

# **ROADS AND ROAD TRANSPORTATION**

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## **Advertising on Roads and Ribbon Development Ordinance 30 of 1960**

**Summary:** This Ordinance ([OG 2254](#)) regulates the display of advertisements near public roads, the erection of structures near certain proclaimed roads, access to land from such roads and drive-in cinemas. It is extended to Eastern Caprivi, Owambo, Kavango and Damaraland by Act 5/1982 ([OG 4618](#)).

**Amendments:** The Ordinance is amended by Ord. 3/1967 ([OG 2777](#)) and by the Entertainment Tax Abolition Ordinance 11 of 1972 ([OG 3260](#)).

**Regulations:** Regulations are authorised by section 12 of the Act. Pre-independence regulations have not been researched. No post-independence regulations have been promulgated.

**Notices:** The functions assigned to the Minister by this Act have been assigned to the Roads Authority established by the Roads Authority Act 17 of 1999 ([GG 2215](#)) (GN 169/2000, [GG 2374](#)).

## **Roads Ordinance 17 of 1972**

**Summary:** This Ordinance ([OG 3268](#)) consolidates the laws relating to roads. It is applied to Eastern Caprivi, Owambo, Kavango and Damaraland, insofar as it was not already so applicable, by Act 5/1982 ([OG 4618](#)), with effect from 1 July 1980.

**Amendments:** The Ordinance is amended by-

Ord. 16/1973 ([OG 3340](#))

Ord. 22/1973 ([OG 3363](#))

Ord. 10/1974([OG 3411](#))

Ord. 18/1975([OG 3496](#))

Ord. 6/1980 ([OG 4136](#))

AG 21/1984 ([OG 4926](#))

Act 13/1986 ([OG 5235](#))

Act 3/1993 ([GG 620](#)).

**Application of law:** See Application of laws relating to Roads in Eastern Caprivi, Owambo, Kavango and Damaraland Act 5 of 1982 ([OG 4618](#)), which is deemed to have come into force on 1 July 1980 (section 5 of that Act). See also Walvis Bay and Off-shore Islands Act 1 of 1994 ([GG 805](#)), Schedule, Part IV, clause 3, which was brought into force on 1 March 1994 by Proc. 6/1994 ([GG 806](#)).

**Regulations:** Regulations are authorised by section 66 of the Act. Pre-independence regulations have not been researched. No post-independence regulations have been promulgated.

**Notices:** Certain functions assigned to the Minister and the Permanent Secretary by this Act have been assigned to the Roads Authority established by the Roads Authority Act 17 of 1999 ([GG 2215](#)) in GN 171/2000, [GG 2374](#).

Notices relating to specific roads and road closures have not been recorded here.

**Appointments:** Roads Boards for areas outside local authorities are established by Proclamation 4/1995, which came into force on 1 October 1995 ([GG 1063](#)).

**Cases:** *Wirtz v Orford & Another* 2005 NR 175 (SC) (section 64(8)); *Telecom Namibia Ltd v Regenstein (Pty) Ltd & Another* 2013 (1) NR 128 (HC) (section 48).

### ***National Road Safety Act 9 of 1972***, as amended in South Africa prior to Namibian independence

**Summary:** This Act ([RSA GG 3415](#)) establishes the National Road Safety Council and includes provisions intended to promote road safety. It repeals the *South African Road Safety Council Act 1 of 1960*.

**Applicability to SWA:** Section 1 defines “Republic” to include “any territory in respect of which Parliament is competent to legislate”. Section 29 states “This Act and any amendment thereof shall also apply in every territory in respect of which Parliament is competent to legislate.”

**Transfer of administration to SWA:** The relevant transfer proclamation is the Executive Powers (Transport) Transfer Proclamation (AG 14/1978), dated 15 March 1978. However, this Act is excluded from the operation of section 3(1) of the General Proclamation by section 3(1)(f), meaning that the administration of the Act was not transferred to SWA.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *National Road Safety Amendment Act 46 of 1974* ([RSA GG 4435](#))
- *General Law Amendment Act 57 of 1975* ([RSA GG 4760](#))
- *National Road Safety Amendment Act 40 of 1976* ([RSA GG 5067](#))
- *National Road Safety Amendment Act 16 of 1980* ([RSA GG 6925](#))
- *National Road Safety Amendment Act 59 of 1981* ([RSA GG 7765](#))
- *Motor Vehicle Accidents Act 84 of 1986* ([RSA GG 10419](#))
- *Multilateral Motor Vehicle Accidents Fund Act 93 of 1989* ([RSA GG 11944](#)).

**Regulations:** There is no savings clause for regulations issued under the repealed Act. Regulations are authorised by section 27 of this Act. Pre-independence regulations have not been researched. No post-independence regulations have been promulgated.

#### **Related international agreements:**

*\*African Road Safety Charter, 2016*

### ***Road Transportation Act 74 of 1977***, as amended in South Africa to March 1978

**Summary:** This Act regulates certain forms of road transportation. It is replaced by the Road Traffic and Transport Act 22 of 1999 ([GG 2251](#)). However, section 112 of the 1999 Act is not yet in force, insofar as it relates to the repeal of the *Road Transportation Act 74 of 1977* and its amendments, as these laws relate to passenger transport. See GN 52/2001 ([GG 2503](#)).

**Applicability to SWA:** Section 46 states “The provisions of this Act and any amendment thereof shall apply also in the Territory, including the Eastern Caprivi Zipfel.” Section 1 defines “Administration”, “local authority”, “province”, “Republic” and “Territory” accordingly.

**Transfer of administration to SWA:** The administration of this Act was transferred to SWA by the Executive Powers (Transport) Transfer Proclamation (AG 14/1978), dated 15 March 1978.

Section 3(1)(i) of the transfer proclamation excluded the reference to the “Republic” in the Act from the operation of section 3(1) of the General Proclamation, meaning that “Republic” retained the meaning given to it in the definition section of the Act (South Africa and SWA).

None of the amendments to the Act in South Africa after the date of transfer were made expressly applicable to SWA.

**Amendments:** The Roads Transportation Proclamation (AG 31/1978) ([OG 3749](#)) makes this Act applicable to Owamboland (where the Owambo Legislative Council had previously exercised authority over road transportation).

The Public Road Carrier Permits Proclamation (AG 55/1978) ([OG 3807](#)) extends the validity of certain permits issued pursuant to the Act.

Act 29/1980 ([OG 4357](#)), which was brought into force by AG 15/1981 ([OG 4454](#)) and repealed by the Road Traffic and Transport Act 22 of 1999 ([GG 2251](#)), made substantial amendments to the Act to abolish the power to set aside different transportation facilities for different population groups.

Act 18/1981 ([OG 4570](#)), Act 16/1982 ([OG 4722](#)), which is brought into force by AG 23/1983 ([OG 4850](#)), and AG 33/1985 ([OG 5060](#)), which is brought into force by AG 60/1989 ([OG 5848](#)), amend the Act substantially. AG 61/1989 ([OG 5849](#)), which is brought into force by AG 69/1989 ([OG 5870](#)), also amends the Act.

Section 59 of the National Transport Corporation Act 21 of 1987 ([OG 5439](#)) (which was repealed by the National Transport Services Holding Company Act 28 of 1998 ([GG 1961](#)) with effect from 1 April 1999) amends section 1.

Act 8/1988 ([OG 5561](#)) amends section 21.

Act 20/1988 ([OG 5650](#)) amends section 2 and AG 33/1985 ([OG 5155](#)).

AG 61/1989 ([OG 5849](#)), which is brought into force by AG 69/1989 ([OG 5870](#)), amends the Act substantially.

The Air Services Amendment Act 6 of 1991 ([GG 216](#)) amends sections 1 and 2A.

Section 4 of the Cross-Border Road Transportation Act 18 of 1996 exempts cross-border road transportation covered by that Act from the provisions of this Act.

**Regulations:** Regulations made under this Act survive in terms of the law which replaced it, and are listed in the entry for the Road Traffic and Transport Act 22 of 1999 ([GG 2251](#)).

**Cases:** Cases decided under this Act are now listed under the entry for the Road Traffic and Transport Act 22 of 1999.

## Roads Contractor Company Act 14 of 1999

**Summary:** This Act ([GG 2208](#)) provides for the incorporation of a company to undertake roads construction and maintenance previously carried out by the Department of Transport. It was brought into force on 25 October 1999 by GN 236/1999 ([GG 2220](#)), with the exception of sections 5-9 and 11, which came into force on the transfer date, which is the date set in terms of section 10(1) for “transfer to the Company, with effect from a date determined by the Minister by notice in the *Gazette*, such assets, liabilities, rights or obligations of the State which relate to or are connected with the construction and maintenance of roads by the Department of Transport of the Ministry responsible for Transport, as may, in the opinion of the Minister, be required by the Company for the effective achievement of its objects” (section 14 of Act 14 of 1999). This date was set as 1 April 2000 (GN 24/2003, [GG 2922](#)).

**Amendments:** Act 11/2002 ([GG 2868](#)) amends sections 1 and 4, to extend the object of the company to include construction works as well as roads. The State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)), which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and later re-named the Public Enterprises Governance Act 2 of 2006, amends section 1-10.

**Regulations:** The Act makes no provision for regulations.

**Notices:** GN 7/2002 ([GG 2679](#)) sets 1 April 2000 as the effective date of transfer of title, rights and interest in immovable property described in the Schedule to the Roads Contractor Company Ltd.

GN 194/2002 ([GG 2845](#)) sets 1 April 2000 as the effective date of transfer for other listed immovable property.

GN 24/2003 ([GG 2922](#)) sets 1 April 2000 as the date for the transfer of certain specified liabilities and obligations of the State to the Roads Contractor Company Ltd. – including “the liabilities and obligations of the State, which relate to or are connected with the construction and maintenance of roads by the Department of Transport of the Ministry of Works, Transport and Communication, as are specified in Column 1 of the Schedule to this Notice, with the respective values specified in Column 2 thereof”.

GN 25/2003 ([GG 2922](#)) similarly sets 1 April 2000 as the date for the transfer of certain specified movable assets.

GN 92/2004 ([GG 3198](#)) and GN 202/2006 ([GG 3746](#)) both set 1 April 2000 as the date of transfer of title, rights, and interests in certain immovable property to the Roads Contractor Company Ltd.

GN 122/2007 ([GG 3877](#)) sets 12 December 2006 as the date of transfer of title, rights, and interests in certain immovable property to the Roads Contractor Company Ltd.

**Appointments:** Appointments of members of the Board of Directors of the Roads Contractor Company are announced in GN 80/2012 ([GG 4901](#)).

## Roads Authority Act 17 of 1999

**Summary:** This Act ([GG 2215](#)) establishes a Roads Authority to manage the national road network of Namibia. It was brought into force on 25 October 1999 by GN 235/1999 ([GG 2220](#)), with the exception of sections 15(1)(a) and 16, which was brought into force on 1 April 2000 by GN 90/2000 ([GG 2303](#)).

**Amendments:** Act 20/2004 ([GG 3352](#)) amends sections 6 and 7, which deal with the term of office of directors of the board and the minister's power to remove a director from office. The State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)), which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and later re-named the Public Enterprises Governance Act 2 of 2006, amends section 4, 9, 11 and 14, and deletes section 6.

**Regulations:** Regulations are authorised by section 26 of the Act, but none have yet been promulgated.

**Notices:** The date set for the transfer of assets, liabilities, rights and obligations of the State to the Roads Authority in terms of section 27(1) of the Act is set as 1 April 2000 (GN 91/2000, [GG 2303](#)).

The functions given to the Minister under the Advertising on Roads and Ribbon Development Ordinance 30 of 1960 are assigned to the Roads Authority by GN 169/2000 ([GG 2374](#)).

Certain functions given to the Minister and the Permanent Secretary by the Roads Ordinance 17 of 1972 are assigned to the Roads Authority by GN 171/2000 ([GG 2374](#)).

**Appointments:** Appointments of members of the Board of Directors of the Roads Authority are announced in GN 76/2000 ([GG 2287](#)), GN 102/2001 ([GG 2544](#)), GN 97/2003 ([GG 2974](#)), GN 251/2003 ([GG 3108](#)), GN 9/2005 ([GG 3374](#)), GN 21/2006 ([GG 3584](#)) and GN 80/2012 ([GG 4901](#)).

**Commissions:** The appointment of a Commission of Inquiry into the activities, affairs, management and operation of the Roads Authority is announced in Proc. 21/2003 ([GG 3031](#)) and GN 172/2003 ([GG 3031](#)). An amendment of the Appointment of the Commission of Inquiry by the addition of regulation 17 was announced in Proc. 1/2004 ([GG 3127](#)). An extension of the period for submission of the final report of this Commission of Inquiry is announced in GN 1/2004 ([GG 3127](#)).

## **Road Fund Administration Act 18 of 1999**

**Summary:** This Act ([GG 2217](#)) establishes a Road Fund Administration to manage a road user charging system. It was brought into force on 25 October 1999 by GN 234/1999 ([GG 2220](#)), with the exception of sections 15(1)(b) and 16, which was brought into force on 1 April 2000 by GN 92/2000 ([GG 2305](#)).

**Amendments:** The State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)), which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and later re-named the Public Enterprises Governance Act 2 of 2006, amends section 4, 9, 11 and 14, and deletes section 6.

**Regulations:** Regulations are authorised by section 28 of the Act, but none have yet been promulgated.

**Notices:** Local authorities which are eligible for funding under the Act are listed in GN 262/2000 ([GN 2438](#)).

**Fees and levies:** Registration and annual licence fees are contained in GN 94/2000 ([GG 2305](#)).

This notice is replaced by GN 134/2000 ([GG 2340](#)), as amended by GN 91/2001 ([GG 2531](#)), GN 71/2002 ([GG 2734](#)), GN 76/2003 ([GG 2946](#)), GN 66/2004 ([GG 3181](#)), General Notice 70/2005 ([GG 3410](#)) and General Notice 88/2006 ([GG 3614](#)).

Entry fees for foreign vehicles are set forth in GN 263/2000 ([GG 2438](#)), as amended by GN 114/2001 ([GG 2544](#)), GN 70/2002 ([GG 2734](#)), GN 198/2002 ([GG 2855](#)), GN 90/2003 ([GG 2956](#)), GN 65/2004 ([GG 3181](#)), General Notice 69/2005 ([GG 3410](#)) and General Notice 88/2006 ([GG 3614](#)).

Road user charges, including entry fees for foreign vehicles and registration and annual licence fees, are set in General Notice 126/2006 ([GG 3640](#)) – which repeals Government Notice 134/2000 ([GG 2340](#)), Government Notice 263/2000 ([GG 2438](#)) and General Notice 88/2006 ([GG 3614](#)).

Road user charges, including entry fees for foreign vehicles and registration and annual licence fees, are again set in General Notice 70/2007 ([GG 3816](#)) – which repeals General Notice 126/2006 ([GG 3640](#)) – and which is amended by General Notice 29/2009 ([GG 4220](#)), General Notice 68/2010 ([GG 4438](#)), General Notice 61/2011 ([GG 4677](#)), General Notice 177/2015 ([GG 5733](#)), General Notice 168/2016 ([GG 6029](#)), General Notice 116/2017 ([GG 6293](#)), General Notice 171/2018 ([GG 6585](#)), General Notice 90/2019 ([GG 6880](#)) and General Notice 243/2020 ([GG 7253](#)).

**Notes:** (1) General Notice 29/2009 ([GG 4220](#)) states that it amends *Government Gazette* No. 3816 of 30 March 2007; it probably intended to state that it amends General Notice 70/2007 published in that *Gazette*.

(2) General Notice 68/2010 ([GG 4438](#)) states that it amends GN 4220 of 9 March 2009. This is an error. This was probably intended to be a reference to GN 29/2009, which is published in [GG 4438](#) of 9 March 2009. However, the amendment appears to apply to the underlying General Notice 70/2007, which is amended by GN 29/2009.

(3) Similarly, General Notice 61/2011 ([GG 4677](#)) states that it amends GN 4438 of 8 March 2010. This is an error. This was probably intended to be a reference to GN 68/2010, which is published in [GG 4438](#) of 8 March 2010. However, the amendment appears to apply to the underlying General Notice 70/2007, which is amended by GN 68/2010.

(4) General Notice 177/2015 ([GG 5733](#)) states that it is amending General Notice 61/2011, but the amendment appears to apply to the underlying General Notice 70/2007, which is amended by General Notice 61/2011.

(5) General Notice 168/2016 ([GG 6029](#)) states that it is amending General Notice 177/2015, but the amendment appears to apply to the underlying General Notice 70/2007, which is amended by General Notice 177/2015.

(6) General Notice 116/2017 ([GG 6293](#)) states that it is amending General Notice 168/2016, but the amendment appears to apply to the underlying General Notice 70/2007, which is amended by General Notice 168/2016.

(7) Note that General Notice 171/2018 ([GG 6585](#)) states that it is amending General Notice 70/2007, as previously amended by General Notices 29/2009, 68/2010, 61/2011 [although the year of this notice is omitted in General Notice 171/2018], 177/2015 [erroneously listed in General Notice 171/2018 as “117” instead of “177”], 168/2016 and 116/2017.

(8) General Notice 90/2019 ([GG 6880](#)) lists General Notice 117 of 11 May 2015 as a previous amendment to General Notice 70/2007. This is incorrect. The correct reference is General Notice 177 of 11 May 2015 ([GG 5733](#)).

(9) General Notice 243/2020 ([GG 7253](#)) lists General Notice 117 of 11 May 2015 as a previous amendment to General Notice 70/2007. This is incorrect. The correct reference is General Notice 177 of 11 May 2015 ([GG 5733](#)).

The power to collect these entry fees is delegated to Africon Namibia / Architech Joint Venture in GN 264/2000 ([GG 2438](#)).



A levy on petrol and diesel was originally set forth in GN 95/2000 ([GG 2305](#)), which is revoked by GN 183/2001 ([GG 2608](#)). GN 183/2001 is amended by GN 18/2002 ([GG 2688](#)), GN 17/2003 ([GG 2909](#)), General Notice 264/2005 ([GG 3535](#)), General Notice 176/2015 ([GG 5733](#)), General Notice 115/2017 ([GG 6293](#)), General Notice 170/2018 ([GG 6585](#)), General Notice 89/2019 ([GG 6880](#)) and General Notice 242/2020 ([GG 7253](#)).

**Notes:** (1) GN 18/2002 ([GG 2688](#)) refers to the amendment of GN 138/2001 in the list of contents of the *Government Gazette*, which is incorrect. The text of the Government Notice in the body of the *Gazette* correctly refers to GN 183/2001.

(2) General Notice 176/2015 ([GG 5733](#)) states that it is amending GN 17/2003; it appears that it should have stated that it was amending GN 183/2001. Similarly, General Notice 115/2017 ([GG 6293](#)) states that it is amending General Notice 176/2015; it appears that it should have stated that it was amending GN 183/2001. See the text of General Notice 170/2018 ([GG 6585](#)) and General Notice 89/2019 ([GG 6880](#)), both of which state that they are amending GN 183/2001 and cite all of the previous notices listed here as being amendments to GN 183/2001.

**Appointments:** Members of the Road Fund Administration Board of Directors are announced in GN 104/2013 ([GG 5183](#)), GN 231/2017 ([GG 6397](#)) and GN 239/2020 ([GG 7349](#)).

#### **Cases:**

*Road Fund Administration v Government of the Republic of Namibia & Others* 2012 (1) NR 28 (HC) (Court takes *prima facie* view that Government and Cabinet are not entitled to interfere with executive decisions taken by board of parastatal)

*Skorpion Mining Co (Pty) Ltd v Road Fund Administration* 2016 (3) NR 864 (HC) (Road Fund Administration as an administrative body bound by Art 18 of Namibian Constitution; section 2 of Act read together with GN 183/2001; suggestion that legislation and policy on refunds may require law reform to bring it in line with Art 18 of the Namibian Constitution).

## **Road Traffic and Transport Act 22 of 1999**

**Summary:** This Act ([GG 2251](#)) establishes a Transportation Commission of Namibia and regulates traffic on public roads, the licensing of drivers, the registration and licensing of vehicles and cross-border road transportation.

The Act came into force on 6 April 2001, with the following exceptions:

- Section 23 did not come into effect at all.
- Section 112 did not come into effect insofar as it relates to the repeal of the *Road Transportation Act 74 of 1977* and its amendments, **as these laws relate to passenger transport**. See GN 52/2001 ([GG 2503](#)).

The Act repeals the Road Traffic Ordinance 30 of 1967, the *Road Transportation Act 74 of 1977* and the Cross-Border Road Transportation Act 18 of 1996 ([GG 1384](#)).

However, although the Road Traffic Ordinance 30 of 1967 ([OG 2080](#)) was repealed by this Act, section 113(1)(a) of this Act, read together with Schedule 2, states that sections 78, 88, 89, 90, 91, 92, 93, 95, 96, 97(1) and 98 of Ordinance 30 of 1967 remain in force (with some amendments made by the Schedule) **insofar as they relate to public driving permits** “until the date fixed by the Minister under section 40(2) or such later date as may be determined by the Minister by notice in the *Gazette*”. According to section 40(2):

“With effect from a date to be fixed by the Minister by notice in the *Gazette*, but not later than the date contemplated in subsection (5), any holder of a driving licence referred to in subsection (1) [a licence authorising the driving of a motor vehicle which was issued under the repealed Ordinance] may apply to a driving testing centre for the replacement of such licence by a driving licence issued under this Act.”

Section 40(5) refers to the date determined by the Minister by notice in the *Gazette* as to when a driving licence issued under a previous law ceases to be valid if not replaced in accordance with subsection (2). GN 102/2002 ([GG 2759](#)) set 1 July 2002 as the date in terms of section 40(2) with effect from which any person who is the holder of a driving licence issued in Namibia in terms of the Road Traffic Ordinance 30 of 1967, and contained in an identity document issued by the South African Government, may apply for the replacement of such licence by a driving licence issued under Act 22 of 1999. GN 162/2002 ([GG 2815](#)) set additional dates for the exchange of various driving licences issued in terms of the Road Traffic Ordinance 30 of 1967, with those dates ranging from 2 September 2002 to 1 July 2005. GN 43/2005 ([GG 3419](#)) set 31 August 2005 as the relevant date in respect of section 40(5) of the Act, when driving licences not replaced in accordance with section 40(2) cease to be valid. Thus, the provisions of Ordinance 30 of 1967 which temporarily remained in force are now extinguished.

The Act curiously repeals section 59 of the National Transport Corporation Act 21 of 1987 ([OG 5439](#)) insofar as it relates to Act 44 of 1977 in the Second Schedule. However, Act 21 of 1987 was previously repealed in its entirety by the National Transport Services Holding Company Act 28 of 1998 ([GG 1961](#)) with effect from 1 April 1999.

**Amendments:** Act 6/2008 (promulgated by GN 280/2008, [GG 4179](#)) amends sections 11, 37, 40 and 87, and withdraws a previous Act 6/2008 (promulgated by GN 257/2008, [GG 4147](#)).

**Savings:** In terms of section 113(3), any “proclamation, regulation, notice, order, prohibition, authority, appointment, permission, information or document” made under any one of the pieces of legislation repealed by this Act remains in force insofar as it is not inconsistent with this Act.

**Regulations and notices made under repealed laws:** Pre-independence regulations and notices have not been comprehensively researched. Regulations and notices made under the repealed laws include the following-

Road Traffic Ordinance 30 of 1967

**Regulations:** Regulations are contained in GN 95/1967 (OG 2809), as amended by GN 88/1968 (OG 2902), GN 97/1969 (OG 3015), GN 123/1969 (OG 3028), GN 130/1970 (OG 3109), GN 176/1971 (OG 3223), GN 51/1972 (OG 3238), GN 56/1972 (OG 3243), GN 58/1972 (OG 3243), GN 90/1972 (OG 3256), GN 144/1972 (OG 3273), GN 158/1972 (OG 3278) (as amended by GN 376/1977, OG 3667), GN 159/1972(OG 3279), GN 42/1973 (OG 3308), GN 124/1973 (OG 3341), GN 164/1973 (OG 3350), GN 30/1974 (OG 3378), GN 31/1974 (OG 3378), GN 135/1974 (OG 3408), GN 238/1974 (OG 3440), GN 1/1975 (OG 3444), GN 68/1975 (OG 3454), GN 87/1975 (OG 3459), GN 175/1975 (OG 3474), GN 214/1975 (OG 3484), GN 272/1975 (OG 3491), GN 310/1975 (OG 3500), GN 341/1975 (OG 3508), GN 214/1976 (OG 3551), GN 400/1976 (OG 3585), GN 61/1977 (OG 3593), GN 404/1977 (OG 3673), GN 215/1978 (OG 3818), GN 280/1978 (OG 3871), GN 38/1979 (OG 3909), GN 41/1979 (OG 3909), AG GN 131/1981 (OG 4529), AG GN 137/1981 (OG 4542), AG GN 141/1981 (OG 4546), AG GN 8/1982 (OG 4590), AG GN 9/1982 (OG 4590), AG GN 151/1982 (OG 4703), AG GN 152/1982 (OG 4703), AG GN 123/1983 (OG 4805), AG GN 133/1983 (OG 4812), AG GN 2/1984 (OG 4865), AG GN 56/1984 (OG 4891), AG GN 60/1984 (OG 4895), GN 78/1985 (OG 5106), GN 47/1990 ([GG 68](#)), GN 95/1992 ([GG 449](#)), GN 96/1992 ([GG 449](#)), GN 48/1993 ([GG 635](#)), GN 102/1993 ([GG 708](#)), Act 1/1994 ([GG 805](#)), GN 190/1996 ([GG 1356](#)), GN 42/1997 ([GG 1512](#)), GN 20/1998 ([GG 1801](#)), GN 305/1998 ([GG 2017](#)), GN 2/2000 ([GG 2259](#)), GN 144/2000 ([GG 2350](#)) and GN 2/2001 ([GG 2468](#)).

Proposed regulations on the transportation of dangerous goods by road are published for comment in General Notice 17/1998 ([GG 1781](#)).



**Notices:** Registration marks for motor vehicles are assigned in GN 57/1990 ([GG 89](#)), as amended by GN 229/1998 ([GG 1951](#)).

Registration marks for government vehicles are assigned in GN 195/2020 ([GG 7309](#)), which repealed GN 76/2018 ([GG 6573](#)), which repealed GN 322/2017 ([GG 6490](#)), which repealed GN 23/2001 ([GG 2481](#)).

The Namibia Traffic Information System contemplated in section 55A(1) of the Ordinance is made applicable to the Windhoek Registering Authority Area by GN 16/1998 ([GG 1796](#)).

Registering authorities for other areas are appointed in GN 230/1998 ([GG 1951](#)), GN 75/1999 ([GG 2092](#)), GN 138/1999 ([GG 2146](#)), GN 193/1999 ([GG 2192](#)) and GN 281/1999 ([GG 2248](#)). The Namibia Traffic Information System is applied to certain areas outside Windhoek by GN 228/1998 ([GG 1951](#)), GN 76/1999 ([GG 2092](#)), GN 137/1999 ([GG 2146](#)) and GN 193/1999 ([GG 2192](#)).

The applicability of NaTIS to motor vehicles owned by the state is addressed in GN 145/2000, GN 147/2000 and GN 148/2000 (all contained in [GG 2350](#)).

**Fees:** The payment of fees for motor vehicles of government, regional councils and local authorities is addressed in GN 146/2000 ([GG 2350](#)).

#### Road Transportation Act 74 of 1977

**Regulations:** Road Transport Regulations are contained in RSA GN R.2653 of 1977 (RSA GG 5843) as amended by AG GN 56/1978 (OG 3817), AG GN 50/1981 (OG 4455), AG GN 171/1983 (OG 4852) and AG GN 99/1989 (OG 5848).

GN 90/1992 ([GG 448](#)) withdraws AG GN 101/1989 (OG 5851), which prohibited consideration of permits for transportation of certain goods between certain places.

#### Cross-Border Road Transportation Act 18 of 1996 ([GG 1384](#))

**Notices:** The Southern African Customs Union Memorandum of Understanding on Road Transportation Regulations, 1998 is published in GN 33/1998 ([GG 1803](#)), and amended by GN 43/1998 ([GG 1810](#)).

**Regulations in terms of the current Act:** Proposed road traffic and transport regulations are published for comment in GN 268/2000 ([GG 2441](#)).

Extensive regulations are contained in GN 53/2001 ([GG 2503](#)). These regulations came into force on 6 April 2001, *with the following exceptions:*

- Chapter 3, Parts 3 and 5
- Chapter 4
- Chapter 5, Parts 1 and 2
- Chapter 6, Parts 2 and 4
- Regulation 235.

Part 1 of Chapter 4 and Part 1 of Chapter 5 was brought into force on 1 November 2001 by GN 222/2001 ([GG 2641](#)).

Part 2 of Chapter 4 was brought into force on 2 September 2002 by GN 161/2002 ([GG 2815](#)).

Part 2 of Chapter 5 was brought into force on 17 November 2007 by GN 172/2007 ([GG 3907](#)).

GN 86/2017 ([GG 6285](#)) states that it is bringing Part 3 of *Chapter 10* into force on 13 April 2017. However, this must have been intended to refer to Part 3 of *Chapter 3*, which is amended by the same Government Notice. Chapter 10 was not divided into parts and was already in force.

The remainder of the regulations exempted from GN 53/2001 (Part 5 of Chapter 3, Parts 2 and 4 of Chapter 6 and regulation 235) do not appear to have been brought into force.

Proposed amendments to the 2001 regulations are published in GN 135/2005 ([GG 3520](#)).

The 2001 regulations are amended by:

GN 97/2001 ([GG 2538](#))

GN 103/2002 ([GG 2759](#))

GN 163/2002 ([GG 2815](#))

GN 205/2004 ([GG 3287](#))

GN 206/2004 ([GG 3287](#))

These amendments were withdrawn by GN 45/2005 ([GG 3422](#)) without ever coming into force.

GN 32/2005 ([GG 3402](#))

GN 45/2005 ([GG 3422](#))

GN 183/2005 ([GG 3560](#))

GN 188/2006 ([GG 3732](#))

GN 104/2007 ([GG 3851](#))

GN 172/2007 ([GG 3907](#))

GN 2/2008 ([GG 3972](#))

GN 73/2008 ([GG 4022](#))

GN 290/2008 ([GG 4186](#))

GN 81/2010 ([GG 4473](#))

GN 156/2015 ([GG 5792](#))

GN 156/2015 states that the regulations were amended by GN 222/2001 ([GG 2641](#)) and GN 161/2002 ([GG 2815](#)). This is not correct; these two notices deal only with the commencement of various portions of the regulations.

GN 98/2016 ([GG 6016](#))

GN 98/2016 states that the regulations were amended by GN 222/2001 ([GG 2641](#)) and by GN 161/2002 ([GG 2815](#)). This is not correct; these two notices deal only with the commencement of various portions of the regulations.

GN 86/2017 ([GG 6285](#))

GN 86/2017 states that the regulations were amended by GN 222/2001 ([GG 2641](#)) and GN 161/2002 ([GG 2815](#)). This is not correct; these two notices deal only with the commencement of various portions of the regulations.

GN 130/2018 ([GG 6637](#))

GN 130/2018 states that the regulations were amended by GN 222/2001 ([GG 2641](#)) and GN 161/2002 ([GG 2815](#)). This is not correct; these two notices deal only with the commencement of various portions of the regulations. GN 130/2018 also states that the regulations were amended by GN 322/2017 ([GG 6490](#)). This is not correct; GN 322/2017 is a notice issued in terms of regulation 34(3).

GN 31/2019 ([GG 6844](#))

GN 102/2020 ([GG 7172](#)).

Section 94 of the Act empowers the Minister to incorporate any standard publication in any regulation issued under section 91, 92 or 93 by mere reference to the number, title and year of issue of that standard publication or any other particulars which sufficiently identify it. The Minister utilised this power in GN 262/2020 ([GG 7373](#)) to incorporate the Namibian Standards (NAMS) published under General Notice 362/2018 ([GG 6649](#)) and General Notice 590/2018 ([GG 6737](#)) into the 2001 Road Traffic and Transport Regulations.

GN 262/2020 omits the number of the General Notice published on 15 October 2018, but the

General Notice referred to is obviously General Notice 590/2018, which announces the standards listed in GN 262/2020.

Section 113(1)(b) of the Act refers to the Road Traffic Ordinance 30 of 1967 ([OG 2080](#)) and states that “the Minister may, under the power conferred by section 91 to make regulations, incorporate in any regulation so made *any of the repealed provisions of that Ordinance which relate to the registration and licensing of motor vehicles*, by mere reference to the provisions concerned, subject to such amendments or modifications as may be provided for in such regulation, and the provisions so incorporated shall, for the purposes of this Act, be deemed to be regulations made thereunder by virtue of the provisions of section 20”. To date, provisions from Ordinance 30 of 1967 seems to be re-iterated as needed rather than incorporated by mere reference (see, for example, [GG 2503](#)). However, should any of the provisions of Ordinance 30 of 1967 be incorporated by mere reference in future, the amendments to that Ordinance prior to its repeal may be of relevance:

- Ord. 19/1968 ([OG 2895](#))
- Ord. 25/1969 ([OG 3010](#))
- Ord. 18/1970 ([OG 3099](#))
- Ord. 18/1971 ([OG 3194](#))
- Ord. 16/1972 ([OG 3267](#))
- Ord. 4/1973 ([OG 3304](#))
- Ord. 19/1973 ([OG 3345](#))
- Ord. 3/1974 ([OG 3387](#))
- Ord. 11/1974 ([OG 3412](#))
- Ord. 19/1975 ([OG 3497](#))
- Ord. 10/1976 ([OG 3546](#))
- Ord. 13/1976 ([OG 3572](#))
- Ord. 2/1978 ([OG 3733](#))
- Ord. 4/1979 ([OG 3925](#))
- Ord. 17/1980 ([OG 4167](#))
- Act 8/1981 ([OG 4498](#))
- AG 22/1983 ([OG 4844](#))
- Act 4/1983 (Rehoboth) ([OG 70 of Rehoboth](#))
- Act 17/1985 ([OG 5110](#))
- Act 30/1985 ([OG 5150](#))
- Act 28/1986 ([OG 5303](#))
- Act 22/1987 ([OG 5457](#))
- Act 2/1988 ([OG 5525](#))
- Act 19/1988 ([OG 5649](#))
- Act 1/1994 ([GG 805](#)) (Walvis Bay)
- Act 25/1995 ([GG 1229](#))
- Act 20/1996 ([GG 1431](#))
- Act 27/1996 ([GG 1474](#))
- Act 18/1997 ([GG 1766](#)) (which establishes a new registration and licensing system and was brought into force by GN 7/1998, [GG 1781](#))
- Act 19/1997 ([GG 1767](#)) (fees and penalties)
- Act 4/1999 ([GG 2095](#)) (alcohol breath tests and fees).

**Notices in terms of the current Act:** GN 102/2002 ([GG 2759](#)) fixed 1 July 2002 as the date in terms of section 40(2) with effect from which any person who is the holder of a driving licence which was issued in Namibia in terms of the Road Traffic Ordinance 30 of 1967 and which is contained in an identity document issued by the South African Government, may apply for the replacement of such licence by a driving licence issued under Act 22 of 1999. GN 162/2002 ([GG 2815](#)) set additional dates for the exchange of various driving licences issued in terms of the Road Traffic Ordinance 30 of 1967, with those dates ranging from 2 September 2002 to 1 July 2005. GN 43/2005 ([GG 3419](#)) sets 31 August 2005 as the relevant date in respect of section 40(5) of the Act, when driving licences not replaced in accordance with section 40(2) cease to be valid.

GN 44/2005 ([GG 3419](#)) sets 30 September 2005 as the date on which all persons travelling on pedal cycles on a public road must wear protective helmets in terms of Regulation 226(3).

Certain officers employed by the Roads Authority established in terms of the Roads Authority Act 17 of 1999 ([GG 2215](#)) are authorised as road transport inspectors and traffic officers in terms of section 11(6) of the Act by GN 103/2001 ([GG 2544](#)).

GN 209/2006 ([GG 3746](#)) concerns the appointment of authorised officers by the Roads Authority as vehicle examiners, driving examiners and licence inspectors.

A Bilateral Road Transport Agreement between Namibia and Zimbabwe is published in Proc. 7/2000 ([GG 2359](#)), and regulations relating to this agreement are contained in GN 156/2000 ([GG 2359](#)).

Pursuant to section 105 of the Act, exemptions from certain regulations made in terms of the Act are contained in GN 1/2018 ([GG 6507](#)), as amended by GN 199/2018 ([GG 6694](#)).

GN 100/2003 ([GG 2978](#)) concerns devices to be used to test breath for alcohol concentrations. *S v Titus & Others* 2014 (1) NR 129 (HC) held that it did not meet the requirements of section 82(7) of the Act read together with section 94, confirming the decision in *S v Heathcote* (CA 24/2013) [2013] NAHCMD 195 (12 July 2013). GN 100/2003 was withdrawn and replaced by GN 280/2015 ([GG 5892](#)).

An agreement between the Minister of Works, Transport and Communication and the Roads Authority on functions delegated by the Ministry to the Roads Authority is published in GN 163/2005 ([GG 3546](#)).

An aircraft investigation vehicle is determined to be an emergency service vehicle in terms of section 1 of the Act in GN 195/2009 ([GG 4350](#)).

The powers of the Namibian Police to perform certain functions in terms of the Act (such as testing for learners' permits, driving licences, and vehicle roadworthiness) have been withdrawn in respect of specific locations from time to time, but these notices are not recorded here. Also not recorded are dates for registration at driving and vehicle testing centres in specific locations; appointments or withdrawals of the Roads Authority, various local authorities or other agencies to act as registering authorities or to operate driving testing centres and vehicle testing centres in specific locations; or the determination of letters denoting specific registration authorities.

**Appointments:** Members of the Transportation Commission of Namibia are announced in GN 142/2004 ([GG 3237](#)), GN 107/2014 ([GG 5523](#)), GN 99/2015 ([GG 5760](#)) (which substitutes the Table in the Schedule of GN 107/2014), GN 230/2017 ([GG 6397](#)) and GN 166/2020 ([GG 7290](#)) and GN 19/2021 ([GG 7459](#)).

**Cases:** The following cases concern the present Act –

*Ojo v Government of the Republic of Namibia & Another* 2005 NR 118 (HC) (sections 1, 74, 75, 77 and Reg 341)

*Dresselhaus Transport CC v The Government of the Republic of Namibia* 2005 NR 214 (SC)

*S v Jansen* 2006 (1) NR 337 (HC) (elements of proof under section 82)

*S v Garoeb* 2006 (2) NR 500 (HC) (components of charge sheet and questioning of accused in respect of offence under section 82)

*S v Kaffer* 2006 (2) NR 577 (HC) (sections 80(1), 106(6)(b) and 51(1)(b))

*S v Blaauw's Transport (Pty) Ltd & Another* 2006 (2) NR 587 (HC) (section 87; Regs 254, 259 and 267)

- S v Shindi* 2007 (1) NR 160 (HC) (section 80(1); erroneous conviction under repealed legislation set aside)
- S v Tjikotoke* 2014 (1) NR 38 (HC) (comprehensive sentencing under sections 31(1)(a), 84(b) and Reg 232(4), in light of prescribed penalty under section 106(7))
- S v Titus & Others* 2014 (1) NR 129 (HC) (GN 100/2003 concerning devices to be used to test breath for alcohol concentrations not compliant with section 82(7) read together with section 94, confirming the decision in *S v Heathcote* (CA 24/2013) [2013 NAHCMD 195 (12 July 2013); the Act is erroneously referred to as Act 22 of 1996 in the headnote to the case)
- Uvanga v Steenkamp & Others* 2016 (2) NR 465 (HC) (common-law concept of ownership contrasted with concepts of “owner” and “title-holder” in reg 15A of the Road Traffic Regulations in GN 95/1967, read with reg 382 in GN 53/2001 (“owner” must assume the duties of the “title-holder”)).

The following cases concern previous legislation replaced by this Act –

#### Road Traffic Ordinance 30 of 1967

- S v Van der Merwe* 1991 NR 199 (HC) (section 146)
- S v Davids* 1991 NR 255 (HC) (sections 138(1) and 140(1)(a))
- S v Shivute & Several Other Cases* 1991 NR 433 (HC) at 440 (section 140)
- S v Danoka* 1992 NR 189 (HC) (section 138)
- S v Moffat* 1992 NR 193 (HC) (section 140)
- S v Kayumba* 1993 NR 354 (HC) (sections 135 and 150)
- S v Amuntenya* 1993 NR 417 (HC) (section 138(1))
- S v Diergaardt* 1993 NR 421 (HC) (sections 71 and 146)
- S v Mostert* 1994 NR 83 (HC) (section 140(1)(a))
- S v David* 1994 NR 179 (HC) (section 140(3))
- S v Cloete* 1994 NR 190 (HC) (section 140(1)(a))
- S v Eigowab* 1994 NR 192 (HC) (section 140(1)(a))
- S v Mostert/S v de Koker* 1995 NR 131 (HC)(sections 138(1) and 135(1)(a))
- S v Muhenje* 1995 NR 133 (HC) (sections 56(1) and 138(1))
- S v Arebeb* 1997 NR 1 (HC) (sections 56(1), 135, 138(1) and 146)
- S v Joseph* 1997 NR 108 (HC) (section 138(1) creating two separate offences)
- S v Tjingaveta* 1997 NR 197 (HC) (section 101(3))
- S v Amutenya* 1998 NR 204 (HC) (section 138(1))
- S v Nekongo* 2001 NR 96 (HC) (section 138(1)(a) and 140(1)).
- S v Gillmore* 2002 NR 92 (HC) (section 138(1))
- Gerson Hoveka t/a Hovy Namibia Tour and Safari v FGI Namibia* 2002 NR 146 (HC).

#### Regulations issued under the Road Traffic Ordinance 30 of 1967

- Standard Bank of Namibia Ltd, Stannic Division v Able Trading (Pty) Ltd & Another* 2003 NR 183 (HC)

#### Road Transportation Act 74 of 1977

- Kersten t/a Witvlei Transport v National Transport Commission & Another* 1991 NR 234 (HC)
- S v Khoza* 1992 NR 158 (HC).

## **Motor Vehicle Accident Fund Act 10 of 2007**

**Summary:** This Act ([GG 3970](#)) provides for a Motor Vehicle Accident Fund for the payment of assistance and benefits to persons injured in motor vehicle accidents and their dependants. It repeals the Motor Vehicle Accidents Fund Act 4 of 2001 ([GG 2547](#)), which in turn replaced the



Motor Vehicle Accidents Act 30 of 1990 ([GG 132](#)). It was brought into force on 2 May 2008 by GN 103/2008 ([GG 4040](#)).

Claims arising before the commencement of the new law are to be dealt with under the repealed law, in terms of section 36. The assets and liabilities of the previous fund are transferred to the new Fund.

**Regulations:** There is no savings clause pertaining to regulations made under the previous law, and in any event the regulations made under the previous Act were repealed by GN 104/2008 ([GG 4040](#)).

Regulations under the new Act are contained in GN 104/2008 ([GG 4040](#)).

**Cases:** The following cases were decided in terms of the present Act –

*Hangula v Motor Vehicle Accident Fund* 2013 (2) NR 358 (HC) (section 32)

The following cases pertain to the Motor Vehicle Accidents Fund Act 4 of 2001 –

*Bock v Motor Vehicle Accident Fund of Namibia* 2008 (2) NR 722 (HC)

*July v Motor Vehicle Accident Fund* 2010 (1) NR 368 (HC) (section 10)

*Mbambus v Motor Vehicle Accident Fund* 2011 (1) NR 238 (HC) (section 10; applicator for summary judgment refused); *Mbambus v Motor Vehicle Accident Fund* 2013 (2) NR 458 (HC) (section 10(1) and (5)(b)), overturned on appeal in *Mbambus v Motor Vehicle Accident Fund* 2015(3) NR 605 (SC) (section 10; discussed)

*Visser v Minister of Finance & Others* (I 3178/2007) [2014] NAHCMD 321 (29 October 2014) (Constitutional challenge to section 10(2) and related regulations dismissed) (discussed in Y Dauseb and K Pinkosky, “*Visser v Minister of Finance: A Missed Opportunity to Clarify the Equality Provision within a Namibian Disability Rights Paradigm*” in Dunia P Zongwe & Yvonne Dauseb, eds, *The Law Reform and Development Commission of Namibia at 25: A Quarter Century of Social Carpentry*, Ministry of Justice, LRDC: 2017, available at <https://namiblii.org/system/files/other/lrdc-25-years/lrdc-25-years.pdf>).

The following cases pertain to the Motor Vehicle Accidents Act 30 of 1990 –

*Van Rensberg & Another v Russer* 1990 NR 45 (HC) (dealing with previous legislation)

*Beukes v Mutual and Federal Insurance* 1990 NR 105 (HC) (dealing with previous legislation)

*Pack & Others v Mutual & Federal Insurance Company Limited* 1996 NR 264 (HC).

See also *Oosthuizen v Motor Vehicle Accident Fund of Namibia* 2005 NR 128 (HC) for a discussion of a necessary witness in a claim arising under that Act.

## **INTERNATIONAL LAW**

†*Geneva Convention on Road Traffic, 1949*

## **OTHER INTERNATIONAL DOCUMENTS**

*SACU Memorandum of Understanding on Road Transportation* (non-binding)

(Proc. 6/1998, [GG 1803](#))

*Memorandum of Understanding between the Governments of the Republics of Botswana, Namibia and South Africa on the Development and Management of the Trans-Kalahari Corridor, 2003* (non-binding)

(published in GN 193/2007 ([GG 3927](#)))

***Bilateral Road Transport Agreement (Namibia and Zimbabwe)***

(published in Proc. 7/2000, [GG 2359](#))

**Note:** This index does not generally list bilateral agreements, but includes this one since it was gazetted in Namibia.

See also Motor Vehicle Theft Act 12 of 1999 (**CRIMINAL LAW AND PROCEDURE**).

See the Financial Intelligence Act 13 of 2012 (duties of persons and institutions carrying on the business of a motor vehicle dealership) (**FINANCIAL INSTITUTIONS**).

See also **TRANSPORTATION**.