

(15 January 1997 – to date)

[This is the **current version** and applies as from **15 January 1997**, i.e. the date of commencement of the Mine Health and Safety Act 29 of 1996 – **to date**]

ADVERTISING ON ROADS AND RIBBON DEVELOPMENT ACT 21 OF 1940

(Government Notice 800 in Government Gazette 2764 dated 20 May 1940. Commencement date:
20 May 1940 – unless otherwise indicated)

As amended by:

*National Roads and Ribbon Development Amendment Act 22 of 1944 - Government Notice 748 in Government Gazette 3338 dated 5 May 1944. Commencement date: **5 May 1944**. **Note** - Refer to section 13 of Act 22 of 1944 for “Certain deviations to form part of declared roads”.*

*Advertising on Roads and Ribbon Development Amendment Act 28 of 1952 – Government Notice 1060 in Government Gazette 4844 dated 14 May 1952. Commencement date: **14 May 1952**.*

*Advertising on Roads and Ribbon Development Amendment Act 16 of 1962 – Government Notice 432 in Government Gazette 202 dated 16 March 1962. Commencement date: **16 March 1962**.*

*Advertising on Roads and Ribbon Development Amendment Act 16 of 1966 – Government Notice 247 in Government Gazette 1381 dated 24 February 1966. Commencement date: **24 February 1966**.*

*National Roads Act 54 of 1971 – Government Notice 1013 in Government Gazette 3146 dated 16 June 1971. Commencement date: **1 October 1971** [Proc. No. 215, Gazette No. 3260 dated 24 September 1971].*

*Advertising on Roads and Ribbon Development Amendment Act 6 of 1976 – Government Notice 411 in Government Gazette 5014 dated 17 March 1976. Commencement date: **17 March 1976**.*

*Advertising on Roads and Ribbon Development Amendment Act 2 of 1979 – Government Notice 492 in Government Gazette 6335 dated 14 March 1979. Commencement date: **14 March 1979**.*

*Advertising on Roads and Ribbon Development Amendment Act 43 of 1985 – Government Notice 903 in Government Gazette 9707 dated 24 April 1985. Commencement date: **24 April 1985**.*

*Transfer of Powers and Duties of the State President Act 97 of 1986 - Government Notice 1909 in Government Gazette 10438 dated 12 September 1986. Commencement date: **3 October 1986** [Proc. No. 185, Gazette No. 10475 dated 3 October 1986].*

Transnet Limited Amendment Act 52 of 1991 – Government Notice 1131 in Government Gazette 13245 dated 22 May 1991. Commencement date: 22 May 1991.

Proclamation 23 in Government Gazette 16340 dated 31 March 1995. Commencement date: 1 April 1995.

Publisher's note – *The whole of this Act was assigned to the Provinces by means of this Proclamation with effect from 1 April 1995.*

Mine Health and Safety Act 29 of 1996 – Government Notice 967 in Government Gazette 17242 dated 14 June 1996. Commencement date: 15 January 1997 [Proc. No. R.4, Gazette No. 17725 dated 15 January 1997].

Publisher's note - *The Act has been amended by section 99 (Schedule 3) of Act 29 of 1996 by the substitution for the expression "Government Mining Engineer", wherever it occurs, of the expression "Chief Inspector as contemplated in the Mine Health and Safety Act, 1996,".*

ACT

To regulate the display of advertisements outside certain urban areas at places visible from public roads, and the depositing or leaving of disused machinery or refuse and the erection, construction or laying of structures and other things near certain public roads, and the access to certain land from such roads.

(Long title amended by section 9 of Act 16 of 1962)

(Long title substituted by section 2 of Act 16 of 1966)

(Long title amended by section 29 (Schedule) of Act 54 of 1971)

(Signed by the Governor-General in Afrikaans.)

(Assented to 14th May, 1940)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

1. Definitions
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10. Restriction of access to land through fence etc., along certain roads
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1. Definitions

In this Act, unless inconsistent with the context –

"Administrator" in so far as a provision of this Act is applied in or with reference to a particular province, means the competent authority to whom the administration of this Act has under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), been assigned in that province;

(Definition of "Administrator" substituted by Proclamation 23, Schedule - Item 1(a), in Government Gazette 16340 dated 31 March 1995)

"advertisement" means any visible representation of a word, name, letter, figure or object or of an abbreviation of a word or name, or of any sign or symbol; or any light which is not intended solely for illumination or as a warning against any danger;

"board"

(Definition of "board" substituted by section 1 of Act 16 of 1962)

(Definition of "board" deleted by section 29 (Schedule) of Act 54 of 1971)

"building restriction road" means any public road which the Administrator concerned has proclaimed as a building restriction road under section seven and which he has not deproclaimed as such;

"controlling authority" means, in relation to a road, the Administrator concerned: Provided that in relation to any road within the region of a Regional Services Council in the province of Eastern Cape, Northern Cape, North-West or Western Cape, the said Council shall be the controlling authority if the Administrator of that province is satisfied that the said Council is able and willing to carry out efficiently

the functions entrusted to a controlling authority under this Act and has authorized that Council in writing to act as such controlling authority; and provided further that the Administrator may at any time withdraw that authorization and thereupon the Administrator shall again be the controlling authority in relation to the road in question;

(Definition of "controlling authority" amended by section 29 (Schedule) of Act 54 of 1971)

(Definition of "controlling authority" substituted by Proclamation 23, Schedule - Item 1(b), in Government Gazette 16340 dated 31 March 1995)

"declared road"

(Definition of "declared road" amended by section 11 of Act 22 of 1944)

(Definition of "declared road" deleted by section 29 (Schedule) of Act 54 of 1971)

"main road" means a public road which is a main road in terms of any law in force in the province in which the road in question is situate, or any public road which has been constructed or has at any time been maintained by or under the authority of an Administrator by means of funds at his disposal, and from which he has not withdrawn his control: Provided that any public road on which any labour has been expended shall, for the purposes of this Act, be deemed to be a main road, unless it is proved not to be a main road;

(Definition of "main road" amended by section 29 (Schedule) of Act 54 of 1971)

"Minister", in so far as a provision of this Act is applied in or with reference to a particular province, means the Premier of that province;

(Definition of "Minister" substituted by section 1 of Act 28 of 1952)

(Definition of "Minister" substituted by Proclamation 23, Schedule - Item 1(c), in Government Gazette 16340 dated 31 March 1995)

"occupier", in relation to any land, means any person who is in actual occupation of that land and if no person is in actual occupation thereof, any person who whether as owner, lessee, licensee or otherwise has, for the time being, control of that land;

"province" means a province established in terms of section 124 of the Constitution of the Republic of South Africa, 1993;

(Definition of "province" inserted by Proclamation 23, Schedule - Item 1(d), in Government Gazette 16340 dated 31 March 1995)

"public road" means any road declared a public road in terms of any law, but does not include a national road as defined in the National Roads Act, 1971;

(Definition of "public road" amended by section 29 (Schedule) of Act 54 of 1971)

(Definition of "public road" substituted by section 1(a) of Act 2 of 1979)

"road" means a road (other than a railroad) which is intended for the passage of vehicles, and includes a bridge or ford in the line of, and intended to be used in connection with, a road and any land

which, in terms of any law, has been reserved, set aside, designated or defined as a road or a part of a road or as a place intended for the erection of any structure or for the making of any excavation or for the carrying out of any other work in connection with a road, or for the passage of vehicles belonging to any particular class or for the passage of pedestrians or animals alongside a road: Provided that if the width of a road, including any such land as aforesaid, has not been determined by or in terms of any law, that road shall be deemed, for the purposes of this Act, to comprise the strip of land, 32 m wide, whose centre line coincides with the centre line of that part of the road over which vehicles ordinarily pass or which is intended for the passage of vehicles;

(Definition of "road" amended by section 1(b) of Act 2 of 1979)

"township" means a group of erven or lots, with or without public open spaces, excluding commonage land and land which consists of any other open space which has not been developed or reserved for public purposes, which has been established or recognized under any law as a township or village, if those erven or lots are used or are intended to be used mainly for purposes other than farming, horticulture or the keeping of animals, or any village not established or recognized under any law as a township, which has been recognized by the controlling authority concerned, for the purposes of this Act, as a township;

(Definition of "township" substituted by section 1(a) of Act 43 of 1985)

"urban area" means the area consisting of the erven or lots, with or without public open spaces, excluding commonage land and land which consists of any other open space which has not been developed or reserved for public purposes and of the streets bounded by erven or lots or such public open spaces in a city, borough, town, village or township which is under the jurisdiction of a city council, municipal council, village council, town board, village management board, local board, local administration and health board, or health committee, and includes such an area as aforesaid under the jurisdiction of any other local authority which the Administrator concerned has, by notice in the *Provincial Gazette*, declared to be an urban area for the purposes of this Act.

(Definition of "urban area" amended by section 29 (Schedule) of Act 54 of 1971)

(Definition of "urban area" substituted by section 1(b) of Act 43 of 1985)

2. Prohibition of certain advertisements visible from public roads

(1) Subject to the provisions of sub-sections (4) and (5) of this section and of section six, no person shall display an advertisement which is visible from a public road, unless it is displayed in accordance with the written permission of the controlling authority concerned: Provided that any person may without the permission of a controlling authority (but subject to the provisions of sub-section (2) of this section and of sub-section (1) of section four)–

- (a) display, on a building such an advertisement which discloses merely the name or nature of any business or undertaking carried on therein or the name of the proprietor or manager of that business or undertaking or any information which relates solely to that business or undertaking

or to any article or service supplied in connection with that business or undertaking or in connection with any other business or undertaking of that proprietor; or

(Section 2(1)(a) amended by section 2(a) of Act 16 of 1962)

(b)

(Section 2(1)(b) deleted by section 2(b) of Act 16 of 1962)

(c) display, outside a public road, such an advertisement which merely indicates the name of the farm or that a particular road or path is a private or farm road or a path or is intended for a particular class of traffic or leads to a particular place or that a particular act is prohibited or permitted; or

(d) display, on or at a gate, such an advertisement which conveys merely the name of a property or locality to which the gate gives access, or a warning, or a request or direction to close the gate.

(2) When the Minister has made a regulation under paragraph (b) of sub-section (1) of section fourteen which relates to an advertisement mentioned in any paragraph of the proviso to sub-section (1) of this section, no person shall display in terms of that paragraph any advertisement mentioned therein unless the advertisement is displayed in accordance with the requirements of that regulation, but subject, to the provisions of sub-sections (4) and (5) of this section and of section six.

(3) The Minister may, by proclamation in the *Provincial Gazette*, define any class of advertisement not mentioned in the proviso to sub-section (1), which may be displayed without the permission of a controlling authority, if it is displayed in a form or manner or at a place or in circumstances or on conditions defined in the proclamation, and thereupon any such advertisement shall, for the purposes of this Act, be deemed to be an advertisement mentioned in the said proviso.

(Section 2(3) amended by section 46 (First Schedule) of Act 97 of 1986)

(Section 2(3) amended by Proclamation 23, Schedule - Item 2, in Government Gazette 16340 dated 31 March 1995)

(4) The preceding provisions of this section shall not apply in connection with an advertisement which is being displayed at the commencement of this Act, or an advertisement which is being displayed lawfully at the commencement of the Advertising on Roads and Ribbon Development Amendment Act, 1962, for so long as it remains continuously displayed in the same place, unless the controlling authority concerned has, in terms of section four, directed that it be removed or altered.

(Section 2(4) amended by section 2(c) of Act 16 of 1962)

(5)

(Section 2(5) deleted by section 2(d) of Act 16 of 1962)

3. Permission to display advertisements

A controlling authority may, in its discretion, grant or refuse any permission mentioned in sub-section (1) of section two for which any person has applied, and if it grants such permission it may (subject to the applicable provisions of any regulation made under paragraph (b) of sub-section (1) of section fourteen), prescribe the specifications to which the advertisement whereto the permission relates, shall conform, the period during which the permission shall be of effect, the manner, place and circumstances in which and the conditions on which the advertisement may be displayed, and may at any time alter or revoke any such permission.

4. Removal of advertisements

- (1) When there is being displayed at a place visible from a public road, an advertisement—
- (a) for which no permission was granted under section three or the permission for which has expired or has been revoked; or
 - (b) which does not conform to the specifications or conditions prescribed in any permission granted therefor or in any regulation applicable thereto, or which is being displayed in a manner or place or in circumstances other than those prescribed in any such permission or regulation,

the controlling authority concerned may, by notice in writing, direct any person who displays that advertisement to remove it or to effect such alterations in the nature of the advertisement or in the manner or place or circumstances in which it is displayed, as may be prescribed in the notice, and to effect such removal or alteration within such period (which shall be not less than fourteen days as from the date on which the notice was given), as may be specified in the notice: Provided that a controlling authority shall not, within a period of six months as from the date of commencement of this Act, give any such direction in regard to an advertisement which was being displayed on the last-mentioned date, and has thereafter been displayed continuously in the same place.

- (2) If a person to whom a notice has been given in terms of sub-section (1) fails to comply with a direction contained in that notice within the period therein specified, the controlling authority may, at any time after the expiration of that period, through the agency of any person authorized thereto by the controlling authority, enter upon the land upon which the advertisement to which the notice relates, is being displayed and remove the advertisement or effect the alterations prescribed in the notice.
- (3) A controlling authority may recover the expenses which it incurred by any action taken under sub-section (2) from any person to whom the notice in question was given, unless he proves—
- (a) that he did not, at the time when he received the notice, nor at any time thereafter, display the advertisement; or
 - (b) that he did not take any active part in displaying the advertisement and did not grant any person permission to display it and did not receive any valuable consideration in connection with the

displaying of the advertisement, and that he does not manufacture an article or own, control or manage a business or undertaking to which the advertisement relates.

5. Presumptions

For the purposes of sections two and four–

- (a) a person who has erected or otherwise caused the appearance of an advertisement or who has renovated or repaired it, and any person who is entitled to remove it, shall be deemed to display that advertisement while and whenever it is visible from a public road;
- (b) an advertisement which is visible from a public road shall be deemed to have been displayed after the date of commencement of this Act, unless the contrary is proved;
- (c) a person who owns or occupies land whereon an advertisement, which is visible from a public road, is being displayed, or whereon is situate such an advertisement which has been renovated or repaired, and the manufacturer of any article or the proprietor of any business or undertaking to which such, an advertisement relates and any agent of such a manufacturer or proprietor shall, unless the contrary is proved, be deemed to have erected that advertisement or otherwise to have caused it to appear or to have renovated, restored or repaired it, as the case may be, or to have permitted its erection, appearance, renovation or repair;
- (d) every road shall be deemed to be a public road, unless the contrary is proved;
- (e) any place at or near a public road shall be deemed to be in or on that road, unless it is proved to be outside that road;
- (f) any person who purports to exercise any right in connection with land to which the public has no access as a matter of right, or who is from time to time upon any such land, shall be deemed to occupy that land, unless the contrary is proved.

6. Exceptions

The provisions of sections two and four shall not apply in connection with any advertisement–

- (a) which is displayed on a vehicle which is being used on a public road, if it is proved that the main purpose for which that vehicle is being so used is not to display that advertisement;
- (b) which is displayed in an urban area;

- (c) which a person in the service of the State or of a provincial administration or of anybody which is empowered by a law relating to roads to construct or maintain roads, displays in the performance of his duties in such service;
- (d) which is displayed on a public road in accordance with the consent of an authority authorized by a law relating to roads to construct and maintain that road, and which merely indicates that a road or path leading out of the said public road, is a private or farm road or path or is intended for a particular class of traffic or leads to a particular place or to land owned or occupied by a particular person or which conveys merely a warning;
- (e) which is displayed on a windmill or on a vehicle or implement or machinery used in connection with farming, if such advertisement consists only of a trade name or the name of the maker or manufacturer of such windmill, vehicle or implement or machinery, or of both such trade name and name, and the chief purpose for which such windmill, vehicle or implement or machinery is used, is not the display of such advertisement.

7. Proclamation of building restriction roads

- (1) An Administrator may in the *Provincial Gazette* of his province proclaim any public road or any section of a public road in his province to be a building restriction road for the purposes of this Act, and he may by a like proclamation withdraw such a first-mentioned proclamation, and thereupon the road or section of a road in question shall cease to be a building restriction road: Provided that no such proclamation shall be issued in respect of a road situated in the province of Eastern Cape, Northern Cape, North-West or Western Cape unless the Administrator has consulted the Regional Services Council within the region of which the road is situated.

(Proviso to section 7(1) substituted by Proclamation 23, Schedule - Item 3, in Government Gazette 16340 dated 31 March 1995)

- (2)

(Section 7(2) deleted by section 2 of Act 43 of 1985)

8. Prohibition of depositing or leaving of certain articles or materials near certain roads

- (1) No person shall, within a distance of 200 m of the centre line of a public road, deposit or leave, outside an urban area, so as to be visible from that road, a disused vehicle or machine or a disused part of a vehicle or machine or any rubbish or other refuse, except in accordance with the permission in writing granted by the controlling authority concerned.

(Section 8(1) amended by section 29 (Schedule) of Act 54 of 1971)

(Section 8(1) amended by section 2 of Act 2 of 1979)

(Section 8(1) substituted by section 3(a) of Act 43 of 1985)

- (2) The controlling authority may remove any object or substance referred to in subsection (1), found on a public road, and may recover the cost of the removal from the person who deposited or left such object or substance there.

(Section 8(2) substituted by section 3(b) of Act 43 of 1985)

- (3) When any person has deposited or has left any object or substance in contravention of subsection (1), but not on a public road as contemplated in subsection (2), the controlling authority concerned may direct the said person in writing to remove or destroy that object or substance within such period (which shall be not less than 14 days as from the date of the direction), as may be specified in the direction, and if he fails to comply with that direction, the controlling authority may cause the object or substance to be removed or destroyed and may recover from the said person the cost of the removal or destruction.

(Section 8(3) substituted by section 3(c) of Act 43 of 1985)

- (4) The preceding provisions of this section shall not apply to any object or material which has been or is being used for or in connection with farming, or to soil excavated in the course of alluvial digging: Provided that this subsection shall not permit the deposit or leaving of any article or material on a road.

(Section 8 substituted by section 1 of Act 16 of 1966)

9. Prohibition of erection of structures near certain roads

- (1) Subject to the provisions of section 9A no person shall erect or permit the erection of any structure or any other thing which is attached to the land on which it stands, even though it does not form part of that land, or construct or lay or permit the construction or laying of anything under or below the surface of any land within a distance of ninety-five metres from the centre line of a building restriction road, or make or permit to be made any structural alteration or addition to any such structure or thing so situated, except in accordance with the permission in writing granted by the controlling authority concerned: Provided that the preceding provisions of this section shall not apply in connection with-

- (a) the completion of a structure whose erection was commenced on a date before the road in question became a building restriction road or before 1 June 1939, whichever date is the later;
- (b) a structure erected by the South African Rail Commuter Corporation Limited on land under its control;

(Section 9(1)(b) substituted by section 30 of Act 52 of 1991)

- (c) a structure or other thing erected, constructed or laid in an urban area or on, under or below an erf or lot in a township;

- (d) an enclosure, a fence or a wall which does not rise higher than one comma six metres above the surface of the land on which it stands;
- (e) a water work as defined in section 1 of the Water Act, 1956 (Act No. 54 of 1956), a farm dwelling-house or any other structure or thing on a farm intended to be used in connection with *bona fide* farming operations;
- (f) the completion of the erection, construction, laying or alteration of or any addition to any structure or other thing lawfully commenced prior to the commencement of the Advertising on Roads and Ribbon Development Amendment Act, 1962;

and provided, further, that any permission granted under this section shall not legalize the doing of anything which is unlawful under any other law.

(Section 9(1) amended by section 3 of Act 16 of 1962)

(Section 9(1) amended by section 29 (Schedule) of Act 54 of 1971)

(Section 9(1) substituted by section 1 of Act 6 of 1976)

(2)

(Section 9(2) deleted by section 3(i) of Act 16 of 1962)

(3) A controlling authority may, in its discretion, but subject to the provisions of section thirteen grant or refuse any permission mentioned in sub-section (1) for which any person has applied and if it grants such permission, it may prescribe the specifications to which the structure or other thing or alteration or addition whereto the permission relates, shall conform and the manner, place and circumstances in which and the conditions on which the structure or other thing or alteration or addition may be erected, constructed, laid or made and the obligations to be fulfilled by the owner of the land in question if such structure or other thing or alteration or addition is erected, constructed, laid or made.

(Section 9(3) amended by section 3(j) – (k) of Act 16 of 1962)

(3)*bis* If any obligation to remove a structure or other thing is so prescribed the Registrar of Deeds in question shall at the written request of the controlling authority in question note such obligation on the title deed of the land in question and in the appropriate registers.

*(Section 9(3)*bis* inserted by section 3(l) of Act 16 of 1962)*

(3)*ter*. The cost of so noting such an obligation shall be borne by the person to whom, in terms of sub-section (3), the relevant permission was granted, and the controlling authority in question may enforce fulfilment of any obligation so noted.

*(Section 9(3)*ter* inserted by section 3(l) of Act 16 of 1962)*

(3)*quat*. The provisions of sub-sections (8) and (9) of section eleven shall *mutatis mutandis* apply in respect of any obligation so noted.

*(Section 9(3)*quat* inserted by section 3(l) of Act 16 of 1962)*

- (4) When a structure or any other thing or any alteration or addition has been erected, constructed, laid or made in contravention of sub-section (1), the controlling authority in question may deal with that structure, thing, alteration or addition and with the person who erected, constructed, laid or made it or permitted the erection, construction, laying or making thereof, *mutatis mutandis*, in accordance with the applicable provisions of section four.

(Section 9(4) substituted by section 3(m) of Act 16 of 1962)

- (5) The provisions of this section shall, except in so far as they have been amended by the Advertising on Roads and Ribbon Development Amendment Act, 1962, be deemed to have come into operation on the first day of June, 1939.

(Section 9(5) amended by section 3(n) of Act 16 of 1962)

9A. Prohibition of erection of structures or construction of other things near intersections of certain roads

- (1) No person shall—

(a) on land situated within a distance of 500 m from the intersection of the centre line of—

- (i) a building restriction road with the centre line of another building restriction road or any other road;
- (ii) any road with the boundary of any building restriction road with which it links up,

except a national road as defined in the National Roads Act, 1971 (Act No. 54 of 1971), erect any structure or any other thing which is attached to the land on which it stands, whether or not it forms part of that land;

(Section 9A(1)(a) substituted by section 3 of Act 2 of 1979)

- (b) construct or lay anything beneath the surface of land situated as contemplated in paragraph (a);
- (c) make any structural alteration or addition to a structure erected on, or anything constructed or laid beneath the surface of, land situated as contemplated in paragraph (a);
- (d) permit the erection of a structure on, or the construction or laying of anything beneath the surface of, land situated as contemplated in paragraph (a), or the making of any structural alteration or addition to a structure erected on, or anything constructed or laid beneath the surface of, land so situated,

except if it is done in accordance with a written permission granted by the controlling authority concerned: Provided that the preceding provisions of this section shall not apply in connection with-

- (i) the completion of the erection, construction, laying or alteration of or any addition to any structure or other thing, lawfully commenced prior to the date of commencement of this section;
- (ii) a structure erected by the South African Rail Commuter Corporation Limited on land under its control;

(Section 9A(1)(ii) substituted by section 31 of Act 52 of 1991)

- (iii) a structure or other thing erected, constructed or laid in an urban area or on, or beneath the surface of, an erf or lot in a township;
- (iv) an enclosure, a fence or a wall which does not rise higher than one comma six metres above the surface of the land on which it stands;
- (v) a water work as defined in section 1 of the Water Act, 1956 (Act No. 54 of 1956), a farm dwelling-house or any other structure or thing on a farm intended to be used in connection with *bona fide* farming operations:

Provided, further, that any permission granted under this section shall not legalize the doing of anything which is unlawful under any other law.

- (2) The provisions of sections 9(3), (3)*bis*, (3)*ter*, (3)*quat* and (4) shall *mutatis mutandis* apply in respect of any permission referred to in, or anything done in contravention of, subsection (1).

(Section 9A inserted by section 2 of Act 6 of 1976)

9bis.

(Section 9bis inserted by section 4 of Act 16 of 1962)

(Section 9bis repealed by section 29 (Schedule) of Act 54 of 1971)

10. Restriction of access to land through fence etc., along certain roads

- (1) When ingress to or exit from a building restriction road outside an urban area and outside a township, is barred by a lawfully constructed fence, wall, hedge, trench, ditch or similar obstacle along or near the edge of the road, no person shall be entitled to gain access to or exit from any land through, under or over that fence, wall, hedge, trench, ditch or other obstacle by means of a gate, bridge, stile or other passage, unless the controlling authority concerned has authorized in writing the construction of the gate, bridge, stile or other passage in question: Provided that the preceding provisions of this section shall not apply in connection with any lawfully constructed gate, bridge, stile or other passage which was in existence and in use on the first day of June, 1939, and which was at no time thereafter closed or removed; and provided further that a controlling authority shall not withhold its authorization for the construction of any such gate, bridge, stile or other passage as aforesaid, which is necessary to give

access to or exit from a piece of land to which or from which no other reasonable access or exit is available or can be made available at reasonable expense if such access or exit is in the opinion of the owner of the land concerned necessary for *bona fide* farming purposes, or if—

(Words preceding section 10(1)(a) amended by section 5 of Act 16 of 1962)

- (a) a land surveyor surveyed the said piece of land and lodged a diagram thereof with the Surveyor-General concerned before the first day of June, 1939, or before the date of erection of the fence, wall, hedge, trench, ditch or other obstacle in question; and
 - (b) before the said date, a person other than the owner of any land of which the first-mentioned piece of land may have formed a portion at the time when the said survey and diagram were made, acquired, or entered into an agreement to acquire the ownership of that piece of land or hired that piece of land on a registered lease for a period of not less than ten years.
- (2) In granting the authorization mentioned in sub-section (1) the controlling authority may prescribe the nature of the gate, bridge, stile or other passage in question and the place where and the manner in which it shall be constructed and may impose such other conditions in connection therewith or with its use, as the controlling authority may deem necessary, and if any requirement prescribed or condition imposed in such authorization is not observed, the controlling authority may withdraw its authorization.

11. Restriction on establishment or extension of townships

- (1) A Surveyor-General shall not approve a general plan or the diagrams of erven, lots or holdings which together form a group (whether combined with or without thoroughfares and open spaces which are, or are intended to be, public places) situate wholly or partly outside an urban area if any part of any such erf, lot or holding falls within a distance of 95 m of the centre line of a building restriction road or of a main road, unless the said general plan or diagram corresponds substantially with a plan or sketch of the proposed layout of the said group, which the controlling authority concerned has approved in writing.

(Section 11(1) amended by section 29 (Schedule) of Act 54 of 1971)

(Section 11(1) amended by section 4 of Act 2 of 1979)

- (2) The provisions of sub-section (1) shall apply, *mutatis mutandis*, in connection with a diagram of any piece of land adjoining a group of erven, lots or holdings, if any part of the said piece of land falls within a distance of 95 m of the centre line of a building restriction road or of a main road.

(Section 11(2) amended by section 29 (Schedule) of Act 54 of 1971)

(Section 11(2) amended by section 4 of Act 2 of 1979)

- (3) When a piece of land represented by a diagram which is registered in a Surveyor-General's office has been divided by means of a survey or surveys into two or more portions and any part of such a portion which is situate outside an urban area falls within a distance of 95 m of the centre line of a building restriction road or of a main road, and the division, might, in the opinion of the Surveyor-General

concerned, lead to a frustration of any object of this Act, the said Surveyor General[sic] shall not approve the diagram of any such portion unless it corresponds substantially with a plan or sketch of the proposed division which the controlling authority concerned has approved in writing.

(Section 11(3) amended by section 29 (Schedule) of Act 54 of 1971)

(Section 11(3) amended by section 4 of Act 2 of 1979)

- (4) When any part of a piece of land situate outside an urban area, falls within a distance of 95 m of the centre line of a building restriction road or of a main road, the Registrar of Deeds concerned shall not pass transfer of an undivided share in that land which was acquired otherwise than by way of inheritance or legacy, if, in his opinion, the transfer might lead to a frustration of any object of this Act, unless the controlling authority concerned has agreed in writing to the transfer in question.

(Section 11(4) amended by section 29 (Schedule) of Act 54 of 1971)

(Section 11(4) amended by section 4 of Act 2 of 1979)

- (4A) The provisions of subsections (1), (2), (3) and (4) shall not apply in relation to land under the control of the South African Rail Commuter Corporation Limited.

(Section 11(4A) inserted by section 29 (Schedule) of Act 54 of 1971)

(Section 11(4A) substituted by section 32 of Act 52 of 1991)

- (5) Any approval or consent granted under this section by a controlling authority, shall not exempt any person from any provision of any other law.

(6)

- (a) Any approval or consent granted under this section by a controlling authority may be made subject to any condition prohibiting the division of the land in question or any part thereof, or limiting the use to which the land in question or any part thereof may be put, or limiting the number and extent of any buildings or other structures which may be erected thereon, or prohibiting the erection, construction or laying of any structure or other thing on or under or below the surface of such land within a stated distance from the road in question.

(Section 11(6)(a) amended by section 6(a) of Act 16 of 1962)

- (b) In granting any such approval or consent the controlling authority may stipulate that if the land in question or any part thereof is consolidated with any other piece of land, the title to the consolidated land shall be subject to any condition to which such approval or consent was made subject under paragraph (a).

(Section 11(6)(b) added by section 6(b) of Act 16 of 1962, the existing paragraph becoming paragraph (a))

- (6)bis. A condition mentioned in sub-section (6) may be imposed in such a manner as to permit of non-compliance therewith or departure therefrom with the approval or consent of the controlling authority.

(Section 11(6)bis inserted by section 12(1) of Act 22 of 1944, deemed to have come into operation on the twentieth day of May, 1940.)

(7)

- (a) Notwithstanding any contrary provision in the Deeds Registries Act, 1937 (Act No. 47 of 1937), the transferor of any land to which any condition mentioned in sub-section (6) relates, shall insert every such condition in the relevant deed of transfer, and the Registrar of Deeds shall endorse upon the title deed of any land retained by the transferor every such condition which relates to the land so retained, and the controlling authority concerned shall be entitled to enforce compliance with any such condition.
- (b) Any certificate of consolidated title issued in respect of any consolidated land contemplated in paragraph (b) of sub-section (6) shall contain every condition to which the title to such land should be subject in terms of the said paragraph, and the controlling authority in question may enforce compliance with any such condition.

(Section 11(7)(b) added by section 6(c) of Act 16 of 1962, the existing paragraph becoming paragraph (a))

(8) Notwithstanding any provision to the contrary in the Deeds Registries Act, 1937, or any other law, the Registrar of Deeds may, with the approval in writing—

- (a) of the controlling authority concerned; and
- (b) in the case of land situated in the province of Eastern Cape, Northern Cape, North-West or Western Cape, in relation to which the Administrator concerned is not the controlling authority, also of that Administrator;

(Section 11(8)(b) substituted by Proclamation 23, Schedule - Item 4, in Government Gazette 16340 dated 31 March 1995)

cancel any condition which has in terms of sub-section (7) been inserted in a deed of transfer or certificate of consolidated title or endorsed upon a title deed.

(Section 11(8) added by section 2 of Act 28 of 1952)

(Section 11(8) amended by section 6(d) of Act 16 of 1962)

(9) The cancellation of any condition in terms of sub-section (8) may be effected on a written application by the registered owner of the land in question accompanied by the approval or approvals required under the said sub-section and proof that the bondholder, if any, has been advised of the proposed cancellation.

(Section 11(9) added by section 2 of Act 28 of 1952)

12. Saving of powers under mining laws

Nothing in this Act shall have the effect of interfering with or diminishing the powers or jurisdiction conferred upon the Governor-General, the Minister of Mines, a mining commissioner, the Chief Inspector as contemplated in the Mine Health and Safety Act, 1996, or an inspector of mines by any

law relating to mining, or by the Mines and Works Act, 1911 (Act No. 12 of 1911), as amended, or any regulation made thereunder, or any right or permission granted to any person under any such law or regulation by the Governor-General, the Minister of Mines, a mining commissioner, the Chief Inspector as contemplated in the Mine Health and Safety Act, 1996, or an inspector of mines.

(Section 12 amended by section 99 (Schedule 3) of Act 29 of 1996)

13. Appeals

- (1) When a person has applied to a controlling authority for any permission, authorization, approval or consent mentioned in section 9, 9A, 10 or 11 and the controlling authority has refused the application or has granted a qualified or conditional permission, authority, approval or consent, or when a controlling authority has withdrawn any such authorization under section 10(2), the applicant or any person affected by the withdrawal may appeal to the Minister, who may, in his discretion, dismiss the appeal or allow the appeal wholly or in part, and grant the application or vary the permission, authorization, approval or consent granted by the controlling authority or vary, suspend or cancel the withdrawal and generally act in relation to any matter to which the appeal relates, as the controlling authority could have acted, and any such action taken by the Minister shall, for the purposes of this Act, be deemed to be the action of the controlling authority.

(Section 13(1) amended by section 7 of Act 16 of 1962)

(Section 13(1) amended by section 29 (Schedule) of Act 54 of 1971)

(Section 13(1) substituted by section 3 of Act 6 of 1976)

- (2) When the Minister has allowed such an appeal, whether wholly or in part, the Minister may, in his discretion, direct that any fees of office which the appellant may have paid, or such part thereof as the Minister may determine, shall be refunded to the appellant.

14. Regulations

- (1) The Minister may make regulations prescribing—
- (a) the form and manner in which application shall be made to a controlling authority for the grant or alteration of any permission, authorization, approval or consent under this Act and the information which shall be submitted and the fees which shall be payable to the controlling authority concerned in connection with any such application, and the time at which and the manner in which any such fee shall be paid;
- (Section 14(1)(a) amended by section 3 of Act 28 of 1952)*
- (b) the specifications to which any advertisement mentioned in the proviso to sub-section (1) of section two shall conform, the manner in which and the place where and the material on which or by means whereof it shall be displayed;

- (c) the form and manner of service of a notice to be given under section four or under sub-section (4) of section nine;
 - (d) the manner in which an appeal under section thirteen shall be brought, the information which the controlling authority concerned shall supply to the Minister in connection with such an appeal, the procedure to be followed in determining such an appeal, the fees of office to be paid by an appellant and the manner and time of such payment.
- (2) The application of regulations made under paragraph (b) of sub-section (1) may be limited to any specified area or to areas of a specified class or to advertisements visible from any specified road or to advertisements visible from roads of a specified class or to advertisements relating to any specified subject.

15. Penalty

- (1) Any person who contravenes any provision of section 2, 8, 9 or 9A or who fails to comply with a lawful direction issued to him by a controlling authority under section 4(1), 8(3) or 9(4) or by virtue of the provisions of section 9A(2), shall be guilty of an offence and liable to a fine not exceeding R200 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(Section 15(1) amended by section 8(a) – (c) of Act 16 of 1962)

(Section 15(1) amended by section 29 (Schedule) of Act 54 of 1971)

(Section 15(1) substituted by section 4 of Act 6 of 1976)

(Section 15(1) substituted by section 4 of Act 43 of 1985)

- (2) Any person who without the authority in writing of the controlling authority in question constructs any gate, bridge, stile or other passage to gain access to or exit from any land through, under or over a fence, wall, hedge, trench, ditch or similar obstacle along or near the edge of a building restriction road outside an urban area and outside a township, shall, unless such controlling authority was in terms of subsection (1) of section 10 required not to withhold its authorization for the construction of such gate, bridge, stile or other passage, be guilty of an offence and liable to a fine not exceeding R200 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(Section 15(2) added by section 8(d) of Act 16 of 1962, the existing section becoming sub-section (1))

(Section 15(2) substituted by section 4 of Act 43 of 1985)

16. Administrator may delegate his powers

An Administrator may delegate all or any of the powers conferred upon him by this Act to any person or persons, and in so delegating his powers he may prescribe the manner in which his delegate shall exercise any power so delegated.

17.

(Section 17 repealed by section 29 (Schedule) of Act 54 of 1971)

18. Crown bound by this Act

The provisions of this Act shall bind the State and all its organs and servants.

19. Short title

This Act shall be called the Advertising on Roads and Ribbon Development Act, 1940.