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LAW REFORM AND DEVELOPMENT COMMISSION

**REPORT ON THE
ROAD SAFETY MANAGEMENT BILL**

In partnership with the
NATIONAL ROAD SAFETY COUNCIL



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LAW REFORM AND DEVELOPMENT COMMISSION

The Namibian Law Reform and Development Commission (the LRDC) is a creature of statute established by section 2 of the Law Reform and Development Commission Act, 1991 (Act No. 29 of 1991).

The core mandate of the Commission is to undertake research in connection with all branches of law and to make recommendations for the reform and development, where necessary. The current Commission members' are—

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Adv. J Walters, Ombudsman
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Ms. L Usebiu, Faculty of Law, UNAM
Mrs. A Van der Merwe, Law Society of Namibia

Under section 3 of the Law Reform and Development Commission Act, 1991, Commissioners are appointed by the President. Previous Commissioners ceased to hold their office when their term of three (3) years lapsed on November 8, 2013. They were –

Ms. Dianne Hubbard;
Mr. Nixon Marcus;
Ms. Damoline Muroko;
Mr. Raywood Rukoro and
Ms. Yvonne Dausab

The Directorate of Law Reform serves as Secretariat to the Commission, assisting the Commission in the exercise of its powers and the performance of its duties and functions under the Law Reform and Development Commission Act, 1991. The Commission and Secretariat are housed on the 2nd and 4th Floor Gutenberg Plaza, Werner List Street, Windhoek.

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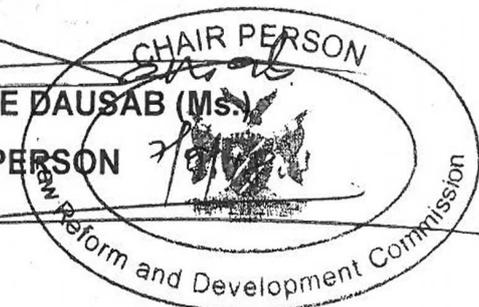
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FOREWORD

The Law Reform and Development Commission ('the Commission') has, since its establishment in 1992, given considerable attention to family and socio-political matters. This was understood given this country's apartheid history and the need to restore the liberty, justice and dignity of the Namibian people, among other pertinent issues. Over the past 25 years, the Commission's review, research and reform profile has changed significantly and it was therefore not difficult for us to take on this project. The continuing loss of life Namibians experience on our roads is one matter that belongs not to a particular Ministry, Council or group. It affects all of us in various ways.

We have all experienced and continue to experience the devastating consequence of a motor vehicle accident. It manifests in fatality, disability and trauma that haunts people for years. It has an impact on the criminal justice system, the motor vehicle accident funds infrastructure and resource capacity and it affects the Road Management network consisting of the Ministry of Works and Transport and the various institutions associated therewith. It was therefore a matter of priority and principle that made us agree to assist with the development of Road Safety Management law.

The Commission is aware of the urgency of road safety concerns and the public- outcry that something drastic needed to be done to change the conditions of our roads; create an effective road safety management system among the various role players, strengthen the existing traffic related legislative framework, find acceptable means of encouraging compliance and failing which the enforcement mechanism needs to be improved and more importantly, a behavioural change in the attitudes of the people be harnessed. It was therefore imperative that the Commission, the National Road Safety Council (NRSC) and the team associated with this project expedite its recommendations, and finalise a report that can be used as part of the implementation strategy for road safety in the country. The Commission has conducted research, facilitated discussions and consultations on the Road Safety Management Bill. The background to the Road Safety Management Bill, its effects as well as the need thereof, together with further recommendations are addressed in this report.


CHAIR PERSON
YVONNE DAUSAB (Ms.)
CHAIRPERSON

Law Reform and Development Commission

INTRODUCTION

The Law Reform and Development Commission¹ is a statutory body established under section 2 of the Law Reform and Development Commission Act of 1991,² with the mandate to examine existing laws in Namibia, undertake research (including in comparable jurisdictions) and to make recommendations for the review, development and reform where necessary. Law Reform involves an in-depth consultation process involving legal and social-legal research, which reflects the views expressed and shared by the relevant stakeholders and the communities consulted. What processes the Commission follows and how it conducts its research, the consultation and quality of reports it publishes is very important for law reform in this country.

The Road Safety Management Bill project is a collaborative project between the National Road Safety Council (NRSC hereinafter referred to as the Council) and the Commission. The scope of the project enabled the Commission to assist the Council with consultations and the review of the Road Safety Management Bill. The Bill intends to enable change by providing for the continued existence of the Central Road Safety Fund, the repeal of the Road Safety Act 9 of 1972; to provide for matters incidental therewith and to set up the Road Safety Agency that will ensure that road safety is efficiently planned, managed and it is envisaged that such an agency will put in place measures to contribute to limiting the number of persons that perish on Namibian roads every year.

The Bill shall repeal the Road Safety Act No. 29 of 1991 entirely. The Bill will not make provision for any specific issues already provided for by other pieces of legislation such as the Road Traffic and Transport Act 22 of 1999, although some parts of it will probably supplement the object of related pieces of legislation. Instead, the bill is intended to focus on coordinating the relationship between the various agencies to ensure an effective implementation system. For instance, the aim of the Bill is not to duplicate the mandate of other institutions, but to bring about uniformity and effective cooperation among road safety stakeholders in order to ensure effective road safety management.

¹ LRDC hereinafter referred to as the Commission.

² Law Reform and Development Commission Act 1991 (Act No. 29 of 1991).

The Road Safety Management Bill Project came to the Commission during the final process of the draft bill, adherence to all the institutional steps of implementation in the Law Reform and Development operational manual were therefore not possible.³ As a result, consultations on the Bill were held on the 11th of April 2016 with the relevant stakeholders at the Windhoek Country Club. A discussion paper was finalized⁴ in addition to this final report that emanates from the discussion papers and numerous other discussions with the Council thereafter.

This final report introduces the mandate and the role of the Law Reform and Development Commission, the project's terms of reference, the scope and limitations of the project and the methodology. A brief historical context and the current position of road safety in Namibia are discussed under the contextual framework. The report then clearly outlines the issues that the proposed Bill addresses, the discussions that informed stakeholder views, the submissions on specific aspects that required revision and recommendations that will enhance management of road safety in the country. Finally, the report also proposes law reform options, as well as the Commission's findings as informed by the stakeholder inputs considered. The overall recommendations of the LRDC, and the laws that may be affected by the proposed law reform are considered and discussed.

CONTEXTUAL FRAMEWORK

The contextual framework provides a short synopsis of the historical background on how Namibia has been governed through the Road Safety 1972 (Act No. 9 of 1972) that the proposed Bill seeks to repeal, and sets out a candid assessment of the current legal and institutional position relevant to the project.

Historical Context

³ Law Reform and Development Commission. Operational Manual for Law Reform. Stages in the Law Reform Process: Drafting of the Project Initiation Document, Development of the Issue Paper, Stakeholder consultation on the Issue Paper, Development of the Working Paper (Discussion Paper), Workshop on the Working Paper, Drafting of the Relevant Bill, Consultation on the draft Bill, Drafting Final Report with attendant Bill, Consideration of Report by full Commission, Submission in terms of Section in terms of Section 9 (1). p 8-9.

⁴ LRDC: Discussion paper on the Road Safety Management Bill; Commissioned and Published by the Law Reform and Development Commission; April 2017, Windhoek.

Namibia's colonial past left behind a rich jurisprudence that covered a myriad of matters affecting people's life. The transport and road sector was no different. The Roads Safety Act of 1972⁵ is one of the remnants of Namibia's colonial legacy imported through the Peace Treaty of Versailles,⁶ the South West African Mandate Act⁷ and the Proclamation of 1921⁸ which provided the Governor General of South Africa legislative and executive powers over the South West African⁹ territory and its inhabitants. Following Namibia's independence in March 1990 the powers of the Governor General were terminated under article 140(2)¹⁰ of the Namibian Constitution¹¹ and vested in the Republic of Namibia as a sovereign and independent nation¹². This however, did not do away with the laws such as the Road Safety Act that were in place at the time. Instead, under article 140(1)¹³ of the Constitution and in the absence of any repeal or amendment by an act of Parliament, those laws remained and in many instances still remained on the statute books. The Bill is therefore a first attempt at reviewing the law in order to address the gaps in the current road safety and management law.

Current Position

Currently, road safety management in Namibia is in part informed by the Moscow Declaration of 2009¹⁴ that subsequently culminated into the Decade of Action for Road Safety Declaration 2011-2020, of the United Nations General Assembly (UNGA). The UNGA resolution requires member states to develop plans of action modelled against the global plan developed by World Health

⁵ (Act No 29. Of 1991).

⁶ Namibian Law Reform and Development Commission: LRDC 32: Discussion Paper on issues relating to Insolvency Act, 1936 (Act No 24 of 1936) February 2015 Windhoek at 8.

⁷ (Act No. 49 of 1919).

⁸ Proclamation 1 of 1921.

⁹ As Namibia was then referred to.

¹⁰ Article 140 (2) of the Namibian Constitution provides: "Any powers vested by such laws in the Government, or in a Minister or other official of the Republic of South Africa shall be deemed to vest in the Government of the Republic of Namibia or in a corresponding Minister or official of the Government of the Republic of Namibia, and all powers, duties and functions which so vested in the Government Service Commission, shall vest in the Public Service Commission referred to in Article 112 hereof".

¹¹ The Constitution of Namibia 1990.

¹² Recognized under section 2(1) of the Recognition of Independence of Namibia Act No. 34 of 1990.

¹³ Article 140 (1) of the Namibian Constitution reads: "Subject to the provisions of this Constitution, all laws which were in force immediately before the date of Independence shall remain in force until repealed or amended by Act of Parliament or until they are declared unconstitutional by a competent Court."

¹⁴ The Moscow Declaration. First Global Ministerial Conference on Road Safety: Time for Action Moscow, 19-20 November 2009.

Organisation (WHO). Namibia subsequently adopted the Chapter of the Decade of Action for Road Safety 2011-2020 through the Cabinet decision 16/13.09.11/009. The primary objective of a chapter under the rubric of the Decade for Action, is for Namibia to create an institution properly financed and equipped with the capacity to ensure an effective and efficient road safety management system. In addition, the National Action Plan¹⁵ for the implementation of the National Chapter of the Decade for Action for Road Safety (2011-2020) Strategy¹⁶ was adopted in line with the African Union's Luanda Declaration.¹⁷ The Council has the obligation to ensure the implementation of the Namibian Chapter of the Decade for Action for Roads Safety and the road safety management pillar of the Namibian plan of action.

A study undertaken to assess both the legislative and institutional frameworks of road safety management in the country as well as Namibia's existing management capacity¹⁸ revealed serious shortcomings in the current road safety management system, hence the proposed new approach by the Council to improve road safety performance¹⁹ through the proposed Road Safety Management Bill.

WHAT IS THE PROBLEM?

Namibia continues to dominate the top ranks of road- related deaths in the world.²⁰ This could be as a result of a number of possible issues. According to the MVA, in the period running between 1 January to 2 September 2018, 2467 road crashes²¹ were reported, in which 3930 persons were

¹⁵ As approved by the Cabinet Decision No. 23rd/15.12.11/020 after taking note of the findings on the causes of accidents presented by the Ad-Hoc Committee on Accidents on Namibian Roads.

¹⁶ The Strategy revolves around six pillars which includes road safety management; road safety education; law enforcement; engineering: vehicles; engineering: roads and emergency response.

¹⁷ Adopted at the 2nd Session of the Conference of African Ministers of Transport (CAMT) held. 21-25 November 2011, Luanda, Angola, read with the Draft African Roads Safety Charter.

¹⁸ Schermers G; Labuschagne F. J. J. and Botha J. 2013. Legislative and Administrative Reform of the National Roads Safety Council and the Secretariat: Supporting Pillar 1 of the Namibian Chapter of the Decade of Action. Final Report.

¹⁹ Roads Safety Management System: A New Approach towards Improved Roads Safety Performance. National Roads Safety.

²⁰ Road Traffic Accidents in Namibia- World Life Expectancy. Available at www.worldlifeexpectancy.com/namibia-road-traffic-accidents; last accessed on 10 September 2018.

²¹ It should be noted that the road related accidents reported by MVA are those that led to claims, hence the figure should not be construed as constituting all accidents. The number could be higher. The research could however be used to attain the accurate number and use the MVAs data as a baseline.

injured and 363 lost their lives.²² This adds up to high social and economic loss, including the high cost of pain, grief and suffering. It is therefore necessary to address issues pertaining to road safety such as cooperation and coordination among road safety role players, in an effort to limit the number of deaths or preventing deaths on Namibian roads. Despite the changes, the Bill will ensure the continued existence of the Central Road Safety Fund and repealing the Road Safety Act No. 29 Of 1991 providing for matters incidental therewith. The Bill focuses on setting up Road Safety Agency to ensure that road safety is efficiently planned for and all agencies dealing with road related matters is properly managed.

THE ROAD SAFETY MANAGEMENT BILL

Stakeholder submissions collected during the consultations on the bill were incorporated by the consultant and further discussed in the Discussion paper.²³ This report will discuss the rationale that cements every chapter and clause of the bill. It will further clearly set out the legal arguments and possible practical reasons associated with each Clause.

1. Chapter 1: Interpretation

The Bill contains a Long title²⁴ which has been reworked to include the stakeholder's inputs. The definitions²⁵ of relevant terms as applied within the Bill are provided for in Chapter 1 of the Bill. The term "Traffic is not defined and it is not clear why it was defined. This Bill defines "crash" based on international best practice to prevent interpretation issues around what should be included in the plan or in the statistics intended by the Bill. The main issue is road traffic security. The Minister's mandate as well as that of the Road Transport Inspectorate and Traffic Officers are therefore also limited to road traffic The issues pertaining to off-road crashes does not seem to be included.²⁶

²² Motor Vehicle Accident Fund: crash statistics. See www.mvafund.com.na accessed 05 September 2018.

²³ LRDC: Discussion paper on the Road Safety Management Bill; Commissioned and Published by the Law Reform and Development Commission; April 2017, Windhoek.

²⁴ Which reads: "To provide for the establishment of a Road Safety Agency; for the development and the implementation of a national road safety management plan and an integrated road safety management system; to provide for the establishment of the Road Safety Fund; to repeal the National Road Safety Act, 1972 (Act 9 of 1972); and to provide for matters connected therewith."

²⁵ Clause 1.

²⁶ Botha J. Namibian Road safety Audit trail 2017.

2. Chapter 2: Institutional Provisions

- 2.1. The institutional provisions are provided for in Chapter 2: part 1 on the board and 2 that deals with the structure of the Agency of the Bill.²⁷ The Chapter makes provision for the establishment of the Road Safety Agency as the main objective of the proposed Bill. The private sector; the local authorities²⁸ and civil society are not specifically listed in Clause 2(3), as the various road safety responsibilities lie within the different ministerial jurisdictions. It would therefore be appropriate to legally hold such ministries accountable to oversee execution of the plan activities that fall within their ambit. The private sector, local authorities and civil society can be co-opted on committees where necessary. The execution of the different ministries' functions under the Bill shall be done in terms of the National Road Safety Plan as provided for in clause 15 of the Bill. All institutions involved in road safety will still have to report to their governing Boards or Ministers. This is why the Ministers listed under Clause 2(3) will have to oversee the implementation of this plan. The purpose of Clause 2(3) reference to Clause 13 clarifies the need for the plan to be based on the information gained from the Information Communication Technology (ICT).
- 2.2. The objectives of the Agency are provided for in clause 3 of the Bill, which is to ensure the safety of all road users through the effective enforcement of the governing laws, accurate data, training and educational programs. The establishment of the Road Safety Fund have not been included in clause 3 as management of the Fund and supporting functions and not an objective of the Agency. The private sector is excluded in clause 3(c), as this provision deals with those entities or institutions that have a governmental and statutory mandate to ensure road safety. Although the private sector has a role to play, it does not have a legal mandate to ensure road safety; at the moment it is only expected to support road safety initiatives through their corporate social investments. The private sector should continue to be involved as they currently are except when surcharges on insurance are imposed. The insurance companies should be given access to all necessary information and be given an opportunity to comment on the Plan or take part in its development.
- 2.3. Clause 4 outlines the structure of the Board, its constitution, membership and term of office as determined in terms of section 14 of the Public Enterprises Governance Act.²⁹ A

²⁷ Clause 2-8.

²⁸ Such as the City of Windhoek that has its own traffic authority.

²⁹ Public Enterprises Governance Act No 2 of 2006.

number of special skills and expertise may be required in the advancement of road safety in Namibia. Such expertise may be listed with the Minister of Works and Transport's discretion. As to whether the listing of such specific skills could render the requirements rigid and unachievable if the Bill becomes prescriptive, is a policy issue. For instance, appointment of someone short of such skills would be illegal. It is perhaps advisable not to list such skills and expertise to allow flexibility.

- 2.4. The appointment of the board members, requirements, skills and sitting term is outlined in Clause 5 of the Bill in line with section 15 and 16 of the Public Enterprises Governance Act.³⁰ The appointment makes provision for transition as essential policy decisions needs to be taken in the time leading to the establishment of the Agency. When the term of office of the board members expires, only two-thirds of the board may leave. This ensures a degree of continuity and institutional memory.
- 2.5. Board meetings as provided for in Clause 6 are in conformity with autonomy and good governance principles.³¹ The functions of the board provided for in Clause 7 requires that the board ensures strategic leadership and accountability in the management of the Road Safety Fund and all its functions, to achieve the Agency's objectives in line with Section 17 of the Public Enterprises Governance Act No 2 of 2006. A financial and audit committee or any other committee may be appointed, resolved or reconstituted by the Board as provided for in Clause 8 of the Bill. This provision makes allowance for the requisite/necessary flexibility.
- 2.6. Part 3 of Chapter 2 makes provision for the Agency under clauses 9 and 10. Clause 9 provides for the powers, functions and duties of the Agency. The provisions of Clause 9(1)(i) will apply in the same manner for the medical treatment of foreigners. As to whether travel insurance as in aviation can be applicable to foreigner road users, special programmes should perhaps be designed in a language they understand. This is an issue which needs to be attended to within the MVA Act No.10 of 2007, and which must be preceded by an actuarial study determining the level of a levy imposed on foreigners when

³⁰ Clause 46 of Public Enterprises Governance Act No 2 of 2006 the provides that:
"The provisions of this Act prevail if a conflict relating to any matter provided for in this Act arises between this Act and the provisions of the establishing Act or constituent document or of the memorandum of association and articles of association of a State-owned enterprise."

³¹ Principles of good governance: participation, fairness, transparency, responsiveness, equity, accountability, strategic visions. Available at <http://www.napcrg.org/AboutUs/GoodGoverningPrinciples> last accessed on 11 September 2018.

driving in the country. On the other hand however, the application of the levy begs the question arises as to whether this would not amount to double taxation, for road users domestically.

- 2.7. Clause 9(1)(k) ensures that no function falls between the cracks or remains unaddressed. The legal provision is streamlined to avoid the current mandate encroachment. There exists no need to include provisions addressing supportive roles. Every executing agency has its mandate clearly defined within their own legislation, which is now augmented by this Bill. Clause 9(1)(n), insofar as it relates to finding funds for executing agencies, the executing Agencies must budget for their part of the plan. Additional funds are to be found to assist the government to cover the increased financial burden that the execution of the plan will require. Clause 10 provides for the staffing of the Agency. This includes qualifications and areas of expertise, term of office, reappointment and conditions of service, remuneration, benefits and performance agreements in line with section 21 and 22 of the Public Enterprises Governance Act.

3. Chapter 3: Road Safety Management

- 3.1. Chapter 3 on road safety management makes provisions for institutional provisions contained in part 1 clause 11 to 14 of the Bill. The Roads Safety Theme Committees are provided for in clause 11. The thematic areas include education and promotion; engineering; law enforcement and offence adjudication; emergency services amongst others. Vehicle engineering and road engineering shall be covered under engineering. However, caution was taken against expressly putting certain aspects in the Bill to avoid unnecessary amendments should the Global Decade of Action change. The aspects that are currently in the Bill are similarly covered globally. The intentions behind the Integrated Information System is to store and share information with public entities or private individuals.
- 3.2. NATIS is provided for in clause 9 of the Bill.³² However, as to the correct placement of NATIS within the different thematic areas, that is perhaps a policy guidance issue. If one

³² See Clause 9 (c) which states that:

“must, from a date determined by the Minister by notice in the Gazette, manage the Namibian Road Traffic Information System, which before the commencement of this Act has been managed by the Roads Authority, and the Agency must undertake the functions required for the system to function optimally.”

dissects driver testing, it covers a number of aspects namely, law enforcement and a NATIS (information system). There might have to be a theme committee for the Information and Communications Technology (ICT) or support systems. NATIS has expanded to much more than just a filing system. It also deals with driver fitness and vehicle fitness. Perhaps another approach is to create a "driver training" thematic area which is an integral element of education. The education pillar is divided into three areas i.e. formal education (school based), non-formal (campaign based) and skills development. The regulatory framework is meant to ensure adherence to standards. However, these are discussions that should take place once the Coordinating Committee is established.

- 3.3. The Bill further provides for the Roads Safety Coordinating Committee in clause 12. The coordinating committee is made up of the chairpersons of the thematic areas provided for in clause 11. The Integrated Road Safety Management ICT System is outlined in clause 13 of the Bill. The system will provide the basic core functionality system that can be accessed by all functional agencies depending on the mode of interest. It should be the mother of all systems linking all agencies. Custom-designed systems like Namibian Courts Information Systems (NAMCIS), E-Policing, Health Information System and NATIS will remain with their respective institutions provided the systems interface or integrate. The Agency shall enter into memorandums of understanding with all executing agencies involved in the execution of the plan as per clause 14. The memoranda should clearly set out the manner of cooperation, budgetary allocations and key performance indicators.
- 3.4. Part 2 of chapter 3 makes provisions for the integrated road safety management plan under clause 15 to 20 of the Bill. Clause 15 lays out the chapters of the plan. The Bill is aimed at managing safety across all national roads. The National Road Safety Plan is a compendium of smaller plans referred to as chapters in the Bill drawn from all areas listed under Clause 15 (1) (a-g). It will however not cover road development plans, but will contain a black spot management program. Every area in the country is covered in this plan, including the areas within the local authorities. Clause 15(1)(g) shall be implemented

It is not clear as to whether this provision include services related to vehicle and driver testing (which currently fall under the Road Traffic and Transport Act of 1999) or is limited to the information system.

according to the standards associated to international standards. The caretakers of the Road Traffic and Transport Act³³ should examine and improve these standards. The Namibian Standards Institute (NSI) standards on vehicles and road safety that are currently under development shall go a long way in ensuring road safety if approved and adhered to. In addition, the NRSC is currently chairing the NSI's Technical Committee responsible for the development of standards on vehicles and road safety. It is in the interest of the Agency that approved standards are adhered to. This is one of the reasons why NaTIS should be part of the Agency.

- 3.5. The bill sets out the requirements of the Road Safety Plan in clause 16. Such requirements include asset management plans, programmes and projects on how responsible agencies will achieve the national road safety goals set by the plan. The plan may cover a five-year implementation period but should be reviewed annually. In addition, the Agency in consultation with the Road Safety Coordinating Committee shall identify and define parameters and values on safety performance indicators to be used, the values attached and the types of statistics and information to be collected as per clause 17 of the bill.

- 3.6. Generally, the Plan will contain common national road safety goals on fatalities, injuries, damage to motor vehicle or the environment as a result of crashes. Furthermore clause 18 sets out the common goal of Namibia, in accordance with the road safety management standards and also outlines the social and environmental effect of these hazardous events on the economy. Indication of the cost to the economy of fatalities, injuries, damage to motor vehicle or the environment as a result of crashes shall also be included in terms of clause 18 of the Bill. The plan is further divided into chapters that shall cover the identified parameters, goals and functions, strategies to achieve respective goals, detailed action plans and projects amongst others, as provided for in clause 19. Clause 20 ensures road safety management review. It requires the Agency to facilitate such a review by an independent panel of experts and to submit a report to the Board and the Minister with appropriate recommendations and remedial actions.

³³ (Act No. 22 of 1999).

4. Chapter 4: Financial Provisions

- 4.1. Financial provisions are provided for in chapter 5 under clause 21 to 28 of the bill. The Road Safety Fund is established in terms of clause 21. Clause 21 further indicates the types of moneys payable to the fund in sub clause 2(a)-(n) and as to when and where such money is payable. The fund may be utilized in a number of instances listed under clause 21(5). It is not quite clear as to whether the levies paid on foreign vehicles should be equivalent to that of domestic vehicles in order to avoid discrimination. Surcharge on the other hand, will be paid by the person who takes out the vehicle insurance. Even if it's placed on the insurance company, it will just pass it through to the person taking out the insurance.
- 4.2. In ensuring accountability in the administration of the fund, clause 22 requires the board to be the accounting authority of the Fund and the Chief Executing Officer as the administrator of the Fund subject to the minister's direction in consultation with the board. Clause 23 makes provision for the Agency's budget. The additional affiliations associated with the Agency's budget in order to proceed with the plan as stressed throughout the Bill is catered for in clause 24. This gives a clear standing of the manner in which the Agency will be able to achieve the plan. It's closely linked to clause 24 that requires that Agency submit a budget in support of the plan to the board and the minister.
- 4.3. The Agency's business and financial plan shall be done and submitted to the Minister under clause 26 in line with section 19 of the Public Enterprises Governance Act. The CEO shall keep accounts and records of all money received or expended by the Agency or the fund, all assets and liabilities for that financial year and ensure annual audits are conducted under clause 27 in line with section 23 of the Public Accountants and Auditors' Act No. 51 of 1951.³⁴ The board must submit annual financial statements, the auditor's report and the activity Performance Review Reports to the minister no later than six months after the closing of that financial year.

³⁴ (SA GG 4663) brought into force in South Africa and South West Africa on 1 November 1951 by SA Proc. 207/1951 (SA GG 4695).

5. Chapter 5: Legal Procedures

- 5.1. The Agency as a non-income/profit public enterprise shall be exempted from paying tax or duty³⁵ under clause 29 of the Bill. Members of the Road Safety Coordinating Committee or any other committee of the board are required to disclose all direct or indirect interest and the extent thereof in writing to the chairperson, who should table it at the next meeting of the Road Safety Coordinating Committee or any other committee. Such member should not take part in the meeting, vote or influence an opinion on the matter of interest as set out in clause 31.
- 5.2. Clause 32 makes provision for the Board to be able to enter into agreements with any person for any function or service necessary for execution of its powers subject to conditions as the minister may determine. This is closely linked to clause 36 on liability and clause 39 on offences and penalties. Clause 33 enables the minister, the board and the CEO to delegate certain powers entrusted to them under this Bill to an employee of the ministry, the CEO and the employee of the Agency respectively subject to certain conditions and limitations such as confidentiality provided for under clause 35. Clause 41 makes provision for the transitional period. The transitional period is essential, because the procedural standpoint of the entire Bill rests on the successful implementation thereof.

PROPOSED LAW REFORM

The Road Safety Management Bill as the proposed law has as its main object the establishment of the Road Safety Agency. The Agency will spearhead the implementation of a national roads safety management plan and an integrated road safety management system. The Bill will also serve to provide for the continued existence of the Central Roads Safety Fund; repealing the National Roads Safety Act and to provide for any other matter that may be relevant hereto. It is intended to enable change by putting up institutions to ensure that road safety is efficiently planned and managed. The aim of the Bill is to bring about measures to limit the number of persons that perish on roads every year. Furthermore, the Bill also focuses on ensuring the collection of data and statistics, as data relevant to road safety is still grossly inadequate for

³⁵ MVA Act No. 10 of 2007 Clause 6 provides: "The income or money of the Fund is exempt from any form of taxation or duty under any law governing tax or duty and such exemption extends to all transactions conducted by the Fund."

planning, implementing, and evaluating road safety interventions. Without data, it will be impossible to effectively improve road safety.³⁶

RECOMMENDATIONS

The possible recommendations vary, they look at the management approach critically to ensure the successful implementation of the Bill. The Bill should be multi-sectorial and include strong involvement of the stakeholders, the public at large and the private sector. More importantly it will require sustained political will, and commitment. The strength of the implementing agencies, the resources available and a coordinated multi-sectorial approach also play a role in the effective implementation of this Bill.³⁷

In addition, a safety culture should be developed in order to reduce crashes. Therefore road-user safety should be the responsibility of the road sector as a whole, and all units. A strong coordinating body or lead agency is therefore imperative to ensure proper implementation. It must be capable of planning road safety projects, securing a budget, implementing the projects and monitoring their effectiveness. Finally, mechanisms need to be identified which can collect and channel road user charges back to the areas from which they are derived in order to invest in and fund road safety improvements.³⁸

The proposed Bill is not intended to address issues that fall within the scope of other legislation; issues such as seat belts, speeding, use of lights and the point demerit system among others. Road safety activities, including road safety engineering, should not be assumed to be the same as traffic engineering. The aim of the Bill is not to duplicate the mandate of other institutions but rather to bring about uniformity and effective cooperation among road-safety concerned agencies and stakeholders in order to ensure effective road safety management. The specific Acts must be revisited and amended in order to cater for issues that fall within their mandate areas.

³⁶ Road safety in the WHO African region the facts 2013. Available at http://www.who.int/violence_injury_prevention/road_safety_status/2013/report/factsheetafro.pdf Accessed 8 June 2016.

³⁷ Review Of Road Safety In Urban Areas Project Report PR/INT/200/00 by A Downing, G Jacobs, Aeron- Thomas, J Sharples D Silcock, C van Lottum, R Walker, A Ross Transport Research Laboratory. October 2000 At 3. Available at http://siteresources.worldbank.org/INTURBANTRANSPORT/Resources/urban_safety_trlrs_2.pdf accessed 8 June 2016.

³⁸ As above.

AFFECTED LAWS

The proposed Bill will affect a number of laws as laid out in its schedule. These laws include the National Roads Safety Act 9 of 1972, Road Traffic and Transport Act 22 of 1999 and Motor Vehicle Accident Fund Act 10 of 2007.

IN RETROSPECT

The proposed Bill reflects the values contained in the Harambee Prosperity Plan. This it does through Pillar 1 on Effective governance of firm accountability and adequate transparency, to improve performance and service delivery by setting up an oversight and management agency to ensure effective governance in the road transport sub-sector. Secondly, it reflects the values provided for in Pillar 2 on Economic advancement to bring about Economic competitiveness by ensuring that an effectively managed and properly maintained transportation sector and roads system is put in place for effective trade, services and goods throughout Namibia. In addition, safe roads will limit the number of economic productive members lost on the roads due to motor vehicle accidents. And finally, the Bill will contribute to the implementation of Pillar 4 on infrastructural development, by ensuring that transport infrastructures are properly structured and managed as per the nation's expectations. The Bill further seeks to place Namibia on a trajectory towards the achievement of Goal 3, 9 and 11³⁹ of the Sustainable Development Goals. These goals seeks to halve the number of global deaths and injuries from road traffic accidents by 2020, and to provide access to safe, affordable and sustainable transport system for all, improving road safety. Notably by expanding public transport with special attention to the needs of those in vulnerable situations such as women, children, elderly persons and those with disabilities.

³⁹ Goals 3, 9 and 11: These goals covers: Good health; Build resilient infrastructure, promote sustainable industrialization and foster innovation; sustainable cities and communities.

ROAD SAFETY MANAGEMENT BILL

(As introduced in the National Assembly)

(MINISTER OF WORKS AND TRANSPORT)

[B 2018]

ISBN

Bill No. X, 2018

ROAD SAFETY MANAGEMENT BILL, 2018

ACT

(Signed by the President)

To provide for the establishment of a Road Safety Agency; for the development and the implementation of a national road safety management plan and an integrated road safety management system; to provide for the establishment of the Road Safety Fund; to repeal the National Road Safety Act, 1972 (Act 9 of 1972); and to provide for matters connected therewith.

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BE IT ENACTED by the Parliament of Namibia, as follows:

CHAPTER I: INTERPRETATION

1. Definitions

In this Act, unless the context otherwise indicates-

“**Agency**” means the Road Safety Agency established by section 2;

“**area goal**” means a road safety goal set for an area as determined by the Board;

“**Board**” means the board referred to in section 4;

“**crash**” means a collision or other impact on a road causing death, an injury or damage and includes an accident as contemplated in the Road Traffic and Transport Act, 1999 (Act 22 of 1999) and the Motor Vehicle Accident Fund Act, 2007 (Act 10 of 2007) in relation to a crash occurring on a public road as defined in the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999);

“**demonstration project**” means a project undertaken by any executing agency that is aimed at the improvement of road safety or road safety management;

“**emphasis area**” means a subject within a functional area which in terms of the Plan is targeted to receive specific attention;

“**executing agency**” means any institution that is responsible for the execution of any part of the Plan in relation to a functional area referred to in section 11(1);

“**Fund**” means the Road Safety Fund referred to in section 21;

“**ICT system**” means a system comprising information and communication technology including all components necessary to establish an electronic support system for the integrated road safety management system or for aspects thereof;

“**integrated road safety management system**” means a road traffic management system that integrates

all the aspects of road safety management, including engineering (roads), engineering (vehicles), education, law enforcement (including offence adjudication) and emergency services and coordinated by a Plan;

"Minister" means the Minister responsible for transport;

"Ministry" means the administration established in terms of section 2 of the Assignment of Powers Act, 1990 (Act 4 of 1990) to administer the transport function;

"Namibian Road Traffic Information System" means the electronic database containing the information referred to in section 95 of the Road Traffic and Transport Act, 1999 and regulation 366(1)(a)(i-ix), (2)(a) and (b), (3),(4), (6), (7(a)(iii), and (8) of the Road Traffic and Transport Regulations, 2001;

"Plan" means the integrated road safety management plan contemplated in section Part 2 of Chapter III;

"prescribed" means prescribed by regulation;

"repealed Act" means the National Road Safety Act, 1972 (Act 9 of 1972) repealed by section 25 of this Act;

"Roads Authority" means the Roads Authority established by section 2 of the Roads Authority Act, 1999 (Act 17 of 1999);

"Road Safety Coordinating Committee" means the committee established by section 12(1);

"road safety performance indicator" means a quantitative or qualitative measurement by which performance can be assessed through comparison with a set standard or target to express the status of any element relating to road safety or to road condition;

"road safety quality indicator", means the actual level of a road safety indicator as measured against a road traffic management standard;

"road traffic" means the movement of vehicles and pedestrians through, on and along any section of a proclaimed public road network;

"road safety", means methods and measures aimed at reducing the likelihood or the risk of persons using the road network getting involved in a collision or an incident that may cause property damages, serious injuries and/or death;

"standard" means the minimum standard, process, procedure, method or system in relation to a functional area contemplated in section 11(1) and, issued in terms of section 38;

"Public Enterprises Governance Act" means the Public Enterprises Governance Act, 2006 (Act 2 of 2006);

"Traffic" means the movement of vehicles and pedestrians.

"this Act" includes any regulations made in terms of this Act or any standard issued in terms of this Act.

"vehicle" means a device designed or adapted principally to travel on wheels and to be used on public roads and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged, but does not include a device designed to move exclusively on crawler tracks or rails;

CHAPTER II: INSTITUTIONAL PROVISIONS

PART I: Establishment of Agency

2. Establishment of road safety agency

- (1) The Road Safety Agency is hereby established as a juristic person.
- (2) The Agency consists of a Board which gives strategic direction to the Agency, a Road Safety Coordinating Committee and an administration, led by a Chief Executive Officer.

3. Objectives of agency

The objectives of the Agency are to -

- (a) ensure the safety of all road users and that all necessary efforts are taken towards preventing traffic injuries and deaths;
- (b) coordinate road safety programmes across government with the view to optimise resources and programme outcomes;
- (c) support other government agencies in aligning their responsibilities and that of all role players in the road safety environment with the national road safety strategy and goal; and
- (d) promote and foster a national culture that places priority on road safety.

PART 2: Board

4. Board: Constitution, Membership and Term of Office

- (1) The Board is constituted by the number of members with the qualifications, experience and skills as determined in terms of section 14 of the Public Enterprises Governance Act.

(2) The term of office of the Board is as determined in terms of section 14 of the Public Enterprises Governance Act.

5. Appointment of Board Members

(1) The Minister must, subject to section 14 of the Public Enterprises Governance Act, and in accordance with the procedure prescribed by section 15 of the Public Enterprises Governance Act, appoint Board members, the chairperson and vice chairperson, and those board members are subject to the provisions of the Public Enterprises Governance Act.

(2) Any alternate member of the Board must be appointed as prescribed by sections 14 and 15 of the Public Enterprises Governance Act.

(3) If, after the expiry of the term of office of the board, a new Board has not been appointed within a period of 30 days, the Minister must appoint temporary board members as contemplated in section 16 of the Public Enterprises Governance Act.

6. Meetings of board

(1) The Board must meet at least four times a year.

(2) The majority of Board members form a quorum.

(3) If, despite the provision of subsection (2), a quorum cannot be achieved, a decision of the Board is not invalid merely by reason of a lack of a quorum.

7. Functions of board

(1) The Board must provide strategic leadership to the Agency and oversee the governance of the Agency in accordance with the requirements of the Governance Agreement entered with the Minister in terms of section 17 of the Public Enterprises Governance Act.

(2) The Board must ensure that the Fund contemplated in section 21, is managed responsibly.

(3) The Board must ensure that the Agency performs its functions and exercise its powers in terms of this Act responsibly to achieve the objectives of the Agency as contemplated in section 3.

8. Committees of the Board

(1) Subject to such terms of reference the Board may determine, the Board –

(a) must appoint a finance and audit committee;

(b) may appoint any committee to -

- (i) advise the Board on such matters relating to its powers and functions as it may refer to the committee; or
- (ii) assist the Board in the exercise and performance of such powers and functions of the Board as it may delegate or assign to the committee.

(2) The Board may appoint as a member of a committee any person who is or is not a member of the Board, but, excluding the Road Safety Coordination Committee, at least one member of a committee must be a member of the Board.

(3) If a committee consists of more than one member, the Board must designate a member of the committee as chairperson of the committee, but the Road Safety Coordinating Committee must be chaired by the Agency as contemplated in section 12(2).

(4) The Board is not absolved from responsibility for the performance of any functions entrusted to any committee under this section.

(5) The chairperson of a committee presides at meetings of the committee or in his or her absence the members of the committee in attendance at a meeting must elect a member to preside at that meeting.

(6) The quorum at a meeting of a committee is the majority of the members of the committee.

(7) A decision taken by or an act performed under the authority of the committee is not invalid by reason only of –

- (a) a vacancy on the committee; or
- (b) the fact that a person who is not entitled to be present as a member was present when the decision was taken, or the act was authorized,

if that decision was taken or the act was authorized, by a majority of the members who were present and entitled to vote at the meeting.

(8) The person presiding at a meeting of a committee must cause a record to be kept of the proceedings of the meeting.

(9) A committee must report to the Board on any matter as required by the Board.

(10) The Board may at any time dissolve or reconstitute a committee, but the membership of the Road Safety Coordinating Committee must comply with the provisions of sections 11(2) and section 12(1) and (2).

PART 3: Agency

9. Powers, Functions and Duties of Agency

(1) The Agency-

- (a) must, in consultation with the Road Safety Coordinating Committee, compile the Plan as contemplated in Part 2 of Chapter III;

- (b) must develop, implement and manage an integrated road traffic management ICT system supporting the Plan;
- (c) must, from a date determined by the Minister by notice in the Gazette, manage the Namibian Road Traffic Information System, with regard to –
 - (i) the registration and licensing of motor vehicles,
 - (ii) the registration of manufacturers, builders and importers of motor vehicles;
 - (iii) registration of manufacturers of number plates;
 - (iv) registration of vehicle testing stations;
 - (v) registration of driving licence testing centres;
 - (vi) the registration of operators;
 - (vii) the register of drivers
 - (viii) the register of offences
 - (ix) the register of authorised officers
 - (x) the register of authorised users as referred to in regulation 377 of the Road Traffic and Transport Regulations, 2001
- (d) must subject to an agreement with the Minister in terms of section 111 of the Road Traffic and Transport Act, 1999, manage registering authorities appointed by the Minister in terms of section 27 of the Road Traffic and Transport Act, 1999;
- (e) must subject to an agreement with the Minister in terms of section 111 of the Road Traffic and Transport Act, 1999, manage or operate-
 - (i) driving testing centres appointed by the Minister in terms of section 27 of the Road Traffic and Transport Act, 1999;
 - (ii) Vehicle Testing Stations appointed by the Minister in terms of section 54 of the Road Traffic and Transport Act, 1999;
- (f) must maintain and ensure the safekeeping of proper records of the administration of the Agency and all information contained in the ICT system supporting the Plan;
- (g) must, from a date determined by the Minister in the Gazette, perform the road traffic and transport law enforcement functions which before the commencement of this Act have been performed by the Namibian Police and

the Roads Authority, respectively;

- (h) must provide secretarial services to the Road Safety Coordinating Committee;
- (i) must develop, implement and manage a demerit point system and a road traffic offence adjudication system supported by an ICT system which forms part of the overall road traffic management ICT system;
- (j) must conduct or facilitate sufficient research to inform the development of the Plan;
- (k) must gather and maintain current information in connection with crashes and statistics and road safety in general, to disseminate such information and to make such information or dissemination thereof available to authorities, any interested person and the public;
- (l) may, subject to subsection (3), impose a road safety levy on foreign vehicles entering Namibia;
- (m) may investigate crashes of the prescribed categories.
- (n) may liaise, exchange information and co-ordinate with any other authority, person or body involved in road safety on local, regional and international level;
- (o) must act as the executing agency in relation to road safety education and promotion;
- (p) may impose a road safety surcharge on a long or short-term insurance policy, to be determined by the Minister on advice from the Agency after consultation with representatives from both the long term and short-term insurance environments and the Minister of Finance;
- (q) may develop and manage an ICT system to impose the road safety surcharges determined in terms of paragraph (p);
- (r) may seek funding for any road safety project or programme to be undertaken by the Agency or any other executing agency;
- (s) must establish and manage a central crash data base containing not less than the prescribed minimum content;
- (t) may make recommendations to the Minister regarding the amendment of this Act or any other Act of Parliament which may contribute to road safety;
- (u) may perform any other function assigned to it by the Minister which is

consistent with the objectives of the Agency and which cannot readily be performed by another existing institution, but subject to conditions to be agreed upon;

- (v) must manage and maintain any property acquired in accordance with internationally accepted asset management principles; and
- (w) may perform any other function that is necessary for the better execution of this Act.
- (x) may invest any funds on a short or long-term basis in a prudent manner; and
- (y) may acquire, hire and improve property required for the performance of its core functions and dispose of any such property, but if that property is not related to the core function of the Agency, the Minister must authorise that acquisition, hiring or improving of such property.

(2) The Agency may set up a demonstration project and for this purpose it may request the Minister to issue rules, in accordance with section 37, in relation to that project, which rules apply to the persons involved with that project and for the period of that project only and may be in conflict with the Road Traffic and Transport Act, 1999.

(3) The Agency must in setting the level of the road safety levy referred to in subsection (1)(l), consult with the Minister of Finance.

10. Staff of Agency

(1) The Board must, appoint a Chief Executive Officer with tertiary qualification and experience in road traffic engineering, information technology, economics, law, or road safety management to be the Chief Executive Officer of the Agency and who is responsible for the day to day management of the Agency.

(2) The Chief Executive Officer of the Agency —

- (a) holds office for a term of five years, and is eligible for reappointment at the end of that term; and
- (b) is responsible to carry out the functions of the Agency and the decisions of the Board subject to the general control and supervision of the Board.

(3) A person does not qualify for appointment as Chief Executive Officer if such person —

- (a) is not a Namibian citizen or lawfully admitted to Namibia for permanent residence, and does not reside in Namibia;
- (b) is an unrehabilitated insolvent; or

- (c) has been convicted of an offence involving dishonesty or has been dismissed from a previous post by reason of dishonesty; or
 - (d) is a member of a local authority council.
- (4) The Chief Executive Officer may, before the expiration of his or her term of office -
- (a) be removed from office by the Board with the concurrence of the Minister on grounds of misconduct or inability to efficiently discharge the functions of his or her office, subject to the rules of natural justice; or
 - (b) resign from office by giving a written notice of resignation of not less than three months to the Board.
- (5) The Chief Executive Officer is a member of the Board by virtue of his or her office
- (6) The Chief Executive Officer may appoint such staff complement as is reasonably necessary to perform the functions of the Agency in terms of this Act. The conditions of service, remuneration and benefits of the Chief Executive Officer and the management staff of the Agency are as determined in terms of section 22 of the Public Enterprises Governance Act.
- (7) The Chief Executive Officer and the management staff of the Agency must enter into performance agreements with the Board as contemplated in section 21 of the Public Enterprises Governance Act.

CHAPTER III: ROAD SAFETY MANAGEMENT

PART 1: Institutional Provisions

11. Road Safety Theme Committees

- (1) The Chief Executive Officer must establish a road safety theme committee for each of the following functional areas:
- (a) education and promotion;
 - (b) engineering;
 - (c) law enforcement and offence adjudication;
 - (d) emergency services; and
 - (e) any other road safety committee that he or she considers necessary for the better execution of the Plan.
- (2) The incumbents of the relevant post in the executing agency responsible for the execution of the functional areas contemplated in subsection (1) must serve on the relevant

theme committee.

12. Road Safety Coordinating Committee

(1) The Road Safety Coordinating Committee is established and comprises the chairperson of each of the road safety theme committees referred to in section 11.

(2) The Agency must, from its staff complement appoint a person who is qualified in integrated road safety management to serve as the chairperson of the Road Safety Coordinating Committee.

(3) The business of the Road Safety Coordinating Committee is conducted as agreed in writing with the Chief Executive Officer.

(4) The Road Safety Coordinating Committee may meet as often as necessary for the proper execution of the Plan but must meet at least once every quarter.

(5) The Road Safety Coordinating Committee may co-opt any person necessary to execute its duties.

13. Integrated Road Safety Management ICT System

(1) The Agency must develop, implement and maintain an Integrated Road Safety Management ICT System in support of the Plan.

(2) The Integrated Road Safety Management ICT System must contain road traffic data that is required by each of the functional areas contemplated in section 11(1), and must at least-

- (a) be able to interface real-time with the Namibian Road Traffic Information System;
- (b) be able to interface real-time with a court management ICT system or be available to the Ministry of Justice and the Judiciary for the management of the road traffic offence adjudication process unless that process is decriminalized in which case it must be able to interface with that decriminalized road traffic offence adjudication ICT system;
- (c) be able to automate the prosecution process for road traffic offences until that process is decriminalized;
- (d) be able to record the road traffic offences and offence adjudication process;
- (e) be able to interface real-time with any traffic management ICT system used by an executing agency;

- (f) be able to record road traffic crash statistics;
- (g) be able to display road traffic safety data, including crashes and offences, on a geographical information system;
- (h) be able to interface real-time with the Roads Management ICT System used by the Roads Authority; and
- (i) provide access to each functionary in the road safety management environment to the level agreed on with the Road Safety Coordinating Committee.

14. Memoranda of Understanding

(1) The Agency must enter into a memorandum of understanding with every executing agency involved in the execution of the Plan.

(2) The memoranda of understanding referred to in subsection (1), must set out the manner of cooperation between the Agency and the relevant executing agency, and provide for the manner of determining budgetary allocations to executing agencies in respect of the execution of the Plan and set key performance indicators.

PART 2: Integrated Road Safety Management Plan

15. Chapters of Plan

The Plan sets a national road safety goal and consists of chapters covering at least the following functional areas -

- (a) performance assessment as contemplated in section 18(c);
- (b) road safety education and promotion;
- (c) road safety research and development;
- (d) road traffic law enforcement, including but not limited to-
 - (i) critical offence monitoring with the purpose of measuring changes in road user behaviour; and
 - (ii) road traffic offence adjudication management;
- (e) emergency services insofar as it relates to emergency response to crashes;
- (f) roads engineering remedial works, that includes reactive and pro-active interventions; and
- (g) vehicle safety engineering and road worthiness.

16. Requirements for Plan

(1) Every chapter referred to in section 15 must indicate programmes and projects illustrating how the executing agency or agencies responsible for the execution of that chapter of the Plan will achieve the national road safety goal set by the Plan.

(2) Every chapter referred to in section 15 must contain an asset management plan in relation to the assets, if any, that supports the execution of the Plan, excluding office accommodation and salaries of personnel unless that personnel is employed by the Agency.

(3) The executing agencies for the respective functional areas relating to those chapters must through the appropriate road safety theme committee established in terms of section 11(1), provide the input in relation to the chapter specific to that executing agency.

(4) The Plan must be compiled for a period of five years and may annually be reviewed and adapted.

(5) The Ministers responsible for-

- (a) transport;
- (b) energy;
- (c) health;
- (d) finance;
- (e) justice;
- (f) Judiciary;
- (g) education; and
- (h) safety and security,

must, based on the analyses of the data collected from the Integrated Road Safety Management ICT System contemplated in section 13, and in accordance with the targets set by the Integrated Road Safety Management Plan contemplated in Part 2 of Chapter III, oversee the execution of the Plan in as far as it relates to the functional area of the Minister concerned.

17. Agency to Identify and Define Parameters and Values

The Agency must, in consultation with the Road Safety Coordinating Committee, identify and define-

- (a) safety performance indicators to be used;
- (b) the values to be attached to the parameters set by those safety performance indicators to define the standards of the different components of the Plan to be attained (to be known as road safety management standards); and

- (c) the type of information and statistics to be collected in order to determine current and future levels of the components of the Plan.

18. General Contents of the Plan

The Plan must contain-

- (a) a common goal for Namibia as referred to in section 15, expressed in accordance with the road safety management standards in relation to-
 - (i) fatalities, injuries and damages, whether to motor vehicles or to the environment, as a result of road crashes;
 - (ii) a summary of the area goals referred to in section 19(f); and
 - (iii) a summary review of the achievement in terms of the previous Plan;
- (b) an indication of the cost to the economy of fatalities, injuries and damages, whether to motor vehicles or to the environment, as a result of crashes;
- (c) where a previous Plan exists, an assessment of the extent to which the strategies in that Plan in relation to each Chapter of that Plan have been implemented and the extent to which the area goals set out therein have been achieved, including an assessment of the performance of various role players involved in the plan concerned.

19. Contents of Chapters

Every Chapter of the Plan must contain at least-

- (a) on the basis of the identified parameters, as contemplated in section 17, an assessment of the actual levels of road traffic quality indicators in relation to the functional area concerned;
- (b) on the basis of the assessment in paragraph (a), the identification of the causes for any problems or deficiencies with regard to achievement of the road traffic quality indicators set out in the Plan concerned;
- (c) area goals for the functional area concerned in relation to every geographical area as defined by the Road Safety Coordinating Committee and which is under the jurisdiction of the executing agency performing the function concerned;
- (d) road safety emphasis areas in relation to every area goal referred to in paragraph (c);

- (e) strategies to achieve the area goal;
- (f) strategy identification and optimisation through comparative subset analyses of the road traffic data relating to the functional area concerned, as well as sensitivity analyses of the outcome of a strategy in accordance with the amount of funding made available for the implementation of the strategy;
- (g) detailed action plans and projects to give effect to the strategies described in terms of paragraph (f), including the allocation of resources for each project; and
- (h) any other matter regarded as relevant for the purpose of this Act or as requested by the Minister.

20. Road Safety Management Review

(1) The Agency must at least once every five years facilitate a review of road safety management in Namibia and that review must be undertaken by a panel of independent experts in road safety management.

(2) The panel referred to in subsection (1), must submit a report on the review referred to in that subsection, together with recommendations with regard to remedial actions, to the Board and a copy of that report to the Minister.

CHAPTER IV: FINANCIAL PROVISIONS

21. Road Safety Fund

(1) The Road Safety Fund is hereby established into which all moneys contemplated in this Act must be paid.

- (2) The following moneys may be paid into the Fund:
 - (a) a percentage of the fuel levy imposed in terms of section 19 of the Petroleum Products and Energy Act, 1990 (Act 13 of 1990) from the National Energy Fund established by section 11(1) of that Act, which percentage must be determined by the Minister responsible for Energy, in consultation with the Minister and the Minister responsible for Finance;
 - (b) money appropriated to the Agency by Parliament;
 - (c) money received as remuneration for services rendered in terms of an agreement;

- (d) fees contemplated in Schedule 1 of the Road Traffic and Transport Regulations, 2001;
- (e) the road safety levy imposed in terms of section 9(1)(l)
- (f) the road safety surcharges contemplated in section 9(1)(p);
- (g) interest or dividends earned on any investment made in terms of this Act;
- (h) all moneys derived from the sale of any assets (whether movable or immovable) of the Agency but, in the event of immovable assets, subject to such conditions as the Minister may determine;
- (i) with the approval of the Minister and the concurrence of the Minister responsible for Finance, money received by way of raising loans;
- (j) any fine paid in terms of the Road Traffic and Transport Act, 1999;
- (k) a road safety surcharge on a long or short-term insurance policy, to be determined by the Minister on advice from the Agency after consultation with representatives from both the long term and short-term insurance environments;
- (l) a road safety levy imposed on foreign vehicles;
- (m) money obtained from the sale of-
 - (i) publications prepared by the Agency; and
 - (ii) reference material; and
- (n) all other money which may accrue to the Agency from any other source.
- (o) In determining the amounts of funding contemplated in subsections (2) relating to the fuel levy, the road safety levy imposed on long- or short-term insurance, and the road safety levy imposed on foreign vehicles, the following aspects must be taken into account:
 - (i) the cost of fatalities, injuries and vehicle damage to the economy of the country;
 - (ii) the cost of the implementation of the Plan; and
 - (iii) money that may accrue to the Fund from other sources referred to in subsection (3).

(3) The Agency must manage the Fund in accordance with sound financial management principles.

- (4) The Fund may be utilised-

- (a) to defray the administrative expenses of the Agency;
- (b) to defray the expenses of the Road Safety Coordinating Committee;
- (c) to defray the costs of programmes to be undertaken by the Agency;
- (d) to defray the cost of programmes and projects to be undertaken by an executing agency in terms of the Plan;
- (e) to defray the cost of road traffic law enforcement as per the Plan;
- (f) to defray the cost of a road traffic offence adjudication ICT system;
- (g) to defray the costs of moveable assets supporting the execution of the Plan;
- (h) to make payments in respect of the capital, interest and any incidental costs or charges with regard to loans which the Agency has obtained;
- (i) to acquire immovable or other assets which are necessary for the performance of the functions of the Agency; and
- (j) subject to the approval of the Minister for any other expenses related to the functions of the Agency not already provided for in this subsection.

(5) Money obtained for the benefit of the Fund, and moneys of the Agency must be paid into the bank account referred to in section 22(4)(a).

(6) The Agency may maintain a surplus in the Fund, which surplus may be applied towards contingencies or programmes and projects undertaken by the Agency or may be invested.

22. Administration of Fund and Accountability

(1) The Board is the accounting authority of the Fund.

(2) The Chief Executive Officer is responsible for the administration of the Fund, subject to the directions of the Board given after consultation with the Minister, and to the rules made under subsection (3).

(3) The Minister may, with the concurrence of the Minister responsible for Finance—

- (i) determine rules relating to the administration of the Fund; and
- (ii) approve the investment policy regulating the investment of moneys standing to the credit of the Fund.

(4) The Board must, subject to this section, open and maintain a banking or savings account in the name of the Fund with -

- (a) any banking institution or building society registered under the laws

- governing banking institutions and building societies in Namibia; or
- (b) the Post Office Savings Bank established in terms of the Posts and Telecommunications Act, 1992 (Act No. 19 of 1992).

23. Budget of Agency

(1) The Agency may not incur expenses except in accordance with the budget approved in terms of this section.

(2) The Agency must annually on a date agreed with the Board, submit to the Board for its approval a budget in respect of the ensuing and each of the three financial years following thereafter

(3) The budget referred to in subsection (2) must contain a statement of income and expenditure in relation to the operation of the Agency, excluding the expenditure in support of the Plan as contemplated in section 24.

24. Budget Supporting Plan

(1) The Agency must submit a budget in support of the Plan in respect of the ensuing and each of the five financial years following thereafter for approval to the Board, together with the Plan.

(2) The Board must submit the budget referred to in subsection (1) to the Minister.

(3) The budget supporting the Plan must contain the estimated expenditure for the executing of the Plan in relation to every executing agency including that of the Agency but excluding the costs of the Agency as contemplated in section 23.

(4) The budget supporting the Plan must be reviewed annually.

25. Financial Year

The financial year of the Agency and the Fund ends on 31 March in each year.

26. Business and Financial Plan of Agency

The Agency must, at least 90 days before the commencement of its next financial year, or a later date determined by the Minister, submit to the Minister a business and financial plan in accordance with section 19 of the Public Enterprises Governance Act.

27. Accounting and Auditing

The Chief Executive Officer must –

- (a) keep full and proper accounts and records of all moneys received or

expended by the Agency and the Fund and of all assets, liabilities and financial transactions of the Agency and the Fund during the financial year of the Agency and the Fund.

- (b) cause the accounts and records referred to in subsection (1) to be audited annually by a person registered as an accountant and auditor under section 23 of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), and appointed by the Agency.

28. Annual Report

- (1) The Board must as soon as possible, but not later than six months after the close of the financial year submit to the Minister in respect to that financial year-
 - (a) audited financial statements and a report of the auditor on those statements; and
 - (b) a report on the activities of the Agency and the Fund during that financial year
- (2) The annual report and financial statements referred to in subsection (1) must –
 - (a) fairly represent the of the Agency and the Fund, its business, financial results, performance against predetermined objectives and its financial position at the end of the financial year concerned;
 - (b) include particulars of –
 - (i) any material losses through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year;
 - (ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;
 - (iii) any losses recovered or written off; and
 - (iv) any other matter that may be prescribed.

CHAPTER V: LEGAL PROCEDURE

29. Exemption of Agency from Taxes, Duties and Levies

No income or any other tax, duty or levy imposed under any law is payable by the Agency.

30. Winding up of Agency or Fund

The Agency and the Fund may not be wound up except by or under the authority of an Act of Parliament.

31. Disclosure of interest

If a member of the Board or the Road Safety Coordinating Committee or any other committee of the Board, or his or her spouse, immediate family member, life partner or business associate, has any direct or indirect financial interest in any matter to be dealt with at any meeting of the Board, the Road Safety Coordinating Committee or any other committee of the Board, that member-

- (a) must disclose that interest and the extent thereof in writing to the chairperson, who must table that statement at the next meeting of the Board, the Road Safety Coordinating Committee or any other committee of the Board;
- (b) may not attend any portion of a meeting of the Board, the Road Safety Coordinating Committee or any other committee of the Board during the consideration of that matter;
- (c) may not in any manner take part as a member of the Board, the Road Safety Coordinating Committee or any other committee of the Board in the consideration of that matter; and
- (d) may not in any manner endeavour to influence the opinion or vote of any other member of the Board, the Road Safety Coordinating Committee or any other committee of the Board in connection with that matter.

32. Power to Enter into Agreement for Performance of Function

(1) The Board may enter into an agreement with any person, including any executing agency, local authority council or regional council, whereby arrangements made for the exercise or performance by such person of any power, duty or function conferred or imposed on any functionary by or under this Act, or for the rendering of any service or the provision of any facility as may be considered necessary or expedient for the purpose of the exercise or performance of any such power, duty or function.

(2) The entrustment of any power, duty or function to any person under an agreement under subsection (1) is subject to such conditions as the Minister may determine.

(3) Conditions referred to in subsection (2), may include conditions in relation to the

apportionment between the State and the contracting party of any fees payable in terms of this Act in respect of the exercise or performance of any power, duty or function entrusted to the contracting party.

33. Delegation

(1) The Minister may, in writing, delegate any of the powers or duties entrusted to him or her under this Act, except the power to make regulations, to any official in the employ of the Ministry or in the employ of another organ of state, or a person with whom the Board has an agreement in terms of section 32.

(2) The Board may, in writing, delegate any of the powers or duties entrusted to it under this Act, except the power to approve a budget or the Plan, to the Chief Executive Officer who may mandate any employee of the Agency or member of a Committee to exercise the power or perform the duty concerned.

(3) The Chief Executive Officer or a member of the Road Safety Coordinating Committee may delegate any of the powers or duties entrusted to him or her under this Act, to any employee of the Agency or of an executing agency.

(4) A delegation referred to in subsection (1), (2) or (3)-

- (a) is subject to any limitations or conditions that the Minister, Chief Executive Officer or member of the Road Safety Coordinating Committee may impose;
- (b) may authorise the sub-delegation of that power to another official and that sub-delegation must be in writing and may not exceed the power originally delegated; and
- (c) does not divest the Minister, the Board, the Chief Executive Officer or the member of the Road Safety Coordinating Committee of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(5) The Minister, Board, Chief Executive Officer or member of the Road Safety Coordinating Committee may confirm, vary or revoke any decision taken by the person to whom the delegation or sub-delegation was made, subject to any rights that may have become vested as a consequence of that decision.

34. Decisions

A decision taken by or an act performed under the authority of the road Safety Coordinating Committee is not invalid by reason only of –

- (a) a vacancy on the committee; or
- (b) by reason of the fact that a person who is not entitled to be present as a member was present when the decision was taken, or the act was authorized,

if that decision was taken or the act was authorized, by a majority of the members who were present and entitled to vote at the meeting.

35. Confidentiality

A Board member, member of the Road Safety Coordinating Committee or an employee of the Agency or any other person who is involved in the administration of this Act, may not disclose information gained during the execution of his or her duties, that affects the execution of the functions of the Agency or an executing agency in relation to the execution of the Plan detrimentally.

36. Liability

(1) A Board member, member of the Road Safety Coordinating Committee or any other committee of the Board, an employee of the Agency or a person employed by any executing agency or a person contemplated in section 32 is not liable for any cost or loss incurred as a result of an action taken in terms of this Act in good faith.

(2) The Agency is not liable for any cost or loss incurred as a result of an action taken by a Board member, member of the Road Safety Coordinating Committee or any other committee of the Board, an employee of the Agency or of an executing agency or a person contemplated in section 32 in terms of this Act in good faith.

(3) The Agency is not liable for the execution of any project or programme by another executing agency in terms of this Act.

37. Regulations and Rules

(1) The Minister may, after consultation with the Board, by notice in the *Gazette*, make regulations not inconsistent with this Act and those regulations may provide for offences and penalties that are suitable to the offence.

(2) Before the Minister makes any regulation under this section, he or she must publish a draft of the proposed regulation in the *Gazette* together with a notice calling on interested persons to comment, in writing, within a period stated in that notice, which period may not be less than 30 days from the date of publication of that notice.

(3) If the Minister amends the draft regulations as a result of any comment, he or she need not publish those amendments before making the regulations.

(4) The Minister may, if circumstances necessitate the immediate publication of a regulation, publish that regulation without consultation as contemplated in subsection (2).

(5) Subject to section 9(3), the Agency may issue rules for the purpose of the implementation of a demonstration project, which rules may be in conflict with the Road Traffic and Transport Act, 1999, provided that those rules apply only to the project concerned and for the duration of that project.

(6) The provisions of subsections (1) to (3) apply with the necessary changes authorizing the Agency to make rules, not inconsistent with this Act, in relation to governance of the Road Safety Coordinating Committee.

38. Standards and Guidelines

(1) The Agency may by notice in the *Gazette* and after consultation with the Road Safety Coordinating Committee, issue mandatory standards in relation to any functional area contemplated in section 11(1).

(2) The Agency may by notice in the *Gazette* issue guidelines in relation to any functional area contemplated in section 11(1) to assist an executing agency in the execution of its functions.

39. Offences and Penalties

(1) It is an offence to mismanage the Fund.

(2) A person found guilty of the mismanagement of the Fund is liable to the repayment of the damages caused to the Agency by that mismanagement or imprisonment not exceeding five years.

40. Repeal and Savings

(1) The National Road Safety Act, 1972, is hereby repealed.

(2) Any act performed, decision taken, or purported to have been so performed, or taken in terms of the repealed Act, remains valid unless repealed under this Act.

(3) The Road Traffic and Transport Act, 1999, the Motor Accident Fund Act, 2007 and the Road Fund Administration Act, 1999, are amended as shown in the Schedule.

41. Transitional Provisions

(1) The Road Safety Agency in consultation with the Minister may after the approval of this Act by the National Assembly, appoint a caretaker Chief Executive Officer to implement this Act.

- (2) The caretaker Chief Executive Officer-
- (a) must initiate the first meeting of the Road Safety Coordinating Committee;
 - (b) may, with the approval of the Road Safety Council referred to in subsection (4), appoint such persons on a temporary basis as is necessary for the execution of his or her duties; and
 - (c) may perform any other duty of the Chief Executive Officer contemplated in this Act until the Chief Executive Officer has been appointed.

(3) The caretaker Chief Executive Officer is relieved of his or her duties on the date on which the Chief Executive Officer appointed by the Board has taken up his or her position as such, but he or she may be requested to remain in office for such a period as the Board considers necessary to assist the newly appointed Chief Executive officer.

(4) Notwithstanding the repeal of the National Road Safety Act, 1972, the Council appointed in terms of section 2 of the repealed Act, continues to exist until a Board has been appointed in terms of section 4 of this Act.

(5) Any person who is in the employ of the State and is serving in the administration of the Namibian Road Safety Council may subject to the Public Service Act, 1995, (Act no.13 of 1995) be transferred to the Agency as from the date of its establishment.

(6) A person not transferred in terms of subsection (5), must be redeployed in the service of the State.

(7) An employee of the Agency who is a member of the Government Institutions Pension Fund at the time he or she is appointed by the Agency remains a member of that Fund until such time that the Agency establishes its own pension fund, if the Agency chooses to establish a pension fund.

(8) Any moveable or immovable asset that has been assigned to the National Road Safety Council established in terms of the repealed Act, is transferred to the Road Safety Agency established in terms of section 2 of this Act and no transfer duties or other taxes are payable as a result of that transfer.

(9) The Road Safety Agency substitutes the National Road Safety Council established in terms of section 2 of the repealed Act, as a party to any agreement entered into by the National Road Safety Council and that substitution does not result in the novation of that agreement.

(10) Any money in Central Road Safety Fund at the commencement of this Act must be transferred to the Fund established under section 21.

(11) The first Plan may be based on the traffic data available at the date of commencement of this Act.

42. Short title and commencement

(1) This Act is called the Road Safety Management Act, 2018 and commences on a date determined by the Minister by notice in the Gazette.

(2) The Minister may determine different dates of commencement for different sections or subsections of this Act.

SCHEDULE

Column 1	Column 2	Column 3 amendment
No. and year of law	Title	Extent of repeal or amendment
9 of 1972	National Road Safety Act, 1972	The Whole
22 of 1999	Road Traffic and Transport Act, 1999	<p>11. Appointment of officers</p> <p>(1) For the purposes of this Act, the Minister may, subject to the Public Service Act, 1995 (Act 13 of 1995), and on such conditions as the Minister may determine, appoint such persons as the Minister may consider necessary to be-</p> <ul style="list-style-type: none"> (a) licence inspectors; (b) vehicle examiners; (c) driving examiners; (d) traffic officers; (e) road transport inspectors; (f) traffic wardens; (g) reserve traffic officers. <p><u>(2A) The Road Safety Management Agency established in terms of section 2 of the Road Safety Management Act, 20...may, subject to its human resources policy, appoint any person to be-</u></p> <ul style="list-style-type: none"> <u>(a) licence inspectors;</u> <u>(b) vehicle examiners;</u> <u>(c) driving examiners;</u> <u>(d) traffic officers;</u> <u>(e) road transport inspectors;</u> <u>(f) traffic wardens;</u> <u>(g) reserve traffic officers.</u> <p>(2) Subject to the approval of the Minister, a local authority council may appoint for its area, subject to such conditions and requirements as may be prescribed by the Minister, such persons as it may consider necessary to be-</p> <ul style="list-style-type: none"> (a) licence inspectors; (b) vehicle examiners; (c) driving examiners. <p>(3) Subject to the approval of the Minister, a local authority council may, for its area, or two or more local authority councils may, for their areas jointly, appoint, subject to such conditions and requirements as may be</p>

Column 1	Column 2	Column 3 amendment
No. and year of law	Title	Extent of repeal or amendment
		<p>prescribed by the Minister, such persons as may be required to be traffic officers or reserve traffic officers, and any person so appointed shall perform his or her functions-</p> <ul style="list-style-type: none"> (a) within the area or areas for which he or she is appointed; and (b) with the prior approval of, and subject to such conditions as may be determined by, the Minister, outside such area or areas, except to the extent that the Minister may by notice in the Gazette exclude any specified public road or portion of a public road from the functions of such an officer. <p>(4) In addition to the authorised officers mentioned in subsections (2) and (3), a local authority council may appoint such persons as it may consider necessary to be traffic wardens or reserve traffic wardens to perform within its area such functions of a traffic officer as the Minister may determine by notice in the Gazette, and the Minister may-</p> <ul style="list-style-type: none"> (a) determine different functions in respect of different categories of traffic wardens or reserve traffic wardens; (b) either generally or specifically, impose conditions with regard to the performance of such functions. <p>(5) The Minister may, by notice in the Gazette, authorise regional councils generally or a particular regional council to appoint such category or categories of authorised officers as may be specified in the notice, to perform such functions and subject to such conditions as may be so specified.</p> <p>(6) The Minister may, by notice in the Gazette, and subject to such conditions and requirements as may be specified in such notice, authorise any party with whom the Minister has entered an agreement in terms of section 10(1), 27(1), 54(1) or 111(1) to appoint persons employed by such party in such category or categories of authorised officers as may be specified in the notice, to perform such powers, duties and functions as may be so specified.</p> <p>(7) The Minister may by regulation provide for-</p> <ul style="list-style-type: none"> (a) the appointment of any category of authorised officers other than those referred to in the preceding subsections of this section; (b) the persons or authorities by whom, and the conditions on which, the authorised officers contemplated in paragraph (a) may be appointed; and (c) the powers, duties and functions of such authorised officers. <p>(8) Upon the appointment of an authorised officer by virtue of any of the provisions of this section, the person or authority making such appointment shall issue to such</p>

Column 1	Column 2	Column 3 amendment
No. and year of law	Title	Extent of repeal or amendment
		<p>authorised officer a certificate of appointment in a form approved by the Minister.</p> <p>(9) When performing any function under this Act, and if requested by any person in relation to whom such function is sought to be performed, an authorised officer shall produce to that person his or her certificate of appointment.</p> <p>(10) Notwithstanding the provisions of subsections (8) and (9)-</p> <p>(a) no appointment made by a person or authority in terms of this section is invalid only due to the fact that the person or authority concerned did not issue a certificate of appointment as contemplated in subsection (8);</p> <p>(b) no function performed by an authorised officer under this Act, is invalid only due to the fact that the authorised officer cannot produce a certificate of appointment when requested to do so by a person in relation to whom such function has been performed, due to the fact that such certificate was not issued by the person or authority as contemplated in subsection (8).</p> <p>"Apportionment of fines</p> <p>109. (1) All fines imposed or moneys estreated as bail in respect of any offence in terms of this Act, except in terms of a regulation made by a local authority council or a regional council under section 92 or adopted by it in terms of section 93, shall be paid into the [State Revenue Fund] <u>Road Safety Fund, contemplated in section 21 of the Road Safety Management Act, 2018(Act ... of 2018).</u></p> <p>(2) Any fine imposed and moneys estreated as bail in respect of any offence in terms of any regulation made by a local authority council or a regional council under section 92 or adopted by it in terms of section 93 shall be paid to that local authority council or that regional council, as the case may be.</p>

Column 1	Column 2	Column 3 amendment
No. and year of law	Title	Extent of repeal or amendment
10 of 2007	Motor Vehicle Accident Fund Act, 2007	<p>2 Establishment, purpose and functions of Fund</p> <p>(1) There is established a fund to be known as the Motor Vehicle Accident Fund, and which for all purposes is a juristic person.</p> <p>(2) The purpose and functions of the Fund are to-</p> <p>(a) <u>in support of the integrated road safety management plan contemplated in section 10 of the Road Safety Management Act, 2014, (Act ... of 2018)</u>, design, develop, promote and implement motor vehicle accident and injury prevention measures;</p> <p>(b) fairly and reasonably provide assistance and benefits to a person who is injured in a motor vehicle accident;</p> <p>(c) fairly and reasonably provide assistance and benefits to a person who suffers loss as a [dependent] dependant of a person killed in a motor vehicle accident;</p> <p>(d) reasonably indemnify the driver and owner of a vehicle involved in motor vehicle accident from claims for loss or damage arising on account of injury or death caused by the motor vehicle accident; and</p> <p>(e) attend to any matter that is incidental to any function mentioned in this section</p>
18 of 1999	The Road Fund Administration Act, 1999	<p>17 Utilization of the Fund</p> <p>(1) The Administration shall, subject to subsection (2), and to the extent that it is to the benefit of road users, utilize the moneys available in the Fund-</p> <p>(a) to defray the cost of the management of the national road network as provided for in section 16(1) of the Roads Authority Act, including the administrative expenditure of the Roads Authority and the payment of compensation referred to in section 65 of the Roads Ordinance, 1972;</p> <p>(b) to defray the administrative expenditure of the Administration, including expenditure relating to the management of the road user charging system;</p> <p>(c) to defray the cost of-</p> <p>(i) the planning, design, construction and maintenance of any major urban arterial road; and</p> <p>(ii) the traffic related maintenance in respect of any road, in any local authority area, as defined in section 1 of the Local Authorities Act, or any settlement area, as defined in section 1 of the Regional Councils Act, not being a road which is part of the national road network;</p> <p>(d) to make contributions towards the cost of the operation of any traffic information system established and maintained in terms of the road traffic laws;</p> <p>(e) to [defray] contribute to the cost of traffic law enforcement and adjudication functions performed by any competent authority for purposes of promoting a safe and</p>

Column 1	Column 2	Column 3 amendment
No. and year of law	Title	Extent of repeal or amendment
		<p>efficient road system, including the control of the overloading of vehicles;</p> <p>(f) subject to the approval of the Minister, to make contributions towards the cost of the operation of any vehicle testing station or driving testing centre;</p> <p>(g) to defray the cost of road research studies carried out by any person approved by the Administration;</p> <p>[(h) to defray the expenditure referred to in section 15 of the National Road Safety Act, 1972 (Act 9 of 1972) by way of transferring to the Central Road Safety Fund, established by that section, such part of a road user charge referred to in section 18(1)(d) of this Act as may be necessary for the defrayal of that expenditure;]</p> <p>(i) to make payments, as the Minister may determine, in respect of the capital, interest and incidental costs or charges of any loan obtained by the Government of Namibia, before the commencement of this Act, for any purpose related to the management of the national road network referred to in paragraph (a), irrespective of whether the obligation pertaining to such loan has been assigned to the Administration in terms of section 29(2)(a);</p> <p>(j) to make payments in respect of the capital, interest and incidental costs or charges of loans obtained by the Fund;</p> <p>(k) to establish a reserve fund for the purposes of the objects contemplated in section 20(4)(b)(ii) and section 22(1)(d);</p> <p>(l) for the payment of any compensation due for any damage arising out of the performance of the functions conferred upon or entrusted to the Roads Authority by or under any law, except where such damage is due to a deficiency in any standards referred to in section 16(5) of the Roads Authority Act;</p> <p>(m) to defray the cost of insurance against any claim for damage referred to in paragraph (1); and</p> <p>(n) for any other expenditure related to the achievement of the objects of this Act as approved by the Minister.</p> <p>(2) The Administration shall, after compliance with such consultation procedures as may be determined by the Minister, determine the types and maximum amounts of expenditure which may be incurred in terms of paragraph (c), (d), (e), (f), (g) or (n) of subsection (1).</p> <p>(3) Any moneys accruing to the Fund by virtue of an appropriation by Parliament or a grant or donation which has been made for a specific purpose shall be utilized only for that purpose and in accordance with such conditions as may attach to that appropriation or grant or donation.</p> <p>(4) The Administration shall not expend any moneys from the Fund except in accordance with an approved budget referred to in section 21(3).</p> <p>(5) Notwithstanding this Act or any other law, the assets</p>

Column 1	Column 2	Column 3 amendment
No. and year of law	Title	Extent of repeal or amendment
		<p>of the Fund shall not be subject to attachment or sale in execution.</p> <p>(6) For the purposes of subparagraph (i) of subsection (1)(c), "major urban arterial road" means a road in an urban area on which the major portion of the traffic constitutes traffic which enters or travels through a town and which is also used by local traffic travelling from one point to another within a town, but which does not directly serve any individual erven, and which has been designated as such road by the Minister by notice in the <i>Gazette</i>.</p>