI hereof, also a native reserve constituted in terms of section sixteen of the Native Administration Proclamation, 1922 (Proclamation 11 of 1922); as amended;

"*Chief Roads Engineer*" shall mean the officer appointed as such by the Administrator.

"*magistraat*" die magistraat van 'n magistratsdistrik, as ook enige ander amptenaar wat volgens wet as magistraat optree;

"*eienaar*"—

- (a) met betrekking tot grond waarvan die titelbewys in die Gebied se Akteskantoor geregistreer staan, die geregistreerde eienaar;

- (b) enige huurder van kroongrond onverskillig of die huurkontrak waarkragtig is die grond besit in die Gebied se Akteskantoor geregistreer staan of nie.

"*publieke pad*" enige pad wat ingevolge hierdie Ordonnansie of enige ander Ordonnansie tot publieke pad geproklameer of aangewys word of is.

Met dien verstande dat, uitgesonderd paragraaf (d), (e) en (f) van artikel vyf en hoofstuk IV hiervan, die bepaling van hierdie Ordonnansie nie binne die gebied van 'n plaaslike bestuur geld nie;

"*hoofpad*" 'n publieke pad wat deel is van die padstelsel wat die Gebied as geheel met omliggende gebiede verbind, en wat ingevolge hierdie Ordonnansie tot "hoofpad" geproklameer word;

"*grootpad*" 'n publieke pad wat belangrike sentra binne die Gebied met mekaar verbind, en wat ingevolge hierdie Ordonnansie tot "grootpad" geproklameer word;

"*distrikspad*" 'n publieke pad waarop daar redelik veel verkeer plaasvind, en wat ingevolge hierdie Ordonnansie tot "distrikspad" geproklameer word;

"*pad*" enige pad, brug of pont, uitgesonderd private brule of pons, en enige drif of seimentdrif in die loop van sodanige pad, en alle opritte, deurgrawings, walle, duikweë, deurloupe, slote, afloopvore, damme, kantstene, omheinings, weringsmure, voorwalle en enige ander werksaamheid of saak wat deel is van so 'n pad of wat daarmee in verband staan;

"*ryvlak*" daardie deel van 'n publieke pad wat ontwerp, gebou of bestem is vir die gebruik van voertuie;

"*padreserve*" die deel van 'n publieke pad aan weerskante van die ryvlak;

"*weiplek*" 'n streek grond wat ingevolge artikel twee-entwintig van hierdie Ordonnansie afgesonderd word as publieke weigrond vir trekwee;

"*plaa*" ook stukke grond geregistreer as 'n plaas of plaasdeel in die Akteskantoor van die Gebied, en, by die toepassing van hoofstuk VI hiervan, omvat dit 'n natuurelleserve ingestig ingevolge artikel sesion van die "Natuurle Administrasie Proklamasie 1922" (Proklamasie 11 van 1922) soos gewysig;

"*Hoofpadingenieur*" die amptenaar ns sodanig deur die Administrateur aangestel.

## CHAPTER I. PUBLIC ROADS.

3. The control and supervision of all roads within the Territory shall be vested in the Administrator.

4. The width of public roads, including roadway and road reserve, shall be sixty metres: Provided that the Administrator may reduce such width, or, subject to the provisions of sub-section (2) of section seventy-one, may increase such width, when he is satisfied that it is necessary to do so.

5. The Administrator may from time to time by proclamation in the *Official Gazette*—

- (a) declare any road to be a public road;
- (b) declare that a public road shall exist on land where no road was previously in existence, or re-open a road which has been closed, and define the course of such road after investigation and report by the board and/or the Chief Roads Engineer;
- (c) close or divert any public road after investigation and report by the board and/or the Chief Roads Engineer;

## HOOFSTUK I: PUBLIEKE PAATIE.

3. Alle publieke paatle binne die Gebied staan, en bly onder die beheer en toesig van die Administrateur.

4. Die breedte van publieke paatle, dit wil sê, van ryvlak en padreserve saam, sal sesig meter wees: Met dien verstande dat die Administrateur die breedte kan verminder, of, behoudens die bepaling van sub-artikel (2) van artikel een-en-sewentig, kan vermeerder by oortuiging dat dit noodsaaklik is.

5. By proklamasie in die *Offisiële Koerant* kan die Administrateur van tyd tot tyd —

- (a) 'n pad tot publieke pad proklameer;
- (b) afkondig dat 'n publieke pad oor grond sal loop waar daar voorheen geen pad bestaan het nie, of 'n geslote pad heropen, en die loop van so 'n pad bepaal na ondersoek en verslag deur die raad en/of die Hoofpadingenieur;
- (c) 'n publieke pad na ondersoek en verslag deur die raad en/of die Hoofpadingenieur sluit of verlé;

- (d) after consultation with the local authority concerned and for the purposes of this Ordinance, proclaim any road referred to in the proviso to the definition of "public road", as a public road;
- (e) after consultation with the local authority concerned, declare that a public road shall exist on land within the area of such local authority, where no public road existed previously, or, where such road has been closed, re-open it, and define the course of such road;
- (f) after consultation with the local authority concerned, close or divert any public road proclaimed in terms of paragraph (d) or (e) hereof;
- (g) declare any public road to be a trunk, main or district road, or repeal or amend any such proclamation.

6. (1) Subject to the provisions of the Motor Vehicle and Wheel Tax Ordinance, 1937 (Ordinance 17 of 1937), as amended, the Administrator may at any time and upon such notice as he may deem fit, close temporarily or permanently for any particular class of traffic, or for all traffic, any public road, or divert such road temporarily and regulate the traffic thereon during maintenance work on the original road.

(2) Any person using such public road while it is closed, shall be guilty of an offence.

7. Subject to the provisions of sub-section (1) of section *seventy-one* the Administrator, or any person acting under his authority, may for the purposes of discharging the duties and powers conferred and imposed upon him by this Ordinance, and after notice to the owner of any piece of land, enter upon, or take possession of, such land.

8. Notwithstanding anything to the contrary contained in the Municipal Ordinance, 1949 (Ordinance 3 of 1949), the Administrator shall be responsible for the construction and maintenance of that portion or extension of any public road in terms of this Ordinance, running within the boundaries of an area under a local authority, as far as the boundaries of the first surveyed erven.

## CHAPTER II.

### CONSTITUTION, POWERS AND DUTIES OF ROADS BOARDS.

9. The Administrator may from time to time by proclamation in the *Official Gazette*—

- (a) constitute for any area outside that of a local authority a roads board consisting of a magistrate, who shall be the chairman and four other members appointed by the Administrator subject to the provisions of section *ten*: Provided that the Administrator may in addition to such members appoint other persons *ex officio* members of such board, such *ex officio* members shall hold office during the pleasure of the Administrator and shall have the right to take part in the proceedings of the board but shall not have the right to vote. The Administrator may from time to time determine the amount to be paid to any member, including *ex officio* members, for travelling and other expenses on the business of the board;
- (b) increase, alter or diminish the area of jurisdiction of any board constituted under this section and, on cause being shown to his satisfaction, abolish or disestablish such board.

10. No person shall be appointed, or act as an *ex officio* member of a board—

- (a) who has been convicted of any offence for which imprisonment without the option of a fine has been imposed as a punishment, unless he shall have received a free pardon or his period of imprisonment shall have expired at least three years prior to the date of his appointment; or
- (b) who is of unsound mind or is under curatorship; or
- (c) whose estate is held in liquidation or in trust for his creditors; or
- (d) who is an unrehabilitated insolvent; or
- (e) who is not a Union national; or
- (f) who is under the age of 21 years.

- (d) na beraadslaging met die betrokke plaaslike bestuur enige pat wat in die voorbehoud by die woordbepaling „publieke pad” bedoel word, ter uitvoering van hierdie Ordonnansie tot publieke pad proklameer;
- (e) na beraadslaging met die betrokke plaaslike bestuur, afkondig dat daar 'n publieke pad sal loop oor grond binne die gebied van so 'n plaaslike bestuur waar daar voorheen geen publieke pad bestaan het nie, of, waar so 'n pad gesluit is, dit heropen, en die loop van so 'n pad bepaal;
- (f) na beraadslaging met die betrokke plaaslike bestuur 'n publieke pad wat ingevolge paragraaf (d) of (e) hiervan geproklameer is, sluit of verlé;
- (g) enige publieke pad tot hoofpad, grootpad of distriks-pad, proklameer, of 'n dergelike proklameringsintrek of wysig.

6. (1) Behoudens die bepalings van die Ordonnansie op Motorvoertuie en Wielbelasting 1937 (Ordonnansie 17 van 1937) soos gewysig, kan die Administrateur volgens goeddunke te eniger tyd na kennisgewing 'n publieke pad tydelik of blywend vir een of elke soort voertuig, of vir alle verkeer, sluit; ook kan hy 'n pad tydelik verlé en die verkeer daarop reël vir die duur van instandhoudingswerk aan die oorspronklike pad.

(2) Elkeen wat so 'n publieke pad gebruik solank dit gesluit is, is skuldig aan 'n oortreding.

7. Behoudens die bepalings van sub-artikel (1) van artikel *een-en-sewentig* kan die Administrateur of sy gemaagtigde ter uitoefening van die bevoegdhede en pligte wat hierdie Ordonnansie aan hom opleë en verleen, na kennisgewing aan die eienaar enige stuk grond betree of in besit neem.

8. Moontlik andersluidende bepalings in die Munisipale Ordonnansie 1949 (Ordonnansie 3 van 1949) ten spyt, is die Administrateur verantwoordelik vir die aanleg en instandhouding van die deel of verlenging van 'n publieke pad ingevolge hierdie Ordonnansie wat binne die grense van 'n plaaslike bestuursgebied loop tot by die grense van die eerste opgemete erwe.

## HOOFSTUK II.

### SAMESTELLING, BEVOEGHEDHEDE EN PLIGTE VAN PADRADE.

9. Die Administrateur kan van tyd tot tyd by proklamasie in die *Offisiële Koerant*—

- (a) vir 'n strek buite 'n plaaslike bestuursgebied 'n Padraad instel met 'n magistraat as voorsitter en nog vier lede wat die Administrateur benoem met inagneming van die bepalings van artikel *tien*: Met dien verstande dat die Administrateur bowendien andere as lede *ex officio* van so 'n raad kan benoem, en dat sodanige lede *ex officio* hul ampte beklee solank dit die Administrateur belang, en dat hulle sonder stemreg aan die raad se vergigtinge deelneem. Die Administrateur kan van tyd tot tyd die bedrag bepaal wat aan 'n lid, sowel *ex officio* as gewoon, betaal moet word weens sy reis- of ander onkoste in die raad se diens;
- (b) die regsgebied van rade wat by hierdie artikel ingestel word, uitbrei, wysig of beperk, en, om redes syns insiens voldoende, sulke rade ontbind of totaal afskaf.

10. Niemand mag as lid of lid *ex officio* van 'n raad benoem word of optree nie—

- (a) wat tot gevangenisstraf sonder die keuse van 'n koete veroordeel is, tensy daar aan hom gracie verleen is of tensy hy sy straffyd mustens drie jaar voor die benoeming uitgedien het; of
- (b) wat swaksinnig is of onder kuratelle staan; of
- (c) wie se boedel in likwidasië of trust gehou word vir sy krediteure; of
- (d) wat 'n ongerehabiliteerde bankroetier is; of
- (e) wat nie 'n Unie-burger is nie; of
- (f) wat jonger as 21 jaar is.

11. A member or an *ex officio* member of the board shall vacate his office—

- in any of the circumstances described in section ten, even though such circumstances arise after his appointment; or
- if he has been removed from office by the Administrator in terms of section twelve; or
- if he has been convicted for a contravention of section seventeen; or
- if his appointment as an *ex officio* member has been cancelled by the Administrator.

12. The Administrator may suspend or remove any member of a board from his office for incapacity, misconduct or for any other valid reason.

13. Unless otherwise provided in this Ordinance or determined by the Administrator, every member of a board shall hold office for a period of three years from the date of his appointment.

14. If any member or *ex officio* member of the board shall during his terms of office, die, resign or become or be found disqualified under any law, or otherwise vacate his seat thereon, the Administrator may appoint a successor to fill the vacancy so caused for the unexpired term of office.

15. The chairman and two other members shall form a quorum: Provided that during the absence of a magistrate from the seat of his magistracy, he may appoint the senior officer on his magisterial staff to act as chairman during such absence.

16. The board shall—

- have such powers and duties as may be prescribed by this Ordinance;
- assist and advise the Administrator on all matters relating to public roads within its district and to outspans, whether within its district or within the area of a local authority, contiguous to such district;
- obtain and transmit to the Administrator all information he may require in connection with the administration of this Ordinance or the regulations thereunder;
- generally carry out all such functions as the Administrator may from time to time assign to it.

17. (1) No member of the board shall vote upon, or take part in, or in his capacity as a member, be present at the discussion of any matter by the board in which he himself, his spouse, his partners or his nearest blood relations, have any direct or indirect pecuniary interest.

(2) Any member wilfully contravening the provisions of this section shall be guilty of an offence and shall on conviction vacate his seat on the board.

18. (1) No member of a board shall be prohibited by reason of his office from contracting with the Administrator or the board either as seller, purchaser or otherwise, nor shall any contract entered into by or on behalf of the board or the Administration in which any member of the board shall be in any way directly or indirectly interested, be void on such account.

(2) Where any member of a board is interested otherwise than as a shareholder in a limited company in any contract with the board or the Administration or any sub-contract or subsequent contract arising from such main contract, which involves the expenditure or receipt by the board or the Administration of one hundred pounds or more, such member shall immediately on being acquainted with such fact, disclose it in writing to the board and to the Administrator, and such disclosure shall be entered in the minutes of the next succeeding meeting of the board.

(3) Any member of the board who contravenes this section by omitting to disclose his interest in any contract with the board or the Administration shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding two years, and the court convicting

11. 'n Lid of lid *ex officio* van die raad moet sy amp neerlê —

- aan een van die omstandighede waarvoor artikel tien gaan, intree, al gebeur dit na sy benoeming; of
- as die Administrateur hom ooreenkomstig artikel twaalf uit sy amp ontslaan; of
- as hy weens 'n oortreding van artikel sewentien veroordeel word; of
- as die Administrateur sy benoeming as lid *ex officio* intrek.

12. Die Administrateur kan 'n raadslid skors of uit sy amp ontslaan weens onbekwaamheid, wangedrag of ander geldige rede.

13. Buiten waar hierdie Ordonnansie of die Administrateur dit anders bepaal, duur elke raadslid se ampstermy n drie jaar van sy benoeming af.

14. As 'n lid of lid *ex officio* van die raad gedurende sy ampstyd sterf, bedank of wetlik onbevoeg word of onbevoeg bevind word, of andersins sy setel in die raad ontruim, kan die Administrateur 'n opvolger benoem om daardie ampstermy n te voltooi.

15. Die voorsitter en nog twee lede lê 'n kworum: Met dien verstande dat waar die magistrat van sy hofsetel afwesig is, hy die senior amptenaar in sy magistrantspersoneel skriftelik kan benoem om dan as voorsitter op te tree.

16. Die raad —

- besit sodanige bevoegdhede en pligte soos hierdie Ordonnansie bepaal;
- moet die Administrateur hulp en raad gee in verband met alle aangeleenthede betreffende publieke paaie in sy distrik, en in verband met uitspanplekke hetsy binne sy distrik of binne 'n plaaslike bestuursgebied wat aan sy distrik grens;
- moet al die inligting inwin en deurstuur wat die Administrateur aanvra oor die toepassing van hierdie Ordonnansie of oor die regulasies wat hieruit voortvloei;
- moet oor die algemeen al daardie werksaamhede verrig wat die Administrateur van tyd tot tyd aan die raad opdra.

17. (1) Geen raadslid mag stem in verband met, of declinêre aan, of in sy hoedanigheid as lid teenwoordig wees by, die raad se bespreking van enige saak waarby hy, of sy eggenote, of sy vennoot, of sy naaste bloedverwante 'n regstreekse of onregstreekse geldbelang het nie.

(2) 'n Raadslid wat die bepaling van hierdie artikel opsetlik verontagsaam, is skuldig aan 'n oortreding, en verbu r by veroordeling sy setel.

18. (1) Sy amp belet 'n raadslid geensins om hom as koper of verkoper of andersins met die Administrasie of die raad te verbind nie, nóg is 'n verbintenis, aangegaan deur of namens die raad of die Administrasie, waarby 'n raadslid enigins 'n regstreekse of onregstreekse belang het, daarom ongeldig nie.

(2) As 'n raadslid, behalwe as aandeelhouer in 'n maatskappy met beperkte aanspreeklikheid, londer het in 'n verbintenis met die raad of die Administrasie, of in 'n byverbintenis, of 'n latere verbintenis wat uit die hoofverbintenis voortvloei, wat die uitgang of ontvangs van eenhonderd pond of meer deur die raad of die Administrasie meebring, moet die raadslid daardie feit skriftelik aan die raad en aan die Administrateur meedeel sodra hy daarvan weet, en moet dit ook by die eersvolgende raadsvergadering genoukeur word.

(3) 'n Raadslid wat hierdie artikel verontagsaam deur te verstom om so 'n belang by enige verbintenis met die raad of die Administrasie mee te deel, is skuldig aan 'n oortreding, en is by veroordeling strafbaar met 'n boete van hoogstens twee honderd pond, en, by wanbetaling, met gevangenis van hoogstens twee jaar met of sonder dwangarbeid, en die voornesvallende hof kan sy setel vakant ver-

him may order that he vacate his seat: Provided, however, that the court shall not pass such sentence if it is proved by the member that his omission to make such a disclosure was due to his absence from his district or to illness or other good cause.

(4) It shall be the duty of the Controller and Auditor-General to report to the Administrator any case in which it appears to him that there has been a failure to comply with the provisions of this section.

### CHAPTER III.

#### CONSTRUCTION, MAINTENANCE, OPENING, CLOSING AND DIVERSION OF PUBLIC ROADS.

##### CONSTRUCTION AND MAINTENANCE:

19. Subject to the provisions of this Ordinance and of the Motor Vehicle and Wheel Tax Ordinance, 1937 (Ordinance 17 of 1937), as amended, and when funds permit, the Administrator shall have power and authority in the following matters—

- (a) the construction, maintenance and control of all trunk, main and district roads, and, subject to the provisions of section four hereof, the fixing of the width of all public roads;
- (b) the provision and maintenance of all such milestones, signposts and other traffic signs as may be found necessary for the regulation and safety of traffic on public roads;
- (c) the provision and maintenance of outspans, wells and watering places for the use of the public on such roads;
- (d) the erection and maintenance of dwelling houses and other buildings on the road reserve or elsewhere for the purposes of this Ordinance.

20. If a public road, not being a trunk, main or district road, is in need of repair, interested persons may apply to the Administrator through the Roads Board to have the necessary repairs made, and thereupon the Administrator may have the costs of repairing such road estimated, and may, if such repairs are carried out by such interested persons and if the work has been done satisfactorily, consent to contribute up to a half of the actual cost thereof out of the Roads Fund, or the Administrator may carry out the work with moneys from the Roads Fund if the board satisfies him that those interested persons have contributed, or have given approved security that they will contribute, not less than a half of the amount so estimated, either in cash, labour or otherwise as the Administrator approves.

##### OBTAINING MATERIALS:

21. For the purposes of the construction, maintenance or repair of any public road, the Administrator may, through his representatives, officials or contractors, and with any vehicles, tools, materials, or animals, enter upon any land, and after notice to the owner, lessee or occupier of such land, but without compensation to him, take and remove any material therefrom which may be necessary for such construction, maintenance or repair: Provided that—

- (a) nothing shall be removed from any garden or other land usually cultivated, nor from any place within three hundred yards of any house, nor within fifty yards of any kraal;
- (b) every excavation be filled up again or properly fenced-off or otherwise made safe for human beings and animals;
- (c) the Administrator, his representatives, officers or contractors in exercising these powers take every care to prevent damage, injury, loss or discomfort to the owner, lessee or occupier concerned.

22. The Administrator, through his representatives, officers or contractors, shall further have the right—

- (a) where no other accommodation is available, to erect tents or other temporary dwellings for road workers on private land and select or assign storage space for their equipment and material: Provided that such dwelling and storage areas be selected in consultation with the owner;

klaar: Met dien verstande dat die hof egter geen sodanige vonnis mag vel nie waar die raadslid bewys dat sy versuim om so 'n mededeling te doen, te wyte was aan sy afwesigheid uit die distrik, of aan siekte of aan 'n ander gegronde oorsaak.

(4) Dit is die Kontroleur en Ouditeur-generaal se plig om die Administrateur te verwittig van elke geval waar die bepalings van hierdie artikel syms insiens verontagsaam is.

### HOOFSTUK III.

#### DIÉ AANLEG, INSTANDHOUDING, OPENING, SLUITING EN VERLEGGING VAN PUBLIEKE PAAIE.

##### AANLEG EN ONDERHOUD.

19. Behoudens die bepalings van hierdie Ordonnansie en van die Ordonnansie op Motorvoertuie en Wiebelasting 1937 (Ordonnansie 17 van 1937) soos gewysig, en as die geldmiddele dit veroorloof, besit die Administrateur bevoegdheid en gesag in die onderstaande sake —

- (a) die aanleg, instandhouding en beheer oor alle hoof-, groot-, en distrikspaaië, en (beloudens die bepalings van artikel vier hiervan) die breedtebepaling van alle publieke paaië.
- (b) die aanskaffing en instandhouding van al die mylpale, padwysers en ander verkeerstekens wat nodig blyk ter reëling en beskerming van die verkeer op publieke paaië;
- (c) die inrigting en instandhouding van uitspanplekke, putte en drinkplekke vir openbare gebruik op sulke paaië;
- (d) die oprigting en instandhouding van woon- en ander geboue, in die padreserwe of elders, ter uitvoering van die bepalings van hierdie Ordonnansie.

20. Waar 'n publieke pad wat nie 'n hoof-, groot-, of distrikspad is nie, herstel moet word, kan die belanghebbendes deur die Padraad om die nodige herstelwerk by die Administrateur aansoek doen, en daarop kan die Administrateur die herstelkoste laat beraam, en as die belanghebbendes self die herstelwerk onderneem, kan die Administrateur, as die werk bevredigend uitgevoer is, toestem om tot op die helfte van die werklike koste daarvan uit die Padfonds by te dra, of anders kan die Administrateur self die werk op koste van die Padfonds laat uitvoer as die raad aan hom bewys lewer dat die belanghebbendes minstens die helfte van die aldus beraamde bedrag bygedra het, of goedgekeurde waarborg gestel het dat hulle dit sal bydra, hetsy met kontak of arbeid of andersins soos die Administrateur goedgekeur.

##### VERKRYGING VAN MATERIAAL.

21. Met die oog op die aanleg, instandhouding of herstel van 'n publieke pad kan die Administrateur, deur sy verteenwoordigers, beamptes of ondernemers, enige grond met enige voor- of werktuig, materiaal of dier betree, en kan die Administrateur na kennisgewing aan die eienaar, huurder of bewoner van sodanige grond, maar sonder vergoeding aan hom, enige materiaal daarvan wegvoer wat nodig blyk by sodanige aanleg, instandhouding of herstel: Met dien verstande dat —

- (a) daar niks uit enige tuin of ander gewoonlik beboude grond, nóg binne driehonderd jaars van enige huis, nóg binne vyftig jaars van enige kraal, verwyder word nie;
- (b) elke uitgraving so spoedig doenlik weer opgevolg of behoorlik omhein word; of andersins vir mens en dier onskadelik gemaak word;
- (c) die Administrateur, sy verteenwoordigers, beamptes of ondernemers by die uitoefening van hierdie bevoegdhede alle sorg dra om skade, nadeel, verlies of ongerief aan die betrokke eienaar, huurder of bewoner te verhoed.

22. Voorts kan die Administrateur, deur sy verteenwoordigers, beamptes of ondernemers —

- (a) waar geen ander geleentheid hom voordoen nie, tente of ander tydelike woongeriewe vir padwerkers op private grond opslaan en bewaarplekke vir hulle toerusting en materiaal oprig of uitkies: Met dien verstande dat die woon- en bewaarplekke in oorleg met die eienaar gekies word;

- (b) to take and otherwise make provision for water necessary in the construction or maintenance of a public road: Provided that no water shall be taken from any artificial dam, well or borehole save with the consent of the owner;
- (c) take firewood: Provided that where large amounts are needed for the use of roadworkers, firewood may only be taken with the owner's permission;
- (d) to cut down and remove trees or brushwood where necessary in the construction or maintenance of public roads or for the safety of traffic: Provided that such trees or brushwood when cut down shall belong to the owner of the property concerned.

23. The rights granted to the Administrator under the provisions of the last two preceding sections may be exercised by the contractors engaged in the construction, repair and maintenance of roads, bridges and drifts in his behalf: Provided that in case of any damage caused by a contractor any compensation payable under this Ordinance may be recovered from the Administrator, who may thereafter in turn claim indemnity from the contractor.

24. (1) Notwithstanding the provisions of this Ordinance the Chief Roads Engineer or any European employee of the Roads Branch may post any notice of warning on any public road or on any part of a public road while it is under construction or while any other necessary work in connection with it is in progress, and any person using a public road while such work is being done, shall have no claim for compensation because of an accident or injury, but shall be liable for injury or damage caused by him to Roads Branch personnel or equipment.

(2) Any person using a public road while it is closed by a notice of warning, or disregarding the order in such a notice, or obliterating, damaging, removing or shifting an official notice, warning or obstruction, shall be guilty of an offence.

#### PONT SERVICES:—

25. The Administrator may—

- (a) provide pont services across rivers and make the necessary anchorages, landings and approaches within or beyond the limits of the road;
- (b) charge pont tariffs for the transport of travellers, vehicles and stock, and fix such tariffs from time to time: Provided that no fees shall be charges for any transport in respect of Administration services;
- (c) enter into contracts for the construction and maintenance, letting or hiring of pons on such conditions as regards tariffs as he may think fit;
- (d) co-operate with the Administrations of neighbouring territories for the provision of pont services across rivers along the Territory's borders, and enter into any agreement with such Administrations about the control, management and maintenance of such services.

#### THE OPENING, CLOSING AND DIVERTING OF PUBLIC ROADS:

26. Whenever—

- (a) at least twelve interested adult European inhabitants of a roads board area propose in writing to the board the construction of a new public road, or the conversion of a road into a public road, or the closing or diversion of a public road, or the alteration of the status of a public road, within that roads board area; or
- (b) the owner, lessee or occupier of a farm across which a public road runs, proposes in writing to the board that such road be closed or diverted; or
- (c) the board itself proposes that a new public road be constructed, or that a road be converted into a public road, or that any public road except a trunk or main road be closed or diverted, or that its status be altered—

- (b) water neem, of maatreëls ter waterverkryging tref, waar die aanleg of instandhouding van 'n publieke pad dit vereis: Met dien verstande dat geen water sonder eienaarstoestemming uit 'n gemaaakte dam, put of boorgat geneem word nie;
- (c) vuurmaakhout neem: Met dien verstande dat waar groot hoeveelhede vir die gebruik van padwerkers nodig is, dit slegs met eienaarstoestemming geneem mag word;
- (d) bome of kreupelhout afkap en verwyder waar die aanleg of instandhouding van 'n publieke pad, of die verkeersveiligheid, dit vereis: Met dien verstande dat sodanige bome of kreupelhout na afkapping aan die grondeienaar behoort.

23. Die regte wat die Administrateur by die twee voorgaande artikels verkry, kan ook uitgeoefen word deur die kontrakteurs wat namens hom paie, brûe en driewe aantel, herstel en in stand hou: Met dien verstande dat waar so 'n kontrakteur skade veroorsaak, vergoeding daarvoor ingevolge hierdie Ordonnansie van die Administrateur verhaal kan word, en dat die Administrateur op sy beurt skadeoorsetting van die kontrakteur kan eis.

24. (1) Andersluidende bepalings in hierdie Ordonnansie ten spyt, kan die Hoofpadingenieur of 'n blanke werknemer van die Afdeling Paie enige waarskuwingstekens aanbring op enige publieke pad of paddeel solank die aanleg daarvan of ander noodsaaklike werk in verband daarmee duur, en elkeen wat dan so 'n publieke pad gebruik, het geen aanspraak op skadevergoeding weens 'n ongeluk of letsel nie, maar is aanspreklik vir skade of letsel wat hy moontlik aan die Afdeling Paie se personeel of toerusting veroorsaak.

(2) Elkeen wat 'n publieke pad gebruik solank dit lui-dens 'n waarskuwingstekens gesluit is, of wat die bevel op 'n waarskuwingstekens verontagsaam, of wat 'n amptelike kennisgewing, waarskuwing of versperring uitwis, beskuldig, verwyder of verplaas, is skuldig aan 'n oortreding.

#### PONTE.

25. Die Administrateur kan —

- (a) pontdienste oor riviere instel, en anker- en aanlegplekke as ook die nodige opritte sowel buite as binne die padgrense aanlê;
- (b) 'n ponttarief vorder vir die vervoer van reisigers, rytuie en vee, en kan die tarief van tyd tot tyd vasstel: Met dien verstande dat daar geen tarief gevorder word wanneer die vervoer in Administrasiediens geskied nie;
- (c) kontrakte aangaan vir die aanleg en instandhouding, die huur en die verhuur van pons op tariefvoorwaardes wat hy goed vind;
- (d) met die Administrasies van naburige gebiede saamwerk ter instelling van pontdienste oor riviere aan die Gebiedsgrense, en kan ooreenkomste met sodanige administrasies sluit betreffende die beheer, bestuur en instandhouding van sodanige dienste.

#### DIE OPENING, SLUITING EN VERLEGGING VAN PUBLIEKE PAAIE.

26. (1) Wanneer—

- (a) minstens twaalf belanghebbende volwasse blanke inwoners van 'n Padraandgebied die aanleg van 'n nuwe publieke pad, of die omsetting van 'n pad in 'n publieke pad, of die sluiting of verlegging van 'n publieke pad, of die statusverandering van 'n publieke pad binne die raad se gebied skriftelik aan die raad voorstel; of
- (b) die eienaar, huurder of bewoner van 'n plaas waaroor daar 'n publieke pad loop, skriftelik by die raad voorstel dat daardie pad gesluit of verlê moet word; of
- (c) die raad self voorstel dat 'n nuwe publieke pad aangeleg moet word, of dat 'n pad tot publieke pad omgeskep moet word, of dat enige publieke pad behalwe 'n hoof- of grootpad gesluit of verlê moet word, of dat so 'n pad se status verander moet word —

the chairman shall, if it appears necessary, conduct an investigation, or instruct another member of the board or the Roads Branch to do so, and make a report or have a report made upon that investigation, and provide the Roads Engineer with the original proposal, the report, and the board's decision upon it, together with a diagram of the locality concerned and such recommendations as the board may wish to make.

(2) If the board and the Chief Roads Engineer support the proposal, it shall be advertised as sub-section (4) hereof provides, but if either the board, or the Chief Roads Engineer, or both reject the proposal, the matter shall be submitted to the Administrator for decision.

(3) If the Administrator approves the proposal, such proposal may be advertised as sub-section (4) hereof provides, but if the Administrator rejects such proposal, the author of such proposal shall be notified accordingly, whereupon he may request that the proposal be advertised in any case, provided that he undertakes to pay the costs of advertising and of an enquiry in terms of sub-section (6) hereof should the proposal be rejected by the final decision.

(4) If it is decided in terms of sub-section (2) or (3) hereof that the proposal be advertised, or if the Chief Roads Engineer proposes that a new public road be constructed, or that any public road be closed or that the status of such a road be altered, a notice of such proposal shall be advertised in the *Official Gazette* and in one or more newspapers circulating in the area, and the chairman of the board shall display a copy of such notice in both official languages at his office.

Such notice shall call upon all interested persons to address any objections they may have to the proposal within two months of the date of the notice, at the latest, in writing to the officer mentioned in that notice.

(5) After the expiry of the two months the board concerned shall transmit (a) any additional proposals, (b) all the objections received, (c) an indication of whether the board favours a commission of enquiry or not, and (d) in any case, the names of three proposed members of such commission from its area as well as the name of one alternative member, to the Chief Roads Engineer, who shall in turn submit all such information, with his comments, to the Administrator.

(6) The Administrator may approve or disapprove such proposal, or make such other order in the circumstances as he may deem fit, or appoint the commission as recommended or appoint any other commission consisting of three members to enquire into the matter and report to him.

(7) Such commission shall investigate the proposal and any objections thereto, and if necessary inspect the locality concerned and take evidence, and shall thereupon with the least possible delay transmit to the Administrator their report thereon, who may make such order in connection therewith as he deems fit.

(8) The members of the commission shall receive such fees as may be laid down by regulation, and the costs of such commission shall be paid for by the Administration out of the Territory's revenue, but on the conclusion of the enquiry the Administrator may order that such costs or portion thereof shall be paid by the interested persons in such proportion as he may deem equitable, and on such order having been made the amount so payable may be recovered in any court of competent jurisdiction.

moet die voorsitter waar dit nodig blyk, 'n ondersoek instel of opdra aan 'n ander raadslid of aan die Afdeling Paaië, en dan 'n verslag daaroor uitbring of gelas, en vervolgens die oorspronklike voorstel, die verslag en die raadsbesluit daaroor, saam met 'n sketskaart van die betrokke strek en moontlike raadsaanbevelings, aan die Hoofpadingenieur besorg.

(2) Ondersteun sowel die raad as die Hoofpadingenieur die voorstel, dan word dit ooreenkomstig sub-artikel (4) hiervan geadvarteer, maar keur ôf die raad ôf die Hoofpadingenieur ôf albei dit af, dan moet die saak ter beslissing aan die Administrateur voorgelê word.

(3) Keur die Administrateur die voorstel goed, dan kan die voorstel ooreenkomstig sub-artikel (4) hiervan geadvarteer word, maar keur die Administrateur dit af, word die voorsteller dienooreenkomstig verwittig, en kan hy versoek dat die voorstel tog geadvarteer moet word, mits hy hom verbind om die advertensiekoste, en die koste van 'n ondersoek ingevolge sub-artikel (6), te betaal as die uiteindelijke beslissing die voorstel verwerp.

(4) Word daar ingevolge sub-artikel (2) of (3) hiervan beslis dat die voorstel geadvarteer moet word, of as die Hoofpadingenieur voorstel dat 'n nuwe publieke pad aangelê moet word, of dat enige publieke pad gesluit moet word, of dat so 'n pad se status verander moet word, moet 'n kennisgewing van die voorstel verskyn in die *Offisiële Koerant* as ook in een of meer ander koerante wat in die gebied omloop, en moet die raadsvoorsitter 'n afskrif van die advertensie in beide amptelike tale by sy kantoor oplak.

So 'n kennisgewing moet alle belanghebbendes versoek om hul besware teen die voorstel binne hoogstens twee maande vanaf die datum van die kennisgewing op skrif te rig aan die beamppte wat die kennisgewing noem.

(e) Na afloop van die twee maande moet die betrokke raad (a) enige bykomende aanbevelings, (b) al die ontvangte besware, (c) 'n aanduiding of die raad 'n kommissie van ondersoek voorstaan of nie, en (d) in elk geval, die name van drie moontlike kommissieledes uit sy gebied, met een alternatiewe naam, aan die Hoofpadingenieur besorg, wat dit dan met sy kommentaar aan die Administrateur voorlê.

(6) Die Administrateur kan die voorstel goedkeur of afkeur, of na goedgekke 'n bevel dienaangaande verstrek, of hy kan die aanbevole kommissie of 'n ander kommissie van drie lede aanstel om op die saak in te gaan, en om daarvoor aan hom verslag te doen.

(7) So 'n kommissie moet ingaan op die voorstel en die besware daarteen, moet desnoods die betrokke plek besoek en getuënis afneem, en moet so gou doenlik sy verslag aan die Administrateur besorg, wat na goedgekke 'n bevel dienaangaande kan verstrek.

(8) Die kommissieledes kry gelde volgens regulasie, en die Administrasie bestry die kommissiekoste uit Gebieds-inkomste, maar na die ondersoek kan die Administrateur bevel dat die belanghebbendes die koste deels of geheel moet vergoed volgens 'n verhouding wat hy na billikvande bepaal, en nadat sodanige bevel geskied het, kan die aldus opeisbare bedrag in enige regsbevoegde hof verhuul word.

TRAFFIC OBSTRUCTIONS ON PUBLIC ROADS:

27. (1) Unless this Ordinance or any other law authorise it, no person shall—

- (a) encroach on any public road by constructing or erecting any building, structure, fence, furrow, channel, ditch, pipeline, wire, cable or other obstacle on, over or under such public road, or by wilfully or negligently causing water to run over it;

VERKEERSBELEMMERING OP PUBLIEKE PAAIE.

27. (1) Tensy hierdie Ordonnansie of 'n ander wet dit veroorloof, mag niemand —

- (a) op 'n publieke pad inbreuk maak deur enige bouwerk, omheining, vore, kanaal, slot, pypleidings, draade, kabels of ander hindernisse daarop, daaroor of daaronder op te rig of aan te lê nie, nóg deur opsetlik of nalatig water daaroor te laat loop nie;

- (b) put or leave any obstruction which could in any way hinder traffic, or any rubbish, debris, heaps or ashes, earthenware, glass, tins, nails, pieces of metal, material or wood, planks, tree stumps, boulders or stones on any public road;
- (c) leave any vehicle or part thereof on a public road;
- (d) interfere in any way with the roadway of any public road, or with any cuttings, banks or drains of public roads.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

28. The Administrator may authorise, in writing and upon such conditions as he may prescribe, an act prohibited under the preceding section if he is satisfied that such an act will not be prejudicial to the public interest.

29. (1) Without the Administrator's written permission, no person shall—

- (a) lay any railway, tramway, trolley or cocopan lines across any public road; or
- (b) construct any bridge across, or any subway or culvert under a public road; or
- (c) carry any electric or other wires across, or lay any cables over or under, any public road or outspan.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

(3) The Administrator is hereby authorised to have anything which has been constructed in contravention of sub-section (1) hereof, removed without notice, and to recover the costs of removal from the offender.

(4) For permission granted in terms of this section the Administrator may charge an annual fee at such rate as he may decide in each case.

30. (1) Save as is provided in any law governing the erection of warning signs on public roads, no person shall erect or install on, or across, any public road any frame, work, scaffolding, board or other device on which any advertisement may be displayed.

(2) Any person contravening the provisions of this section shall be guilty of an offence.

(3) The Administrator is hereby authorised to remove and destroy, without notice, any advertising device erected or installed in contravention of sub-section (1) hereof, and to recover from the offender expense so incurred.

#### CHAPTER IV.

#### TRUNK AND MAIN ROADS IN AREAS UNDER LOCAL AUTHORITIES.

31. In this Chapter a trunk or main road shall be a road or portion of a road within the area under a local authority, being an extension of a trunk or main road (as defined in section two) beyond the boundaries of such area, and shall include any bridges and drifts serving such trunk or main road.

32. The Administrator may, after consultation with the local authority concerned, proclaim, divert or de-proclaim any trunk or main road through or within the area under such local authority: Provided that no such proclamation shall exempt any local authority from its responsibility for the construction, maintenance and control of such road.

33. When a road within the area under a local authority has been proclaimed a trunk or main road under the provisions of section thirty-two, and has been constructed and maintained at the cost of such local authority to the satisfaction of the Administrator, the Administrator may, at his discretion, grant such local authority a subsidy, payable out of the Roads Fund, for the maintenance of such road upon such terms and conditions as he may determine.

- (b) versperrings wat die verkeer enigins belemmer, verlander of in gevaar stel, vuilnis, afval, ashope, erdewerk, glasskerwe, blieke, spykers, stukke metaal, materiaal, hout, planke, stompe, rotsblokke of klippe op 'n publieke pad aanbring of laat lê nie;
- (c) 'n voertuig of voertuigdeel op 'n publieke pad laat lê nie;
- (d) hom enigins met die ryvlak van publieke paaie, of die uitgrawings, grondwalke of riole van publieke paaie bemoei nie.

(2) Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

28. By oortuiging dat dit geen openbare belang sal skend nie, kan die Administrateur 'n daad wat die voorafgaande artikel verbied, skriftelik magtig op voorwaardes wat hy na goeddunke stel.

29. Sonder die Administrateur se skriftelike vergunning mag niemand —

- (a) 'n trein-, trem-, trollie- of keekspoor of -baan oor 'n publieke pad aanlê nie;
- (b) 'n brug oor, of 'n duikweg of deurlaant onder, 'n publieke pad bou nie;
- (c) elektriese of ander draad oor, of kabels oor of onder 'n publieke pad of uitspanplek aanlê nie.

(2) Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

(3) Die Administrateur word hierby gemagtig om enigiets wat strydig met sub-artikel (1) hiervan aangebring is, sonder kennisgewing te laat verwyder, en om die koste daaraan verbonde van die oortreders te verhaal.

(4) Vir elke vergunning wat hy ingevolge hierdie artikel toestaan, kan die Administrateur 'n jaartarief aanslaan wat hy in elke geval bepaal.

30. (1) Behoudens die wetsbepalings op die oprigting van waarskuwingstekens op publieke paaie mag niemand enige raamwerk, stellasië, plaat of ander toestel waarop 'n advertensie aangebring kan word, op of oor 'n publieke pad oprig nie.

(2) Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

(3) Die Administrateur word hierby gemagtig om enige advertensie-toestel wat strydig met sub-artikel (1) hiervan aangebring is, sonder kennisgewing te laat verwyder en te vernietig, en om die koste daaraan verbonde van die oortreders te verhaal.

#### HOOFSTUK IV.

#### HOOF- EN-GROOTPAAIE IN PLAASLIKE BESTUURS-GEBIEDE.

31. In hierdie hoofstuk is 'n hoof- of grootpad 'n pad of paddeel binne 'n plaaslike bestuursgebied wat 'n verlenging is van 'n hoof- of grootpad (soos bepaal by artikel twee) buite die grense van so 'n plaaslike bestuursgebied, en omvat dit brûe en dritwe waaroor so 'n hoof- of grootpad loop.

32. Na beraadslaging met die betrokke plaaslike bestuur kan die Administrateur 'n hoof- of grootpad deur of binne so 'n plaaslike bestuur se gebied proklameer, verlê of afproklameer: Met dien verstande dat geen sodanige proklamering 'n plaaslike bestuur ontfiel van enige verpligting ten opsigte van die aanleg, instandhouding en beheer van sodanige pad nie.

33. Wanneer 'n pad binne 'n plaaslike bestuursgebied ingevolge artikel twee-en-dertig tot hoof- of grootpad geproklameer is, en ten genoë van die Administrateur op koste van die plaaslike bestuur aangeleg en in stand gehou is, kan die Administrateur na goeddunke 'n subsidie, betaalbaar uit die Padfonds, aan die plaaslike bestuur toestaan vir die instandhouding van sodanige pad op 'n grondslag en voorwaardes wat hy betaal.



CHAPTER V.  
THE ROADS FUND.

34. (1) The special fund established under section forty-one of Ordinance 7 of 1937, called the Roads Fund, shall be retained and used for the construction, maintenance, repair and control of public roads and outspans, for the purchase and maintenance of tools and equipment and for the accommodation of the field staff of the Roads Branch, as well as for the payment of subsidies to local authorities. On the written authority of the Administrator moneys may be paid out of such Roads Fund in furtherance of the purposes of this Ordinance.

(2) Revenue derived from wheel tax, motor licence duties, taxes on the sale of petrol and the annual contributions of the Department of Railways and Harbours of the Union of South Africa, shall after due appropriation from the Territory Revenue Fund be paid into the Roads Fund.

(3) The Legislative Assembly for the Territory may further appropriate additional moneys from the Territory Revenue Fund or vote new amounts to the Roads Fund.

(4) If at the end of any financial year the Roads Fund shows a credit balance, such balance shall not revert to the general revenue, but shall remain in the Roads Fund.

CHAPTER VI.  
OUTSPANS.

35. Every area of land at least two thousand hectares in extent which is situated outside any area under the jurisdiction of a local authority, and which is acknowledged to be a farm by the Surveyor-General shall upon the commencement of this Ordinance be subject to a servitude of outspan in favour of the public. Such servitude shall remain attached to every part of such area of land, notwithstanding that after the commencement of this Ordinance such area of land be subdivided into portions of which one or more may be less than two thousand hectares in extent: Provided that if an owner, lessee or occupier of a farm fences in any public road along its whole length over such farm in accordance with the provisions of section four as to its width, and such owner, lessee or occupier undertakes in writing not to graze such fenced-in public road, he shall be exempted from a servitude of outspan on such farm.

36. (1) The Administrator shall determine the number and size of outspans for every farm, and he shall in each case take the comfort of travellers and the size of the farm into account: Provided that—

(a) the total size of the outspan shall not exceed one hundredth of the area of the farm, but shall in any case be at least thirty hectares in extent;

(b) the distance between two outspans shall as far as possible be not more than twelve and a half miles.

(2) The Administrator may at any time amend his decision as to the number or the size of outspans on any farm.

37. (1) Subject to the provisions of sub-section (4) hereof, the Administrator may define and beacon-off the outspans which he has approved for every farm across which a public road runs, with proper regard to the interests of the owner and of travellers, and to the availability of water supplies and other requirements.

(2) Every outspan defined and beaconed-off in terms of any laws hereby repealed, shall be deemed to have been defined and beaconed-off in terms of this Ordinance.

(3) Subject to the provisions of sub-section (4) the Administrator may at any time alter the locality of an outspan on a farm and define and beacon-off a new outspan on that farm, or cancel any outspan.

HOOFSTUK V.  
DIE PADFONDS.

34. (1) Die spesiale fonds gestig by artikel 41 van Ordonnansie 7 van 1937, hierna die Padfonds genoem, word hierby in stand gehou en word gebruik vir die aanleg, instandhouding, herstel en beheer van publieke paasie en uitspanplekke en vir die aankoop en instandhouding van werktuie en toerusting, en vir die behuising van die Afdeling Paasie se buitpersoneel, as ook vir die betaling van subsidies aan plaaslike besture. Op skriftelike magtiging van die Administrateur kan geld uit die Padfonds betaal word ter bevordering van die doeleindes van hierdie Ordonnansie.

(2) Inkomstes uit wielbelasting, motorliensieregte, belasting op petrolverkopings, en die jaarlikse bydraes van die Unie van Suid-Afrika se Departement Spoorweë en Hawens, moet na behoorlike aanwending uit die Gebieds-inkomstefonds in die Padfonds gestort word.

(3) Voorts kan die Wetgewende Vergadering van die Gebied verdere gelde uit die Gebieds-inkomstefonds by die Padfonds aanwend, of opnuut gelde daarvoor bewillig.

(4) Het die Padfonds by die sluiting van 'n boekjaar 'n buitige saldo, dan val dit nie aan algemene inkomste terug nie, maar bly dit in die Padfonds.

HOOFSTUK VI.  
UITSPANPLEKKE.

35. Elke stuk grond minstens twee duisend hektaar groot en buite 'n plaaslike bestuursgebied geleë wat by die inwerkingtreed van hierdie Ordonnansie deur die Landmetergeneraal as plaas erken word, word hierby belas met 'n uitspanswitout ten gunste van die publiek. Hierdie switout bly verbonde aan elke deel van sodanige stuk grond, selfs al word die grond na die inwerkingtreed van hierdie Ordonnansie onderverdeel in stukke waarvan een of meer kleiner as tweeduizend hektaar is: Met dien verstande daar waar 'n eienaar, huurder of bewoner van 'n plaas 'n publieke pad oor sy hele lengte oor sodanige plaas afkamp, waarvan die breedte ooreenkom met die by artikel vier bepaal, en waar sodanige eienaar, huurder of bewoner skriftelik onderneem om die aldus afgekampde publieke pad nie te laat beweë nie, hy vrygestel word van 'n uitspanswitout op sodanige plaas.

36. (1) Met inagneming van die grootte van die betrokke plaas en die gerief van reisigers, bepaal die Administrateur die grootte van elke uitspanplek, en die getal uitspanplekke, per plaas: Met dien verstande dat —

(a) die algehele uitspanruimte hoogstens een honderdste van die plaas beslaan, mits die uitspanplek egter minstens dertig hektaar groot is.

(b) twee uitspanplekke sower moontlik hoogstens twaalf en 'n half myl van mekaar af lê.

(2) Die Administrateur kan te eniger tyd sy beslissing oor die grootte en die getal uitspanplekke per plaas wysig.

37. (1) Behoudens die bepalings van sub-artikel (4) hiervan kan die Administrateur die Uitspanplek wat hy goedgekeur het vir elke plaas waaroor daar 'n publieke pad loop, bepaal en afbaken met behoorlike inagneming van die belange van die eienaar en van reisigers, en van die beskikbaarheid van water en ander benodigdhede.

(2) Elke uitspanplek wat bepaal en afgebaken is ingevolge 'n wet wat by hierdie Ordonnansie herroep word, word gehou vir bepaal en afgebaken ingevolge hierdie Ordonnansie.

(3) Behoudens die bepalings van sub-artikel (4) kan die Administrateur te eniger tyd die ligging van 'n uitspanplek op 'n plaas verskuif, en 'n nuwe uitspanplek op daardie plaas bepaal en afbaken, of kan hy 'n uitspanplek afskaf.

(4) Whenever the Administrator has defined the locality of an outspan on any farm in terms of sub-section (1) or (3) hereof, he shall, before beaconing-off the outspan, give notice thereof to the owner of the farm. If the owner is dissatisfied with such proposed beaconing-off, he may, within fourteen days after such notice to him, inform the Administrator by letter that he wishes to have the matter settled by arbitration in terms of section *seventy-three*, but without prejudice to the powers of the Administrator under sub-section (3) hereof.

(5) The arbitrators or umpire shall have the power to award to either party concerned in the arbitration, the whole amount or any portion of the costs incurred by such party in connection with such arbitration, and to claim from either party concerned in the arbitration, or from both parties, such proportionate part of the costs incurred by the arbitrators or umpires as may be determined. All costs and expenditure of, or in connection with, such arbitration shall be taxed by the clerk of the magistrate's court for the district in which such farm is situated.

38. Any person who in any way alters or attempts to alter the locality of an outspan duly beaconed-off in terms of this Ordinance, or shifts any beacons of such outspan, or who, having undertaken not to graze a fenced-off public road, allows grazing thereon, shall be guilty of an offence.

39. (1) If an outspan has been defined and beaconed-off, the Administrator shall furnish the Registrar of Deeds with details concerning the locality, form and extent of such outspan, and such other details concerning it as may be prescribed by regulation, and if an outspan is shifted or cancelled, the Administrator shall in like manner furnish details of the shifting or cancellation thereof.

(2) The Registrar of Deeds shall register all beaconed-off outspans, and shall enter the particulars of each outspan in his registers and in the title deeds of the farm concerned.

40. No outspan shall be laid out on ground on which there is any building, and subject to any rights arising out of terms of the mining laws in force in the Territory, no person shall build or plough on, or otherwise interfere with the grazing rights, of any outspan beaconed-off in terms of this Ordinance.

41. Every owner, lessee or occupier of ground shall have the right to fence off any outspan or outspans on that ground, provided that sufficient access to such outspans is left for the travelling public, and the Administrator shall have the same fencing-off rights in regard to any outspan. No contributions may be claimed towards the costs of any fence erected on an outspan or separating an outspan from the adjoining land, whether such outspan has been established under the provisions of this Ordinance or not.

42. (1) Where an unfenced public road traverses a farm on which no outspan has been beaconed-off or on an outspan servitude under section *thirty-five* no longer exists, a strip of land two hundred and fifty metres wide at more on each side of the road shall be deemed to be a public grazing ground for travelling stock: Provided that no garden or other land which is usually cultivated shall be included in such grazing ground.

(2) The owner, lessee or occupier of such farm may free himself from the obligation to provide such grazing ground by setting aside an accurately specified area, approved by the Administrator, for the grazing of travelling stock.

(3) No person shall ride, drive or graze any animal, whether attached to a vehicle or otherwise, on any farm on which outspans have been established or on which grazing ground for travelling stock has been specified and set aside under the provisions of sub-section (2) hereof, beyond the limits of the outspans or the grazing grounds.

(4) Wanneer die Administrateur ingevolge sub-artikel (1) of (3) hiervan 'n uitspanplek se ligging op 'n plaas bepaal het, stel hy, voor die afbakening, die plaasciennaar daarvan in kennis. Neem die eienaar met die voorgename afbakening misnoeë, kan hy binne veertien dae na sodanige kennisgewing die Administrateur skriftelik meedeel dat hy die saak ingevolge artikel *drie-en-sewentig* deur arbitrasie wil laat beslis, maar dan sonder afbreuk aan die Administrateur se bevoegdheid kragtens sub-artikel (3) hiervan.

(5) Die arbiters of die eindbesliser het die bevoegdheid om van die een of die ander van die geskilvoerende die heft arbitrasie die hele bedrag of enige deel van die onkoste wat daardie geskilvoerendes in verband met die arbitrasie aangegaan het, toe te ken, en om van die een of die ander geskilvoerende, of van albei, sodanige deel van die onkoste van die arbiters of die eindbesliser soos na verhouding bepaal word, te eis. Al die onkoste en uitgawes van, of in verband met, arbitrasie word getakseer deur die klerk van die magistratshof in die distrik waarin die plaas geleë is.

38. Elkeen wat die ligging van 'n uitspanplek wat behoorlik ingevolge die bepalings van hierdie Ordonnansie afgebaken is, enigens verskuif of probeer verskuif, of wat sy bakens versit, of wat 'n afgekampte publieke pad laat beweë nadat hy ondernem het om dit nie te doen nie, is skuldig aan 'n oortreding.

39. (1) Wanneer 'n uitspanplek bepaal en afgebaken is, verstrekk die Administrateur aan die Registrateur van Aktes besonderhede oor die ligging, vorm en afmetings van sodanige uitspanplek, en sodanige nadere besonderhede soos regulasies moontlik voorskryf, en wanneer 'n uitspanplek verskuif of afgekampt word, verskaf hy dergelike besonderhede oor die verskuiving of afskaffing daarvan.

(2) Die Registrateur van Aktes moet alle afgebakende uitspanplekke registreer en die besonderhede daarvan in sy registers en op die titelbewyse van die betrokke plase aantekene.

40. Geen uitspanplek mag aangelê word op grond waarop daar enige gebou staan nie, en behoudens enige regte verkry ingevolge Gebiedsgeldende mynwette, mag niemand op 'n uitspanplek wat ingevolge hierdie Ordonnansie afgebaken is, bou, ploeg of hom andersins met die weiregte daarvan bemoei nie.

41. Elke eienaar, huurder of bewoner van grond het die reg om enige uitspanplek op sy grond te omhein, mits daar vir die reisende publiek voldoende toegangsruimte tot die uitspanplek gelaat word, en die Administrateur het dieselfde omheiningereg ten opsigte van enige uitspanplek. Geen bydrans kan geëis word ten opsigte van die koste van die omheining wat op 'n uitspanplek aangebring word of wat die uitspanplek van omliggende grond skei nie, onverskillig of sodanige uitspanplek ingevolge die bepalings van hierdie Ordonnansie aangelê is of nie.

42. (1) Waar daar 'n onomheinde publieke pad oor 'n plaas gaan waarop daar geen uitspanplek afgebaken is nie, of waarop daar ingevolge artikel *vyf-en-dertig* geen uitspanplek teenoor bestaan nie, word daar aan weerskante van so 'n pad 'n strook grond van hoogstens tweehonderden-vyftig meter breed as publieke weigrond vir trekvee beskou: Met dien verstande dat geen tuin of ander grond wat gewoonlik verbou word, daarby ingesluit word nie.

(2) Die eienaar, huurder of bewoner van so 'n plaas kan hom vrystel van die verpligting om sodanige weigrond te verskaf as hy 'n noukeurig omskrewe stuk grond, deur die Administrateur goedgekeur, as weiplek vir trekvee afsonder.

(3) Niemand mag 'n dier, letsy aan 'n rytuig ingespan of andersins, op 'n plaas waarop daar uitspanplekke aangelê is, of waar daar ingevolge sub-artikel (2) hiervan weiplek vir trekvee bepaal en afgesonder is, buite die grense van sodanige uitspan- of weiplek ry, dryf of laat loop nie.

(4) No person shall ride, drive or graze any animal, whether attached to a vehicle or otherwise, on any farm on which such outspans or grazing areas have not been established or specified and set aside, beyond the limits of the strip of land on each side of a public road as defined in sub-section (1).

(5) No person except a licensed butcher or speculator in stock or the owner, lessee or occupier of land in this Territory, or an authorised representative or employee of such butcher, speculator, owner, lessee or occupier may travel or be with stock on any outspan or grazing area established or set aside under this Ordinance, or on any strip of land on each side of a public road as provided in sub-section (1) hereof, unless he is authorised by a permit issued by a magistrate, or in the case of natives, by a magistrate, native commissioner, assistant native commissioner or superintendent of a native reserve. Such permit shall state the number, type and destination of the stock concerned and the period for which it shall be valid. Any person contravening the provisions of this sub-section or the terms of such permit shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(6) The holder of a permit under sub-section (5) shall, on demand, produce such permit to any owner, lessee or occupier on whose land such outspan, grazing area or strip of land is situated, and on which the said holder is found with his stock.

43. (1) No person may remain on any outspan or grazing area established or set aside under the provisions of this Ordinance for longer than twenty-four consecutive hours, except with the consent of the owner, lessee or occupier of, or other person entitled to the grazing on, the land concerned, unless he may be detained there by accident, floods or other unforeseen circumstances.

(2) No person travelling with any stock may, save as is provided by sub-section (1) hereof, travel with such stock along any public road or over any strip of land on each side of any public road as described in sub-section (1) of section forty-two at a lesser speed than five miles in every twenty-four hours, except with the consent of the owner, lessee or occupier of, or other person entitled to the grazing on, the land concerned, unless he may be detained by accident, floods or other unforeseen circumstances.

(3) In calculating any period under this section, Sundays shall be excluded.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds, or, in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

44. (1) Every traveller over a public road shall be entitled to graze and water his stock on all outspans and/or grazing areas defined and beaconed-off in terms of this Ordinance, or within the limits of the strip of land on each side of the public road as defined in sub-section (1) of section forty-two.

(2) If any such outspan, grazing area or strip of land has insufficient water, the Administrator may take reasonable measures to provide sufficient water thereon, and until such time any traveller shall be entitled to water his stock at any water supply nearest to such outspan, area or strip of land, provided a sufficient supply be left for the requirements of the owner, lessee or occupier thereof. Any such owner, lessee or occupier who refuses to supply such traveller with water for his stock, or in any way prevents such traveller from using such water supply as aforesaid, shall be guilty of an offence.

(3) Any such owner, lessee or occupier may charge for water so supplied at a rate not exceeding one penny per head of large stock and one shilling for every hundred head of small stock: Provided that no charge shall be made for water supplied from any running stream, or for water supplied to the riding or transport animals of members of the Administration and of the South Africa Police when on duty, nor to animals in the official custody of such members, not exceeding twenty-five in number.

(4) Op 'n plaas waar daar geen uitspan- of weiplek aangêel of bepaal en afgesonder is nie, mag niemand 'n dier, hetsy aan 'n rytuig ingespan of anderstas, buitekant die strook grond aan weerskante van 'n publieke pad, soos by sub-artikel (1) bepaal, ry, dryf of laat loop nie.

(5) Niemand behalwe 'n geïnsenseerde slagter of vee-spekuleur, of die eienaar, huurder of bewoner van grond in hierdie Gebied, of 'n gemagtigde verteenwoordiger of werknemer van sodanige slagter, spekulatuer, eienaar, huurder of bewoner, mag op enige uitspan- of weiplek wat ingevolge hierdie Ordonnansie aangêel of afgesonder is, of op enige stuk grond aan weerskante van 'n publieke pad, soos by sub-artikel (1) hiervan bepaal, met vee trek of vertoef nie, buiten met magtiging van 'n permit uitgereik deur 'n magistrat of (in die geval van naturelle) 'n magistrat, naturellekommissaris, assistent-naturellekommissaris of superintendent van 'n naturellesewerw. Sodanige permit moet die getal, aard en bestemming van die betrokke vee aangee, as ook die geldingstyd daarvan. Elkeen wat die bepaling van hierdie sub-artikel, of die voorwaardes van sodanige permit, verontagsaam, is skuldig aan 'n oortreding, en is by skuldigebevinding strafbaar met 'n boete van hoogstens vyf-en-twintig pond, of by wanbaling met gevangenis van hoogstens drie maande met of sonder dwangarbeid.

(6) Die houër van 'n permit ingevolge sub-artikel (5) moet dit op aanvraag toon aan die eienaar, huurder of bewoner van die grond waarop die uitspan- of weiplek of weistrook geleë is en waarop die permitthouër hom met sy vee bevind.

43. (1) Niemand mag langer as vier-en-twintig uur aaneen by 'n uitspan- of weiplek wat ingevolge die bepaling van hierdie Ordonnansie aangêel of afgesonder is, vertoef nie, buiten met die toestemming van die eienaar, huurder, bewoner of weireghouër van die betrokke grond tensy hy daar verdrag word weens teenspoed, oorstromings of ander onvoorsiene omstandighede.

(2) Behoudens die bepaling van sub-artikel (1) hiervan mag niemand met sodanige vee langs die publieke pad of oor die grondstrook aan weerskante daarvan waarvoor sub-artikel (1) van artikel twee-en-veertig voorsiening maak, minder as vyf myl per vier-en-twintig uur afleë nie, buiten met die toestemming van die eienaar, huurder, bewoner of weireghouër van die betrokke grond, tensy hy weens teenspoed, oorstromings of ander onvoorsiene omstandighede verdrag word.

(3) Waar daar ingevolge hierdie Ordonnansie tydperke gestel word, sluit dit Sondae uit.

(4) Elkeen wat die bepaling van hierdie artikel verontagsaam, is skuldig aan 'n oortreding, en is by skuldigebevinding strafbaar met 'n boete van hoogstens vyf pond, of, by wanbaling met gevangenis van hoogstens een maand met of sonder dwangarbeid.

44. (1) Elke reisiger op 'n publieke pad mag sy vee laat wei en suip op al die uitspan- en/of weiplekke wat ingevolge hierdie Ordonnansie bepaal en afgesonder is, of binne die strook grond aan weerskante van die publieke pad soos by sub-artikel (1) van artikel twee-en-veertig bepaal.

(2) Het so 'n uitspan- of weiplek of strook grond geen voldoende watervoorraad nie, kan die Administrateur redelike stappe doen ter waterskaffing daarop, en tot tyd en wyl dit gebeur, mag 'n reisiger sy vee aan die naaste water laat suip, mits daar genoeg oorby vir die behoeftes van die eienaar, huurder of bewoner van die betrokke grond. Elke sodanige eienaar, huurder of bewoner wat weier om so 'n reisiger aan water vir sy vee te help, of wat hom enigens belet om die water te gebruik, is skuldig aan 'n oortreding.

(3) So 'n eienaar, huurder of bewoner kan 'n tarief van hoogstens een pennie per stuk grootvee en een sjieling per honderd stuks kleinvee aanslaan: Met dien verstaande dat hy geen betaling mag eis vir water uit 'n lopende stroom, nog vir die waterverbruik van ry- of trekkere van Administrasie- of Suid-Afrikaanse Polisielionare wat in diens optree nie, nog vir diere — maar hoogstens vyf-en-twintig — wat onder die amptelike toesig van sodanige dienare verkeer nie.

45. The owner or person in charge of any stallion, whether horse or donkey, over the age of eighteen months, or bull over the age of twelve months, or ram over the age of five months, shall be bound to keep such animal under control on a public outspan or on any grazing area. Any person contravening this section shall be guilty of an offence and on conviction be liable to a fine not exceeding twenty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months, unless he shall prove that it was impossible for him to control such animal. This section shall not apply to the owner, lessee or occupier of the farm on which such outspan or grazing area is situated.

46. Should any animal show symptoms of serious disease or die on a public road, outspan or grazing area, the owner or the person in whose charge the animal is, shall forthwith report such symptoms or death to the owner, lessee or occupier of the farm concerned. If the animal dies the owner or person in charge thereof shall forthwith burn the carcass or bury it to a depth of at least four feet. Any person contravening this section shall be guilty of an offence.

47. Any stock not being the property of the owner, lessee or occupier of the farm, found trespassing on any outspan or grazing area, or on any public road, or on any strip of land on each side of a public road as described in sub-section (1) of section forty-two, on such farm, shall be subject to the provisions of the Trespass of Animals (Rural Areas) Ordinance, 1931 (Ordinance 9 of 1931). For the purposes of this section any stock on such outspan, grazing area, public road or strip of land found in possession of a person who is obliged to take out a permit under the provisions of sub-section (3) of section forty-two, but who has not taken out such permit, shall be deemed to have trespassed on such outspan, grazing area, public road or strip of land; and the stock found in the possession of a person who, contrary to the provisions of section forty-three, remains with such stock on any such outspan or grazing area for a longer period than twenty-four consecutive hours, or who travels with such stock along such public road or over such strip of land at a lesser speed than five miles in twenty-four hours, shall be deemed to have trespassed on such outspan, grazing area, public road or strip of land.

#### CHAPTER VII. FENCING AND GATES.

48. Subject to the provisions of section twenty-seven of the Fencing Proclamation, 1921 (Proclamation 57 of 1921), and this Ordinance, any owner, lessee or occupier of any ground may erect a fence across any public road passing over such ground, provided that he gives the Administrator three months notice of such intention.

49. (1) The Administrator may by notice in the *Gazette*, and after such enquiry as he may consider desirable, decrease or increase the standard distance of sixty metres between the fences along the public roads, as provided by section four: Provided that this distance shall always be at least thirty metres.

(2) In the absence of a notice under the provisions of sub-section (1), no fence shall be erected nearer than thirty metres from the centre line of the roadway, and in the case of a decreased or increased road width in terms of the notice referred to in sub-section (1), no fence shall be erected nearer than half the proclaimed width from the centre line of the roadway: Provided that the distance between the centre line of the roadway and the fence may, with the knowledge and approval of the Chief Roads Engineer be altered to a minimum distance of eight metres, provided that the total road width between the fences remain as prescribed.

(3) (a) The Administrator may issue a notice requiring the owner of any fence erected after the commencement of this Ordinance in contravention of this section, to remove it within a period to be specified in such notice, and failing compliance with such requirements, the

45. Die eienaar of toesighouer van 'n perde- of donkies oter as agtien maande, of van 'n bul oer as twaalf maande, of van 'n ram oer as vyf maande, moet sodanige dier op 'n publieke uitspan- of weiplek onder beheer hou. Elkeen wat die bepalings van hierdie artikel verontsaam, is skuldig aan 'n oortreding, en is by skuldigebevinding strafbaar met 'n boete van hoogstens vyf-en-twintig pond of, by wanbetaling, met gevangenis van hoogstens drie maande met of sonder dwangarbeid, tensy hy kan bewys dat dit onmoontlik was om die dier te beheer. Hierdie artikel geld nie die eienaar, huurder of bewoner van die plaas waarop die uitspan- of weiplek geleë is nie.

46. Wanneer 'n dier op 'n publieke pad, uitspan- of weiplek tekens van 'n ernstige siekte toon of daar doodgaan, moet eienaar of toesighouer van die dier sodanige sieketekens of dood onmiddellik by die betrokke plaas-eienaar, -huurder of bewoner aanmeld. As die dier doodgaan, moet die eienaar of toesighouer daarvan die karkus onmiddellik verbrand of minstens vier voet diep begrawe. Elkeen wat die bepalings van hierdie artikel verontsaam, is skuldig aan 'n oortreding.

47. Uitgesonderd vee van die plaas-eienaar, -huurder of -bewoner, is alle vee wat op 'n uitspan- of weiplek of op enige publieke pad of op enige strook grond aan weerskante van 'n publieke pad (soos by sub-artikel (1) van artikel twee-en-veertig bepaal) op so 'n plaas verkeer, onderhewig aan die bepalings van die Ordonnansie betreffende Oortreding van Diere (Plattelandse Gebiede) 1931 (Ordonnansie 9 van 1931). By die toepassing van hierdie artikel word daar aangeneem dat alle vee wat op sodanige uitspan- of weiplek, pad of strook grond verkeer in die besit van iemand wat ingevolge sub-artikel (5) van artikel twee-en-veertig verplig is om 'n permit uit te neem maar wat versuim het om dit te doen, op sodanige uitspan- of weiplek, publieke pad of strook grond optree, en word daar voorts aangeneem dat alle vee wat in die besit verkeer van iemand wat strydig met die bepalings van artikel drie-en-veertig langer as vier-en-twintig uur aaneen met sodanige vee op sodanige publieke pad by sodanige uitspan- of weiplek vertoef, of wat minder as vyf myl per vier-en-twintig uur met sodanige vee langs sodanige publieke pad of oor sodanige strook grond afle, op sodanige uitspan- of weiplek, publieke pad of strook grond oortree.

#### HOOFSTUK VII.

##### OMHEINING EN HEKKE.

48. Behoudens die bepalings van artikel sewen-en-twintig van die „Omheining Proklamasie 1921“ (Proklamasie 57 van 1921) en van hierdie Ordonnansie, kan enige eienaar, huurder of bewoner van grond 'n heining oprig alwaar 'n publieke pad wat oor sodanige grond loop, mits hy die Administrateur drie maande vooruit van sy voorneme in kennis stel.

49. (1) By kennisgewing in die *Offisiële Koerant*, en na 'n ondersoek wat hy moontlik wenslik ag en gelas, kan die Administrateur die standaard-afstand van sesig meter tussen die heinings langs publieke paaie, soos by artikel vier hiervan bepaal, verminder of vermeerder: Met dien verstande dat die afstand steeds minstens 30 meter moet wees.

(2) By afwesigheid van 'n kennisgewing ingevolge die bepalings van sub-artikel (1) mag geen heining nader as 30 meter van die middellyn van die pad se ryvlak af opgerig word nie, en by 'n vermeerderde of verminderde padbreedte soos by kennisgewing ingevolge sub-artikel (1) bepaal, mag geen heining nader as die helfte van die geproklameerde breedte van die ryvlak-middellyn af opgerig word nie: Met dien verstande dat die afstand tussen die ryvlak-middellyn en die heining met die wete en toestemming van die Hoofspadingenieur gewysig mag word tot op 'n minimum van 8 meter, mits die afgebeide padbreedte tussen die heinings die voorgeskrewe maat bly volg.

(3) (a) Die Administrateur kan 'n kennisgewing uitvaardig waarby hy die eienaar van 'n omheining wat na die inwerkingtreding van hierdie Ordonnansie en strydig met die bepalings van hierdie artikel opgerig is, gelas om dit te verwyder binne 'n tydperk wat die kennisgewing aandui, en hy versuim om sodanige lasgewing na te kom,

Administrator may remove such fence and may recover from the owner in any court of competent jurisdiction the costs of such removal.

(b) If, prior to the commencement of this Ordinance, any fence shall have been erected contrary to the requirements of this section, the Administrator may remove such fence at public expense and re-erect it in accordance with the provisions of this section: Provided that if the owner of any fence had received notice to remove or shift it prior to the commencement of this Ordinance, the Administrator may remove or shift such fence, and may recover the costs from the owner in any court of competent jurisdiction.

50. (1) The Administrator may erect a motor-gate in any fence across any public road.

(2) Where the traffic over public roads is limited to motor vehicles in terms of section six it shall be sufficient to erect a motor-gate in the fence across the public road.

(3) Where no limitation in terms of sub-section (2) is imposed, either a swing gate only, or a swing gate and a motor-gate may be erected next to each other in a fence across such road.

51. The Administrator or the owner of the fence shall in no way be held liable for any loss through injury or damage to any person, vehicle or stock caused by the passage or attempted passage of such person, vehicle or stock through or over any motor-gate, by reason of the construction, maintenance or repair of such motor-gate in such fence in accordance with the provisions of this Ordinance: Provided that nothing in this section shall exempt the Administrator from liability for any loss caused by negligence in the construction, maintenance or repair of such motor-gate.

52. (1) Every person who is responsible for the maintenance of any gate constructed across a public road—

- (a) shall fasten in the centre of such gate a plate two feet square painted white, and shall repaint it white whenever necessary; and
- (b) shall erect and maintain within twenty feet on each side of such gate in a convenient position a post with rings and hooks to secure animals while the gate is being opened and closed; and
- (c) shall ensure that the gate be erected in such a position that any vehicle can come to a standstill on either side of such gate; and
- (d) shall ensure that such a gate swings freely over the ground in either direction; and
- (e) shall ensure that no spikes or other projections which in the opinion of the Administrator are dangerous or likely to cause injury to persons or animals or damage to things, are attached to such gate; and
- (f) shall ensure that the gate is of the standard type at least 16 feet in width, and not a "concertina" gate, not a gate of which certain parts can swing away separately, nor any gate which in the opinion of the Administrator is in any way dangerous or likely to cause injury or damage to persons, animals or things.

(2) Any person contravening the provisions of this section shall be guilty of an offence.

53. (1) At every point where a road other than a public road turns off from a public road, the owner of the land concerned shall erect and maintain in accordance with the specifications laid down by the Administrator, a signpost distinctly indicating the destination of the first-mentioned road; and if, after receiving written notice to that effect from the magistrate, the owner fails to comply with this provision within ten days after receipt of such notice, he shall be guilty of an offence.

(2) Every owner of land on which any road other than a public road has been closed by the construction of a fence across it or otherwise, shall erect and maintain at any point on such land at which any such road shall turn off from a public road, and in accordance with the

kan die Administrateur sodanige omheining verwyder en die verwyderingskoste in enige regsbevoegde hof van die eienaar verhaal.

(b) Waar 'n omheining voor die inwerkingtreding van hierdie Ordonnansie strydig met die bepalings van hierdie artikel opgerig is, kan die Administrateur sodanige omheining op staatskoste verwyder, en dit weer laat oprig sodat dit aan die bepalings van hierdie artikel voldoen: Met dien verstande dat waar die eienaar van enige omheining reeds voor die inwerkingtreding van hierdie Ordonnansie kennis gekry het dat hy dit moet verwyder of versit, die Administrateur sodanige omheining kan verwyder of versit, en die koste in enige regsbevoegde hof van die eienaar kan verhaal.

50. (1) Die Administrateur kan 'n motorhek in enige heining oor enige publieke pad laat bou.

(2) Wanneer die verkeer van voertuie oor 'n publieke pad ingevolge artikel ses tot motorvoertuie beperk is, hoef slegs 'n motorhek in die heining oor die publieke pad opgerig te word.

(3) Wanneer daar geen beperking ingevolge sub-artikel (2) opgelê is nie, hoef slegs 'n swaaihek, of 'n swaaihek en 'n motorhek langs mekaar in 'n heining oor sodanige publieke pad opgerig te word.

51. Die Administrateur of die eienaar van die heining is geensins weens die aanbou, instandhouding of herstel van 'n motorhek in so 'n heining ingevolge die bepalings van hierdie Ordonnansie aanspreklik vir enige verlies weens moontlike skade of letsel aan enige persoon, voertuig, of vee wat deur so 'n motorhek gaan of probeer gaan nie: Met dien verstande dat hierdie artikel die Administrateur nie vrystel van aanspreklikeheid vir verlies weens nalatigheid by die aanbou, herstel of instandhouding van so 'n motorhek nie.

52. (1) Elkeen wat verantwoordelik is vir die oprigting en instandhouding van 'n hek dwarsoor 'n publieke pad—

- (a) moet aan die middel van sodanige hek 'n plaat — twee voet vierkant en wit geskilder — vasmaak, en die plaat telkens weer wit skilder sodra dit nodig word; en
- (b) moet binne twintig voet aan weerskante van elke hek op 'n geskikte plek 'n paal met ringe of hake waaraan diere tydens die oop- of toemaak van die hek vasgemaak kan word, oprig en in stand hou; en
- (c) moet sorg dat die hek so opgerig word dat voertuie aan albei kante kan stilhou; en
- (d) moet sorg dat so 'n hek na albei kante, en los bo die grond kan swaai; en
- (e) moet sorg dat daar geen penne of ander uitstekende voorwerpe wat na Administrateursmening gevaarlik of skadelik vir mens, dier of ding is, aan so 'n hek vasgemaak is nie; en
- (f) moet sorg dat die hek met 'n standaardtype hek ooreenkom, minstens 16 voet breed is, en nie 'n concertina-hek is nie, nóg 'n hek is waarvan party onderdele afsonderlik kan wegsaai nie, nóg 'n hek is wat na Administrateursmening enigins gevaarlik of skadelik is vir mens, dier of ding nie.

(2) Elkeen wat die bepalings van hierdie artikel verontsaam, is skuldig aan 'n oortreding.

53. Oral waar 'n pad, uitgesonderd 'n publieke pad, uit 'n publieke pad wegdraai, moet die eienaar van die betrokke grond ooreenkomstig die Administrateur se spesifikasies 'n padwyser oprig en in stand hou wat die eersgenoemde pad se bestemming duidelik aangee, en as so 'n eienaar tien dae na ontvangs van 'n magistratskennisgewing te dien effekte nog versuim om so 'n padwyser aan te bring, is hy skuldig aan 'n oortreding.

(2) Elke eienaar van grond waarop enige pad uitgesonderd 'n publieke pad, gesluit is, hetsy deur die oprigting van 'n heining daarvoor of andersins, moet ooreenkomstig die Administrateur se spesifikasies op die plek waar so 'n

specifications laid down by the Administrator, a signpost distinctly indicating the fact that such road has been so closed, and if the owner fails to comply with this provision, after due notice as provided in sub-section (1), he shall be guilty of an offence.

54. It shall not be lawful for any person to lock or otherwise secure any gate across any public road against passage without the consent of the Administrator.

55. The Administrator may order the removal of—

(a) fences, gates, enclosures or other obstructions across or alongside any public road if constructed contrary to the provisions of this Ordinance or the Fencing Proclamation, 1921 (Proclamation 57 of 1921), or any amendment thereof; or

(b) any gate which has been erected at a spot on a public road which is, in his opinion, not suitable for a halt;

and if such order is not complied with within a period of three months from the date thereof, the Administrator may cause such fence or gate or other obstruction to be removed at the expense of the owner or person responsible for the erection thereof, who shall further be guilty of an offence.

56. All gates that are necessary in existing fences owing to the diversion of public roads or the making of new public roads, shall be provided by the Administrator, unless such diversion or new road is made at the request of the owner, lessee or occupier of the farm on which such fence is situated.

#### CHAPTER VIII.

##### FURROWS AND WATER COURSES.

57. Any person wishing to lead water over or under a public road shall do so at his own expense after having obtained the approval of the Administrator who may decide on the class of culvert or other conduit which shall be used.

58. No person may without the consent of the Administrator raise the level of the water of any river, stream or spruit at any public road, bridge or drift.

59. (1) The Administrator may in consultation with the owner divert storm water from or under any public road into private property, provided such land is not occupied by buildings, orchards, gardens or other improvements, and the Administrator shall not be liable for any damage caused by means of such diversion. In case it be found necessary to divert such water on to lands under cultivation, other than as aforesaid, and damage be caused thereby, the owner of such land shall be entitled to such compensation as may be agreed upon, or failing agreement, as may be determined by arbitration in the manner hereinafter provided.

(2) The provisions of this section shall not apply to any public road situated within any area under the jurisdiction of a local authority.

#### CHAPTER IX.

##### CONTROL OF TRAFFIC.

60. Subject to the provisions of the Motor Vehicle and Wheel Tax Ordinance, 1937 (Ordinance 17 of 1937), as amended, and of this Ordinance, the Administrator may from time to time make regulations on any of the following matters—

(a) the regulation, safety and control of traffic on public roads including the restriction of the use of any such roads or parts thereof to specified vehicles generally or at fixed times or seasons; and the provision that any specified public road shall be limited in use to traffic moving in any one specified direction; and generally for the better carrying out of the objects of this chapter;

pad uit 'n publieke pad wegdraai 'n padwyser oprig en in stand hou wat duidelik aantoon dat so 'n pad aldus gesluit is, en as die eienaar versum om dit te doen na behoorlike kennisgewing ingevolge sub-artikel (1), is hy skuldig aan 'n oortreding.

54. Sonder Administrateurstoestemming mag niemand 'n hek oor 'n publieke pad teen deurtog sluit of andersins versper nie.

55. Die Administrateur kan die verwydering gelas van—

(a) omheinings, hekke, kampe of ander versperings oor of langs 'n publieke pad wat strydig met die bepalings van hierdie Ordonnansie of die „Omheining Proklamatie 1921“ (Proklamasie 57 van 1921) soos gewysig, aangebring is; of

(b) enige hek op 'n publieke pad wat syns insiens op 'n ongeskikte stillooplek ingerig is; en as sodanige lasgewing nie binne drie maande daarna uitgevoer word nie, kan die Administrateur sodanige hek en omheining, of ander versperring, laat verwyder op koste van die eienaar of oprigter daarvan, wat voorts skuldig is aan 'n oortreding.

56. Die Administrateur verskaf of versit alle hekke wat, weens die verlenging van publieke paaie of die aanleg van nuwes, in bestaande omheinings gemaak moet word, tensy die eienaar, huurder of bewoner van die grond waarop die betrokke omheining geleë is, self om die verlegging of die nuwe pad gevra het.

#### HOOFSTUK VIII.

##### VORE EN WATERLOEPE.

57. Enigiemand wat water bo-oor of onderdeur 'n publieke pad wil lei, moet dit op eie koste doen en na verkryging van die goedkeuring van die Administrateur, wat kan besluit oor die soort deurlaat of ander geleiding wat gebruik moet word.

58. Niemand mag sonder Administrateurstoestemming die waterpeil van 'n rivier, stroom, of spruit by 'n publieke pad, brug of drif verhoog nie.

59. In ooreleg met die eienaar kan die Administrateur stormwater van of onder publieke paaie uit na private grond weglei, mits daar geen geboue, boerde, tuinte of ander verbeterings op sodanige grond staan of aangebring is nie, en die Administrateur is nie verantwoordelik vir skade weens sodanige afleiding nie. As dit egter nodig blyk om water af te lei op grond onder bebouing en daar gevolglik skade ontstaan, het die betrokke eienaar aanspraak op skadevergoeding volgens ooreenkoms, of by gebrek daarvan, skadevergoeding deur arbitrasie soos hierna bepaal word.

(2) Die bepalings van hierdie artikel geld geen publieke paaie binne 'n plaaslike bestuursgebied nie.

#### HOOFSTUK IX.

##### BEHEER VAN VERKEER.

60. Behoudens die bepalings van die Ordonnansie op Motorvoertuig en Wielbelasting 1937 (Ordonnansie 17 van 1937) soos gewysig, en van hierdie Ordonnansie, kan die Administrateur van tyd tot tyd regulasies oor enige van die onderstaande sake afkondig—

(a) die reëling, veiligheid en beheer van die verkeer op publieke paaie, met inbegrip van die beperking op die gebruik van al sulke paaie of dele daarvan vir bepaalde voertuie oor die algemeen of op vaste tydperke of jaargetye; en die bepaling dat 'n genoemde publieke pad slegs in een aangeduide rigting gebruik mag word; en, oor die algemeen, ter doeltreffender uitvoering van die oogmerke van hierdie hoofstuk;

- (b) the control of heavy vehicular traffic and the prohibition generally or at any particular season of the use of vehicles of any specific kind which may be specially injurious to roads; or the restriction of the use of public roads to any specific kind of vehicle;
- (c) fixing the weight which may be taken over any bridge and the times when, and the speed at which, any vehicle may be allowed to cross such bridge;
- (d) the regulation of the type of wheels and their size and width of tyres, of vehicles traversing the public roads;
- (e) the limitation of the speed of vehicles;
- (f) the provision, erection and maintenance of milestones, signposts, road and warning signs;
- (g) the type of apparatus to be used for the braking and scotching of the wheels of vehicles;
- (h) prescribing the manner in which any vehicle or animals may be driven or led over or along a public road or section of a public road;
- (i) detaining any vehicle in order to ascertain whether this Ordinance or the regulations thereunder are being complied with, and for requiring drivers and others to furnish such information as may be required under this Ordinance or the regulations thereunder;
- (j) the indicating of names and addresses of owners on waggon and other vehicles; and
- (k) generally making provision for all matters furthering the due administration of, and the giving of full effect to, the provisions of this Ordinance.

61. It shall not be lawful—

- (a) to lock the wheels of any vehicle when travelling on a public road;
- (b) to draw or otherwise use any sledge or any attachment which projects beyond the tread of the wheels, on any public road;
- (c) to make use of metal plates or shoes (skids) on any public road, unless it is imperative for safety on exceptionally steep gradients, and in no case unless the plates or shoes are at least six inches wide;
- (d) to make use of brakes on vehicles with steel treads when passing over bridges on public roads.

Any person contravening the provisions of this section shall be guilty of an offence.

62. Whenever any vehicle has to be extricated from any public road, the driver or person in charge thereof shall immediately repair the damage to the road caused thereby to the best of his ability.

63. (1) All travellers along public roads shall when meeting any vehicle keep to the left of the road except where the road runs along the mountain slopes in which case an animal-drawn vehicle coming down such slopes and passing another, shall keep to the inner or upper side.

(2) Any person contravening any of the provisions of this section shall be guilty of an offence.

64. (1) Any driver or other person in charge of a waggon or other vehicle drawn by oxen or other animals not controlled by reins, shall have a leader for the team attached to that waggon or other vehicle—

- (a) when passing through the streets of any township or village;
- (b) when passing through an area outside that of a local authority, prescribed by the Administrator by notice in the Gazette;
- (c) when approaching, passing or being overtaken by any other vehicle: Provided that the driver of the overtaking vehicle shall have given adequate warning of his approach;
- (d) when approaching or passing through a gate or drift, or over or under any bridge or railway crossing.

(2) Any person contravening the provisions of this section shall be guilty of an offence: Provided that, when considering any contravention of paragraph (b) of subsection (1) hereof, the court shall satisfy itself that the Administrator has caused to be affixed and kept legible in one or more conspicuous places near such area a notice indicating such area to the public.

- (b) die beheer van swaar voertuigverkeer, en die verbod oor die algemeen of in 'n aangeduide jaargety op die gebruik van 'n geneemde soort voertuig wat baie nitermatig verniel, of die beperking van publieke padgebruik tot 'n geneemde soort voertuig;
- (c) die vastelling van die gewig wat oor brúe vervoer mag word, en die tyd wanneer, en die snelheid waarteen, 'n voertuig daaroor mag gaan;
- (d) die reëling van die wielsoort en -grootte, en die wielbaandbreedte, van voertuie wat op publieke paale loop;
- (e) die beperking van voertuigsnelheid;
- (f) die aanskaffing, oprigting en instandhouding van mylpale, seinpale, padwysers en waarskuwingstekens;
- (g) die aard van rem- en vasstoele aan voertuigwiele;
- (h) die wyse waarop 'n voertuig of diere op of oor 'n publieke pad of paddeël bestuur, gedryf of gelei moet word;
- (i) die aanhouding van voertuie ter versekering dat hierdie Ordonnansie, en sy regulasies ter uitvoering daarvan, nagekom word, en ter verpligting van bestuurders, drywers en andere om inligting te verstrek wat ingevolge hierdie Ordonnansie of die regulasies van hulle aangeva word;
- (j) die aanduiding van die name en adresse van die eienaars op waens en ander voertuie; en
- (k) oor die algemeen, die reëling van alle ander sake wat die behoorlike toepassing en stipte nakoming van hierdie Ordonnansie bevorder.

61. Dit is verbode —

- (a) om die wiele van 'n voertuig waarmee daar op 'n publieke pad gereis word, vas te set;
- (b) om 'n sleg of ander aanhegsel wat buite die loopvlak van die wiele uitsteek, op publieke paale te trek of andersins te gebruik;
- (c) om metaalreplate of -skoene op publieke paale aan te slaan, buiten teen hellings wat so steil is dat die veiligheid dit gebied, en, in iedere geval, om replate of skoene te gebruik wat minder as ses duim breed is;
- (d) om remme van voertuie met staalbande aan te slaan wanneer daar oor brúe op publieke paale gery word.

Elkeen wat strydig met die bepalings van hierdie artikel handel is skuldig aan 'n oortreding.

62. Wanneer 'n vasgevalde voertuig op 'n publieke pad uitgegraaf moet word, moet die drywer of bestuurder onmiddellik die pad so goed moontlik herstel.

Elkeen wat strydig met die bepalings van hierdie artikel handel is skuldig aan 'n oortreding.

63. Alle reisigers op publieke paale moet links hou wanneer hulle 'n ander voertuig teenkom, buiten waar die pad teen 'n berghellings loop, en daar moet 'n dalende voertuig wat deur diere getrek word, met die verbyggaan aan die binne- of bergkant gehou word. Elkeen wat strydig met die bepalings van hierdie artikel handel, is skuldig aan 'n oortreding.

64. (1) Die drywer of toesighouer van 'n wa of ander voertuig wat deur osse of ander diere getrek word maar nie met leëls bestuur word nie, moet 'n touleier voor sy span hê wanneer hy —

- (a) deur die strate van 'n dorp of stad ry;
- (b) deur 'n streek buite 'n plaaslike bestuursgebied ry wat die Administrateur by kennisgewing in die *Offisiële Koerant* aanvys;
- (c) 'n ander voertuig nader, verbyggaan of daardeur ingehaal word: Met dien verstande dat die bestuurder of drywer van die inhalende voertuig voldoende waarskuwing van sy nadering moet gee;
- (d) deur 'n hek of drif of oor of onder deur 'n brug of spoorbaan gaan, of daarby kom.

(2) Elkeen wat die bepalings van hierdie artikel verontsaam, is skuldig aan 'n oortreding: Met dien verstande dat waar die hof ingaan op 'n moontlike oortreding van paragraaf (b) van sub-artikel (1) hiervan, hy hom moet oortuig dat die Administrateur wel 'n aanduiding van die betrokke streek op een of meer treffende plekke daarnaby laat aanbring het, en dat sodanige aanduiding leesbaar gehou word.

CHAPTER X.  
GENERAL.

65. The Administrator may from time to time make regulations not inconsistent with this Ordinance on any of the following matters—

- (a) for prescribing the powers, duties and functions of boards constituted under section *nine*, and for determining the amount to be paid to *ex officio* and other members of the board for travelling and other expenses;
- (b) for the control management and working of pons, and pont tariffs;
- (c) subject to the provisions of the Public Service Act, 1923, as amended, for prescribing the duties and conditions of employment of officials or employees of the Administration engaged in the administration or execution of the provisions of this Ordinance or the regulations thereunder;
- (d) for prescribing the manner in which any notices required by this Ordinance shall be given or served and the nature and duration of such notices, and the manner in which owners of farms desiring the opening, closing or diversion of public roads shall give notice to that effect, and the place and duration of such notices;
- (e) for prescribing the manner in which owners of land shall indicate outspans on their land by means of notice boards;
- (f) for protecting from damage and interference any property or works of the Administration, including trees, boreholes, wells and improvements situated in, under or over any public road or outspan;
- (g) for regulating the connecting of private roads with public roads and the control thereof;
- (h) generally, for the better carrying out of the objects of this Ordinance.

66. Whenever it becomes necessary for the safety of the public to divert or reconstruct any public road owing to the fact that the ground has been undermined subsequent to the construction of the public road, the Administrator shall have the right to instruct the mining company or owner of mining property concerned or other person responsible for such undermining to provide for the reconstruction, repair or renewal of the original road at the expense of such person, and failing compliance with such instructions within a reasonable time, the Administrator shall have the right to undertake the work at the expense of such person as aforesaid.

67. The Administrator shall have the right to plant trees or otherwise generally to improve the areas within a public road and he may delegate such right to the owner concerned. Any person wilfully damaging such trees or improvements shall be guilty of an offence.

68. The Administrator shall not be responsible or liable for the construction or maintenance of bridges or crossings of any description over drains or watercourses made for carrying off flood water or otherwise for the protection of public roads.

69. Notwithstanding the provisions of this Ordinance, all roads, fences and outspans constructed, erected or beaconed-off in accordance with existing laws, shall be deemed to have been lawfully constructed, erected and beaconed-off under this Ordinance.

70. Wherever in this Ordinance any right or powers are given to the Administrator, such rights and powers shall also apply to any person duly authorised by the Administrator or lawfully acting on his behalf.

71. (1) Whenever in the course of the opening, construction or maintenance of any public road or the establishment of a pont service by or on behalf of the Administrator, any direct damage be done to any orchard, garden or plantation or to any crops or cultivated trees, but not otherwise, the owner thereof shall be entitled to compensation as may be agreed upon by the parties, or, failing such agreement, as may be determined by arbitration in terms of section *seventy-three*.

HOOFSTUK X.  
ALGEMEEN.

65. Met inagneming van die bepalings van hierdie Ordonnansie kan die Administrateur van tyd tot tyd regulasies afkondig ter reëling of voorskrywing van enige van die volgende sake —

- (a) die bevoegdhe, pligte en werksaamhede van die rade wat by artikel *nege* ingestel word, en die bedrae wat aan raadslede (sowel *ex officio* as gewoon) betaal moet word weens hul reis- of ander onkoste.
- (b) die beheer, bestuur en werking van pontie, en pont-tariefe;
- (c) behoudens die bepalings van die Staatsdienswet 1923, soos gewys, die pligte en diensvoorwaardes van Administrasiecomptenare of werknemers wat belas is met die toepassing of uitvoering van hierdie Ordonnansie of van die regulasies wat hieruit voortvloei;
- (d) die wyse waarop kennisgewings wat ingevolge hierdie Ordonnansie moet geskied, gegee of bestel moet word, en die aard en tydperk van sodanige kennisgewings, as ook die wyse waarop die eienaars van plase wat die opening, sluiting of verlegging van publieke paan verlang, kennisgewing van hul voornemens moet gee, en die plek en tydperk van sodanige kennisgewings;
- (e) die wyse waarop die eienaars van plase uitspanplekke daarop moet aanwys deur middel van kennisgewingsborde;
- (f) die beskerming van Administrasie- eiendoms- of werksaamhede, insluitende bome, boorgate, putte en verbeteringswerke binne, onder of oor publieke paan of uitspanplekke, teen beskadiging of bemoeiing;
- (g) die aansluiting van private en publieke paan en die beheer daaroor;
- (h) oor die algemeen, om 'n noukeurige uitvoering van die doeleindes van hierdie Ordonnansie te bevorder.

66. Waar die publieke veiligheid die verlegging of vernuwing van 'n publieke pad noodsaak omdat die grond na die aanlegging daarvan ondermyn of ondergrawe is, kan die Administrateur die betrokke mycienaar, mynmaatskappy of ondergraver gelas om die oorspronklike pad te herba, te herstel of te vernu teen die koste, en, by versuim om binne 'n redelike tyd aan hierdie lasgewing te voldoen, kan die Administrateur die werk self laat uitvoer, en die koste van die betrokke verhaal.

67. Die Administrateur het die reg om bome te laat plant binne die gebied van 'n publieke pad, of om ander verbeterings daarin aan te laat bring, en kan sodanige reg aan die betrokke eienaar oordra. Elkeen wat sodanige bome of ander verbeteringe opsetlik beskadig, is skuldig aan 'n oortreding.

68. Die Administrateur is nie verantwoordelik vir die aanleg en instandhouding van brde en kruispaan, van watter aard ook al, oor deurlate en waterlope wat vir die afvoer van stormwater of andersins ter beskerming van publieke paan aangebring is nie, nóg is hy aanspreeklik in verband daarmee nie.

69. Die bepalings van hierdie Ordonnansie ten spyt, word alle paan, omheininge en uitspanplekke wat ingevolge bestaande wette aangelê, opgerig of afgebaken is, ghou vir aangelê, opgerig en afgebaken ingevolge hierdie Ordonnansie.

70. Waar daar by hierdie Ordonnansie regte of bevoegdhe aan die Administrateur verleen word, word daardie regte en bevoegdhe ook verleen aan elkeen wat beboorlik deur die Administrateur gemagtig is, of wat regmatig namens hom optree.

71. (1) Wanneer daar by die opening, aanleg of instandhouding van publieke paan, of die instelling van 'n pontdiens deur of namens die Administrateur, enige regstreekse skade aan boord, tuin, plantasies, gesaaides of gekweekte bome veroorsaak word, maar in geen ander geval nie, is die betrokke eienaar geregtig op skadevergoeding volgens ooreenkoms tussen die partye, of, by gebrek aan so 'n ooreenkoms, volgens arbitrasie ingevolge artikel *drie-en-sewentig*.



(2) Whenever the Administrator has declared in terms of paragraph (c) of sub-section (1) of section five of this Ordinance that a public road shall exist on any land falling within any of the areas referred to in the proviso to the definition of "public road" in section two of this Ordinance, where no road previously existed, or where a road has been closed, and has defined the course of such road, the owner of the land in question shall, notwithstanding the provisions of sub-section (1) of this section, be entitled, in addition to any compensation which may be payable under sub-section (1) of this section, to compensation in respect of land taken up by such road, the amount of such compensation to be determined, in case of dispute, by arbitration as provided for in section seventy-three hereof.

72. Any action against the Administration of South West Africa for damages alleged to have been sustained by reason of the default or neglect of an official or employee of the Administration in connection with the construction, maintenance or state of the roads, motor-gates or bridges under its control and charge shall lie only—  
 (a) after written notice of such claim clearly and explicitly stating the cause of action shall have been served upon the Secretary of South West Africa within a period of thirty days after the cause of action arose; and  
 (b) within a period of ninety days after the cause of action arose.

73. Whenever in this Ordinance it be provided that any dispute or difference shall be settled by arbitration, two arbitrators shall be appointed, one of whom shall be appointed by the Administrator and the other by the owner, and whenever such arbitrators fail to come to an agreement on any matter, or on a question of costs, they shall appoint an umpire, and if they fail to do so, the Administrator shall appoint an umpire, whose decision shall be binding on the parties in question.

74. Any person convicted of an offence against this Ordinance or the regulations framed thereunder, or failing to perform any duty thereby prescribed, shall, if no penalty is specially provided therefor, on conviction be liable to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months.

75. All proclamations, notices and regulations issued and framed under the provisions of any law repealed by this Ordinance shall, if not inconsistent with the provisions thereof, remain in force until revoked or amended under the provisions of this Ordinance.

76. No obligation or duty imposed on any landowner under this Ordinance, other than an obligation or duty imposed by Chapter VI, shall, attach to the Administration of South West Africa or the Department of Railways and Harbours of the Union of South Africa.

77. This Ordinance shall be called the Roads and Outspans Ordinance, 1952, and shall come into force on a date to be fixed by the Administrator by proclamation in the *Official Gazette*.

(2) Wanneer die Administrateur ooreenkomstig paragraaf (c) van sub-artikel (1) van artikel vyf van hierdie Ordonnansie 'n publieke pad proklameer op grond wat in die voorbehoud by die woordbepaling „publieke Pad" in artikel twee van hierdie Ordonnansie vermeld word en waarop daar voorheen geen pad was nie of waarop 'n pad gesluit is, en die loop van sodanige publieke pad bepaal het, het die eienaar van die betrokke grond nieëtaande die bepallings van sub-artikel (1) van hierdie artikel die reg op vergoeding vir die grond wat die publieke pad beslaan, huten en behalwe sy reg op skadevergoeding in gevolge die bepallings van sub-artikel (1) hiervan, en by ononeigheid oor die vergoedingsbedrag moet dit by arbitrasie in gevolge artikel drie-en-sewentig hiervan vasgestel word.

72. Geen regstelling om skadevergoeding teen die Administrasie van Suidwes-Afrika weens die beweerde versuim of ualatigheid van 'n Administrasie-amptenaar of werknemer betreffende die auleg, instandhouding of toestand van die paaie, motorhekke of brde onder die beheer en toesig van die Administrasie kan ingestel word nie tensy:—  
 (a) skriftelike kennisgewing van die eis, met duidelike en uitdruklike vermelding van die eis-oorsaak binne dertig dae na die ontstaan daarvan, aan die Sekretaris van Suidwes-Afrika, bestel word, en  
 (b) so 'n proses binne negentig dae nadat die eis-oorsaak ontstaan het, ingestel word.

73. Waar hierdie Ordonnansie bepaal dat ge-killie by wyse van arbitrasie geskik moet word, moet daar twee arbiters aangestel word, een deur die Administrateur en die ander deur die eienaar, en waar die arbiters nie oor die geskilpunt of die geskilkoste ooreen kan kom nie, moet hulle saam 'n eindbesliser benoem, en as hulle versuim, benoem die Administrateur 'n eindbesliser wie se beslissing afdoende is en die betrokkees verbind.

74. Elkeen wat skuldig is aan 'n oortreding van die bepallings van hierdie Ordonnansie of van die regulasies wat hieruit voortvloei, of wat versuim om 'n verpligting na te kom wat hierdie Ordonnansie of die regulasies hom opleë, is, wanneer daar geen spesifieke straf vir die oortreding bepaal is nie, by veroordeling strafbaar met 'n boete van hoogstens vyftig pond, en, by wanbetaling, met gevangenis van hoogstens ses maande met of sonder dwangarbeid.

75. Alle proklamasies, kennisgewings en regulasies wat afgekondig is in gevolge die bepallings van enige wet wat by hierdie Ordonnansie herroep word, bly, solank hulle met die bepallings hiervan bestaanbaar is, van kragt totdat hulle in gevolge die bepallings van hierdie Ordonnansie herroep of gewysig word.

76. Uitgesonderd die bepallings van hoofstuk VI, geld geen verpligting of plig wat by hierdie Ordonnansie aan 'n grondeienaar opgelê word, die Administrasie van Suidwes-Afrika, nóg die Departement Spoorweë en Havens van die Unie van Suid-Afrika nie.

77. Hierdie Ordonnansie heet die Ordonnansie op Paaie en Uitspanplekke 1952 en tree in werking op 'n datum wat die Administrateur by proklamasie in die *Offisiële Koerant* afkondig.

BYLAAG.

HERROEPE WETTE.  
(ARTIKEL EEN).

SCHEDULE.  
LAWS REPEALED.  
(SECTION ONE).

No. and year of commencement.	Title or Subject of Law.	Nommer en jaar van aanname.	Titel of onderwerp van Wet.
Ordinance 13 of 1931	Motor By-Passes.	Ordonnansie 13 van 1931	Motordeurgange
Ordinance 7 of 1937	Roads and Outspans	Ordonnansie 7 van 1937	Ordonnansie op Paaie en Uitspanplekke
Ordinance 8 of 1942	Roads and Outspans Amendment Ordinance.	Ordonnansie 8 van 1942	Wysigingsordonnansie op Paaie en Uitspanplekke
Ordinance 7 of 1945	Roads and Outspans Amendment Ordinance.	Ordonnansie 7 van 1945	Wysigingsordonnansie op Paaie en Uitspanplekke
Ordinance 6 of 1952	Roads and Outspans Amendment Ordinance.	Ordonnansie 6 van 1952	Wysigingsordonnansie op Paaie en Uitspanplekke
Ordinance 8 of 1952	Roads and Outspans Amendment Ordinance.	Ordonnansie 8 van 1952	Wysigingsordonnansie op Paaie en Uitspanplekke