BUITENGEWONE
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VAN SUIDWES-AFRIKA
OFFICIAL GAZETTE
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OF SOUTH WEST AFRICA

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Goewermentskennisgewing

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

H. S. P. W. VAN NIEUWENHUIZEN,
Sekretaris van Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

No. 147] [16 Julie 1974

ORDONNANSIE 1974: UITVAARDIGING VAN

Dit behaag die Waarnemende Administrateur om sy goedkeuring te heg, ooreenkomstig artikel 27 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968) aan die volgende Ordonnansie wat hierby vir algemene inligting gepubliseer word, ooreenkomstig artikel 29 van gemelde Wet:-

No.	*Titel*	*Bladsy*
10	Wysigingsordonnansie op Paaie, 1974	935

Government Notice

The following Government Notice is published for general information.

H. S. P. W. VAN NIEUWENHUIZEN,
Secretary for South West Africa.

Administrator's Office,
Windhoek.

No. 147] [16 July 1974

ORDINANCE, 1974: PROMULGATION OF

The Deputy Administrator has been pleased to assent, in terms of section 27 of the South West Africa Constitution Act, 1968 (Act 39 of 1968) to the following Ordinance which is hereby published for general information in terms of section 29 of the said Act:-

No.	*Title*	*Page*
10	Roads Amendment Ordinance, 1974	936

No. 10 of 1974.]

ROADS AMENDMENT ORDINANCE, 1974.

(Assented to 10 July 1974.)
(Afrikaans text signed by the Deputy Administrator.)
(Date of commencement 16 July 1974.)

ORDINANCE

To amend the Roads Ordinance, 1972, so as to define or further define certain expressions; to further regulate the application of the Ordinance within the areas of local authorities; to place certain roads in tourist recreation areas under the control and supervision of the Executive Committee; to delete the requirement that roads boards shall meet at least once in every three months; to further regulate the manner in which objections to the proclamation, closing, deviation and classification of roads shall be lodged; to empower the Executive Committee to impose conditions when it makes a decision in regard to a road arrangement; to empower the Executive Committee to declare certain areas to be intersection point reserves; to further regulate the manner in which excavations shall be made safe; to provide that the free flow of traffic on a proclaimed road shall not wilfully or unnecessarily be obstructed, impeded, hindered or endangered; to provide for the fencing off of intersection point reserves; to further regulate the fencing off of proclaimed roads; to regulate the deviation of minor roads; and to substitute the expression "Director of Roads" for the expression "Chief Roads Engineer"; and to provide for incidental matters.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, as follows:-

Amendment of the Classification of Ordinance 17 of 1972, as amended by section 1 of Ordinance 22 of 1973.

1. The Classification of the Roads Ordinance, 1972 (Ordinance 17 of 1972) – hereinafter referred to as the principal Ordinance – is hereby amended –

(a) by the insertion after section 24 of the following section:

"24A. Intersection point reserves."; and

(b) by the insertion after section 39 of the following section:

"39A. Fencing off of intersection point reserves.".

ROADS AMENDMENT ORDINANCE, 1974. No. 10 of 1974.

Amendment of section 1 of Ordinance 17 of 1972, as amended by section 2 of Ordinance 22 of 1973.

2. Section 1 of the principal Ordinance is hereby amended —

(a) by the insertion after the definition of "interchange" of the following definitions:

Am. by Ord. 18/75/1

"(xivA) 'intersection point' means any point where two or more proclaimed roads intersect each other or where one or more proclaimed roads join another proclaimed road or roads; (xviiiA)

(xivB) 'intersection point reserve' means any area declared to be an intersection point reserve in terms of the provisions of section 24A; (xviiiB)";

(b) by the substitution for the definition of "local authority" of the following definition:

"(xv) 'local authority' means a municipality or a village management board or the Peri-Urban Development Board, established in terms of section 2 of the Peri-Urban Development Board Ordinance, 1970 (Ordinance 19 of 1970); (xxx)"; and

(c) by the insertion after the definition of "this Ordinance" of the following definition:

"(xxxvA) 'tourist recreation area' means any area declared a tourist recreation area under section 48 of the Accommodation Establishments and Tourism Ordinance, 1973 (Ordinance 20 of 1973); (xxxviA)".

Substitution of section 1A of Ordinance 17 of 1972, as inserted by section 3 of Ordinance 22 of 1973.

3. The following section is hereby substituted for section 1A of the principal Ordinance:

"Application of Ordinance within urban areas.

1A. Only the provisions of sections 1, 3(2), 4(1), 21, 22~~(2), 22(3)~~, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 36, 37, 39, 56, 57, 58, 59, 60, 61, 62, 65 and 68 of this Ordinance shall apply within an urban area: Provided that the provisions of sections 29, 36, 37, 56, 57 and 62 shall within an urban area apply only to urban trunk and main roads maintained by the Executive Committee in terms of section 25.".

Amended by O. 18/75/2

ROADS AMENDMENT ORDINANCE, 1974. No. 10 of 1974.

4. Section 4 of the principal Ordinance is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 4 of Ordinance 17 of 1972.

"(1) All roads in game parks and tourist recreation areas approved by the Executive Committee from time to time and all trunk, main and district roads within the Territory (excluding urban trunk and main roads maintained by a local authority in terms of section 25) shall be under the control and supervision of the Executive Committee.".

5. Section 11 of the principal Ordinance is hereby amended by the deletion of the proviso to subsection (1).

Amendment of Section 11 of Ordinance 17 of 1972.

Subst. by Ord. 18/75/3

6. Section 17 of the principal Ordinance is hereby amended by the substitution for subsection (3) of the following subsection:

Amendment of section 17 of Ordinance 17 of 1972.

"(3) Such notice shall command every person having any objection to the application or request to lodge his objection in writing, with the grounds upon which it is based clearly and specifically therein stated, with the officer or person mentioned in such notice within a period of thirty days of the date mentioned in such notice.".

Subst. by Ord. 18/75/5

7. Section 20 of the principal Ordinance is hereby amended —

Amendment of section 20 of Ordinance 17 of 1972.

(a) by the addition to paragraph (a) of subsection (1) of the following proviso:

"Provided that the Executive Committee may in its discretion impose any conditions when it so decides:"; and

(b) by the addition to subsection (7) of the following proviso:

"Provided that the Executive Committee may in its discretion impose any conditions when it so decides.".

8. Section 21 of the principal Ordinance is hereby amended —

Amendment of section 21 of Ordinance 17 of 1972.

(a) by the substitution for subsection (2) of the following subsection:

"(2) The Roads Branch shall forward a copy of such notice to the owner, lessee or occupier of each portion of land which is registered as a separate unit in the Deeds Office of the Territory and which is or will be

crossed by the road to which the proposal refers and whose address is known to that Branch."; and

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

"(3) Such notice shall command every person having any objection to the proposal to lodge his objection in writing, with the grounds upon which it is based clearly and specifically therein stated, with the officer or person mentioned in such notice within a period of thirty days of the date mentioned in such notice and shall state the number of a sketch-map of the area concerned on which the road or portion thereof to which the proposal refers and other proclaimed, minor and private roads in that area, are shown.".

Amendment of section 22 of Ordinance 17 of 1972.

9. Section 22 of the principal Ordinance is hereby amended —

(a) by the deletion of subsection (1);

(b) by the substitution for subsection (2) of the following subsection:

"(2) Notwithstanding anything to the contrary contained in any law, the Executive Committee may from time to time after investigation and report by the board concerned or the Director of Roads or both the board concerned and the Director of Roads, as the case may be, —

(a) proclaim a road on land where no road previously existed and define the course of a road thus proclaimed;

(b) declare any road to be a proclaimed road;

(c) close or deviate any proclaimed road;

(d) re-open any road which has been closed, declare the same to be a proclaimed road and define the course thereof:

Provided that the Executive Committee may act without such investigation and report if it is deemed necessary or expedient: Provided further that the Executive Committee shall only exercise the powers granted to it in terms of this subsection within the area of a local authority after consultation with the local authority concerned."; and

(c) by the substitution in paragraph (a) of subsection (3) for all the words preceding subparagraph (i) of the following words:

"(3)(a) Whenever the Executive Committee has in terms of subsection 2 —".

Insertion of section 24A in Ordinance 17 of 1972.

10. The following section is hereby inserted in the principal Ordinance after section 24:

"Intersection point reserves.

24A.(1) The Executive Committee may at any time in its discretion declare any area within which an intersection point is situated to be an intersection point reserve and determine the boundaries of such an intersection point reserve: Provided that the powers granted to the Executive Committee in terms of this subsection shall only be exercised after consultation with the owner, lessee or occupier of each portion of land —

(a) which is registered as a separate unit in the Deeds Office of the Territory; and

(b) upon which the intersection point reserve, or any portion thereof, is or will be situated,

unless the address of such owner, lessee or occupier is unknown to the Executive Committee: Provided further that the powers granted to the Executive Committee in terms of this subsection shall only be exercised within the area of a local authority after consultation with the local authority concerned.

(2)(a) Whenever the Executive Committee has in terms of subsection (1) declared an area to be an intersection point reserve and determined the area of such an intersection point reserve, it shall be made known by notice in the *Official Gazette* together with such information as the Executive Committee deems necessary.

(b) Such notice shall also state the number of a sketch-map on which the boundaries of that intersection point reserve are shown and such sketch-map shall be kept by the Roads

Branch and shall, at all times during normal office hours lie open to inspection at the office of the Director of Roads against payment of the fees determined by the Executive Committee from time to time.

(3)(a) The Executive Committee may —

(i) from time to time amend the boundaries of an intersection point reserve;

(ii) at any time withdraw the declaration of an area as an intersection point reserve

(b) The provisions of subsection (2) shall *mutatis mutandis* apply in regard to —

(i) any amendment of the boundaries of an intersection point reserve; and

(ii) any withdrawal of the declaration of an area as an intersection point reserve.

(4) Notwithstanding anything to the contrary contained in this Ordinance any intersection point reserve shall for the purposes of this Ordinance be part of the road reserve of the proclaimed roads concerned: Provided that whenever the width of the road reserve of any proclaimed road is increased as a result of the declaration of any area as an intersection point reserve no person shall be entitled to any compensation in terms of section 65 until such time as all roads which are contemplated within such intersection point reserve have been proclaimed and the Executive Committee has determined where the boundaries of the road reserves of such proclaimed road are situated.".

Amendment of section 28 of Ordinance 17 of 1972.

11. Section 28 of the principal Ordinance is hereby amended by the addition to subsection (1) of the following proviso:

"Provided that the powers granted to the Executive Committee in terms of this subsection

shall only be exercised within the area of a local authority in consultation with the local authority concerned.".

Amendment of section 30 of Ordinance 17 of 1972.

12. Section 30 of the principal Ordinance is hereby amended —

(a) by the substitution for paragraph (b) of the proviso of the following paragraph:

"(b) every excavation, including an excavation for a sample and an experimental pit, shall as soon as possible be filled up or fenced off or shall otherwise be made safe for human beings and animals again to the satisfaction of the owner, lessee or occupier of such land or as the Executive Committee directs;"; and

(b) by the addition of the following further proviso:

"Provided further that the powers granted to the Executive Committee in terms of this section shall only be exercised within the area of a local authority in consultation with the local authority concerned.".

Amendment of section 31. of Ordinance 17 of 1972.

13. Section 31 of the principal Ordinance is hereby amended by the addition to subsection (1) of the following proviso:

"Provided that the powers granted to the Executive Committee in terms of this subsection shall only be exercised within the area of a local authority in consultation with the local authority concerned.".

Amendment of section 37 of Ordinance 17 of 1972.

14. Section 37 of the principal Ordinance is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) wilfully or unnecessarily obstruct, impede, hinder or endanger the free flow of traffic on a proclaimed road or introduce or leave any rubbish or debris on a proclaimed road or within sight thereof;".

Insertion of section 39A in Ordinance 17 of 1972.

15. The following section is hereby inserted in the principal Ordinance after section 39:

"Fencing off of intersection point reserves.

39A. The Executive Committee may for any reason that it deems fit decide that an intersection point reserve shall be fenced off and when it so decides it shall fence off such in-

tersection point reserve or cause it to be fenced off at the expense of the Administration and in accordance with the standards determined by it: Provided that notwithstanding anything to the contrary in this Ordinance contained no person shall as a result of such fencing off be entitled to any compensation in terms of this Ordinance until such time as all roads which are contemplated within such intersection point reserve have been proclaimed and fenced off.".

Amendment of section 40 of Ordinance 17 of 1972.

16. Section 40 of the principal Ordinance is hereby amended —

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

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

Subst. by Act 3/93/1(a)

(b) by the substitution for subsection (4) of the following subsection:

Subst. by Act 3/93/1(c)

"(4) Whenever the Executive Committee has approved such application it may make a contribution to the applicant consisting of —

(a) the material that is needed to fence off the road concerned on both sides in accordance with the standards prescribed by regulation; or

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

Provided that —

(i) if the Executive Committee when granting such approval imposes a condition that until such time as the building of the

road concerned has been completed across the farm concerned, the road concerned need be fenced off on one side only, a *pro rata* portion of the contribution in terms of this subsection may be made at the erection of the fence with which the road is so fenced off on one side; and

(ii) any contribution in terms of this subsection shall be reduced by the value of any grant for which the fence or fences concerned qualify or did qualify; and

(iii) no compensation shall be paid to the owner, lessee or occupier concerned in respect of loss of grazing or any cost of providing water as a result of the erection of such fence or fences.";

(c) by the substitution for paragraph (b) of subsection (5) of the following paragraph:

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

(d) by the substitution in subsection (6) for all the words preceding paragraph (a) of the following words:

"(6) Whenever the Executive Committee has supplied any fencing material to the owner, lessee or occupier of a farm in terms of subsection 4 or 5 for the fencing off of a trunk, main or district road crossing such farm in accordance with the standards prescribed by regulation, such owner, lessee or occupier shall —".

Amendment of section 49 of Ordinance 17 of 1972.

17. Section 49 of the principal Ordinance is hereby amended by the substitution in subsection (3) for all the words preceding the proviso of the following words:

"(3) Whenever the owner, lessee or occupier of a farm has, as far as it crosses such farm, entirely fenced off a proclaimed road on one side or on both sides and a new proclaimed road is constructed across such farm, the Executive Committee may, if such owner, lessee or occupier requests that the fence or fences with which the existing proclaimed road has so been fenced off, should be shifted and erected along the new

proclaimed road, in its discretion at Administration cost entirely fence off such new proclaimed road or cause it to be so fenced off, as far as it crosses such farm, on one side or on both sides in accordance with the standards prescribed by regulation with a fence or fences of the same prescribed standard as the fence or fences with which the existing proclaimed road was fenced off or with a fence or fences of a higher prescribed standard.".

Amendment of section 64 of Ordinance 17 of 1972.

18. Section 64 of the principal Ordinance is hereby amended —

(a) by the substitution for the expressions "closing", "close" and "closed" wherever they occur, except in subsection (8), of the expressions "closing or deviation", "close or deviate" and "closed or deviated", respectively; and

(b) by the insertion after subsection (8) of the following subsection:

"(8A) When the applicant has deviated the road, or portion thereof concerned in terms of the provisions of this section, he shall immediately —

(a) close, whether by the erection of a fence across it or in any other way whatsoever, the road or portion thereof which was previously used as road but as a result of the deviation thereof will no longer be used as road; and

(b) in accordance with the provisions of the Road Traffic Ordinance, 1967 (Ordinance 30 of 1967), and the regulations made and in force thereunder, erect a road traffic sign indicating that such road has been closed to traffic at the place or places where the road, or portion thereof concerned has been closed as a result of the deviation and he shall properly maintain such road traffic sign for a period of at least six months.".

Amendment of section 65 of Ordinance 17 of 1972.

19. Section 65 of the principal Ordinance is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

"(a) across a portion of land within an urban area which is registered as a separate unit in the Deeds Office of the Territory or across a farm of fiftyhectares or smaller, proclaims a road where no road previously existed or re-opens a road which has been closed and declares it to be a proclaimed road; and".

Gov N. 200/2010

Substitution in Ordinance 17 of 1972 of "Chief Roads Engineer"

20. The principal Ordinance is hereby amended by the substitution for the expression "Chief Roads Engineer" wherever it occurs of the expression "Director of Roads".

Short title.

21. This Ordinance shall be called the Roads Amendment Ordinance, 1974.