



REPUBLIC OF NAURU

# NAOERO ROADS ACT 2017

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No. 31 of 2017

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An Act to provide for public roads and maintenance and for related purposes

Certified: 19<sup>th</sup> December 2017

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Enacted by the Parliament of Nauru as follows:

## PART 1 – PRELIMINARY

### 1 Short Title

This Act may be cited as the *Naoero Roads Act 2017*.

### 2 Commencement

This Act commences upon certification by the Speaker.

### 3 Definitions

In this Act:

**'authorised officers'** includes employees, agents and contractors engaged by the Department and police officers;

**'Department'** means the Department of Infrastructure;

**'heavy vehicles or machinery'** includes the vehicles contained in Schedule 1 of this Act or as prescribed by Regulations;

**'maintain'** means to do such acts and things as are necessary to make a road or track reasonably effective and serviceable having regard to the manner of their construction, and the purpose for which they are used;

**'Minister'** means the Minister for Infrastructure;

**'public road'** means:

(a) any road, street, track, sidewalk, pathways or thoroughfare and includes all carriage ways, bridges, drains, bus bays, embankments, footpaths, kerbs and gutters; and such wasteland adjoining any public road as may be reserved for the protection and benefit of future development and used for public purposes; and

(b) declared as a public road under the Roads and Maintenance Ordinance 1922;

**'road'** includes any road, street, track, sidewalk, pathways or thoroughfare and includes all carriage ways, bridges, drains, bus bays, embankments, footpaths, kerbs and gutters;

**'Secretary'** means the Secretary for Infrastructure;

**'traffic signs'** includes zebra crossings;

**'vehicle'** means a mechanically propelled vehicle intended or adapted for use on roads;

### 4 Application of the Act

This Act applies to:

(a) all public roads:

- (i) open for the use of the public on or before 10 June 1921 and were proclaimed and declared to be roads or tracks;
  - (ii) proclaimed after 1921;
  - (iii) acquired under the Road Maintenance Ordinance 1922;
- (b) any other public road which may be proclaimed or declared by the Minister in consultation with the Cabinet under this Act; and
- (c) any road maintained by the Department at the time of the coming into force of this Act.

## **PART 2 – DECLARATION AND VESTING OF PUBLIC ROADS**

### **5 Declaration of public road**

- (1) The Minister in consultation with the Cabinet may declare any:
- (a) road, street, thoroughfare or track as a public road;
  - (b) existing public road to be closed, diverted or modified;
  - (c) new public road be opened; or
  - (d) existing public road be modified.
- (2) A declaration made by the Minister under this section shall be published in the Gazette.

### **6 Vesting of public roads in the Republic**

- (1) All public roads shall vest in the Republic.
- (2) The Department shall be responsible for the:
- (a) administration and management of public roads;
  - (b) construction, maintenance and upgrading of all public roads;
  - (c) approval of the design and placement of any roadside billboards;
  - (d) placement of road and traffic signs;
  - (e) marking of public roads; and
  - (f) enforcement of this Act.

### **7 Acquisition or leasing of land**

The Minister with the approval of the Cabinet may acquire public or private land for the construction of existing or opening of new public roads.

## **PART 3 – EXECUTION OF WORKS ON PUBLIC ROADS**

### **8 Authority to enter land**

The Secretary and authorised officers may at any reasonable time enter upon any land adjoining or near to any existing or intended public roads to perform:

- (a) any acts necessary for the surveying, measuring, marking, working, opening, modifying, maintenance, cleaning, improving, fencing, placing or fixing of road signs, traffic lights, constructing or excavating any such public road; or
- (b) any act or thing required under the provisions of this Act.

### **9 Making of temporary roads**

The Secretary may make a temporary road accessible to the public through the lands adjacent or near to any public roads during the execution of any work provided that such temporary roads shall not run over any land where any buildings or enclosed garden or yard is located.

### **10 Trees, bushes etc. obstructing public roads**

- (1) Where any trees or the branches of any bush, shrub or other vegetation overhangs on or obstructs any public road, traffic safety or endangers any life, the Secretary may serve a notice in writing prescribing a time within which the proprietor or occupier of the land shall cut and remove such trees or branches.
- (2) Where the proprietor or occupier fails or neglects to comply with subsection (1), the Secretary or an authorised officer may cut and remove the trees or branches.
- (3) For the purposes of subsection (2), the Secretary or an authorised officer may enter upon the land where such tree or the branches is planted or grows with or without notice to the occupier or proprietor of the land.
- (4) The Secretary may recover from the proprietor or occupier or both, expenses incurred for the purposes of subsection (2).

### **11 Fences**

The Secretary may where necessary construct and maintain fences, barricades, guard rails, hedges, ditches, drains or banks on the side of any public road.

### **12 Placing of objects on public road**

The Secretary may place any stone, gravel, crushed metal, wood or other object on any public road for the purposes of repair and maintenance during such period as may be necessary.

### **13 Temporary suspension of use of public road**

The Secretary may temporarily suspend the use of a public road:

- (a) where the road is not safe for the use of the public or vehicles;

- (b) where the use of road by a certain class of vehicle may cause damage to the road;
- (c) for the purposes of repair and maintenance;
- (d) for any other purpose which the Secretary may deem necessary.

**14 Open ditches, gutters, drains or watercourses**

The Secretary may:

- (a) make, clean and keep open all ditches, gutters, drains or watercourses; and
- (b) lay such trunk, tunnel or bridges -

as he or she deem necessary for the preservation, improvement, repair or construction of any road in and through any lands adjoining or near to any public road.

**15 Traffic flow and safety during maintenance and repair of road**

The Secretary shall maintain:

- (a) a constant flow of traffic and all necessary safety precautions for road users during the period of construction, maintenance or repair of public roads; and
- (b) place appropriate road signs to warn road users of any hazards.

**PART 4 – NUISANCE ON PUBLIC ROADS**

**16 Nuisances**

- (1) No person shall on a public road:
  - (a) discharge waste water or other liquids;
  - (b) permit or let any domestic or farm animals to stray or chase after moving vehicles;
  - (c) place or throw any stones, bricks, timber, glass, cans, sand, bottles or rubbish;
  - (d) drive a vehicle with timber, iron, steel or other goods whereby either end of such material projects horizontally beyond the wheels or sides of the vehicle;
  - (e) in any manner wilfully obstructing any person or vehicle;
  - (f) slaughter any animal;
  - (g) abandon or permit to be left any vehicle except a vehicle involved in an accident or is immobile due to unforeseen mechanical failure as may be

necessary for its removal within 6 hours of the accident or mechanical failure;

(h) ride any motor cycle or bicycle contrary to the provisions of the Motor Traffic Act 2014; and

(k) driving vehicle with loud music between 11pm and 6am.

(2) Any person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months or to both.

## **17 Drinking**

(1) No person shall consume alcohol or any drugs:

(a) on a public road; or

(b) while traveling in a vehicle as a passenger or driver.

(2) Any person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months or to both.

## **18 Damage to public roads**

(1) No person shall do the following to any public road:

(a) destroy, deface, break or damage any traffic sign, bridge, arch, wall, girdle, drain, embankment, kerb, gutter, railing, chain or fence;

(b) remove any signs placed for the temporary prevention of the use of the road or warning road users of any hazard;

(c) pile-up or take away stones, gravel, sand or other material;

(d) make or cause to be made any dam, ditch, drain or watercourse upon or across or damages the surface;

(e) construct any house or other building so as to project over or encroach;  
or

(f) remove, damage, modify or drive over the kerb, gutter or any sidewalk.

(2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 5 years or to both.

(3) The court in imposing a sentence may also order any person convicted of an offence under this section to pay all such expenses incurred by the Department for any removal or construction as a consequence of any offence committed under subsection (1).

**19 Cleaning of road frontage**

- (1) A proprietor or occupier of any land adjoining or bordering a public road shall:
  - (a) keep the frontage clear from any trees or construction;
  - (b) keep the frontage clean;
  - (c) cut down overhanging trees or shrubs growing onto the public road.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months or to both.

**20 Heavy vehicles and machinery**

- (1) No person shall drive or cause to drive upon any public road a heavy vehicle or machinery unless he or she has a permit obtained under subsection (2).
- (2) Any person who desires to drive or cause to be driven on any public road a heavy vehicle or machinery shall obtain a permit from the Secretary.
- (3) The application in writing shall provide:
  - (a) the description of the heavy vehicle or machinery or any articles carted on such vehicle or machinery;
  - (b) the dimensions of the heavy vehicle or machinery including any cartage if it extends beyond the sides and rear of the vehicle or machinery;
  - (c) the approximate gross weight of the heavy vehicle or machinery including any cartage;
  - (d) the means which it is proposed to use for such transportation;
  - (e) the departing and delivering destinations; and
  - (f) the time the heavy vehicle or machinery is proposed to be driven on the public road.
- (4) The Secretary may grant a permit upon payment of the prescribed fees and subject to such terms and conditions as he or she deems necessary.
- (5) The cost of any damage caused by the transportation of such heavy vehicle or machinery granted under the permit shall be paid by the applicant.

**PART 5 – DRIVEWAYS AND LOADING ZONE**

**21 Driveways**

- (1) No person shall construct a driveway adjoining a public road without the prior approval of the Secretary.



- (2) A person who desires to construct a driveway shall make an application to the Secretary.
- (3) The applicant shall provide the following details prior to the construction of the driveway:
  - (a) a plan;
  - (b) place; and
  - (c) an undertaking to construct the driveway without any obstruction or damage to the road.
- (4) The Secretary may grant an approval on receipt of an application under subsection (2) with such conditions as may be necessary including a bond which shall be refunded if the applicant restores the road in the manner required by the Secretary.
- (5) A person who contravenes this section commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 5 years or to both.

## **22 Loading and unloading zone**

- (1) No person shall designate or construct a loading and unloading zone on a public road without the prior approval of the Secretary.
- (2) A person who desires to designate or construct a loading and unloading zone shall make an application to the Secretary and provide:-
  - (a) a plan;
  - (b) place;
  - (c) an undertaking to construct the loading and unloading zone without any obstruction or damage to the road.
- (3) The Secretary may grant an approval on receipt of an application under subsection (2) with such conditions as may be necessary including a bond which shall be refunded if the applicant restores the road in the manner required by the Secretary.
- (4) A person who contravenes this section commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 5 years or to both.

## **23 Parking spaces on the road side**

- (1) No person shall designate or construct parking spaces or park vehicle on or adjoining the public road without the prior approval of the Secretary.
- (2) A person who desires to designate or construct parking spaces or park vehicle shall make an application to the Secretary and provide:

- (a) a plan;
  - (b) place;
  - (c) an undertaking to construct the loading and unloading zone without any obstruction or damage to the road.
- (3) The Secretary may grant an approval on receipt of an application under subsection (2) with such conditions as may be necessary including a bond which shall be refunded if the applicant restores the road in the manner required by the Secretary.
- (4) A person who contravenes this section commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 5 years or to both.

## **PART 6 – TRACKS, COMMON DRIVEWAYS OR ACCESS WAYS**

### **24 Tracks, common driveways or access ways**

The proprietors and occupiers of adjoining and surrounding lands:

- (a) who have tracks, common drive ways or access ways; and
- (b) the tracks, common driveways and access ways have been in usage for more than 10 years; or
- (c) the person using such tracks , common drive ways or access ways have by virtue of usage have acquired a prescriptive right to the use of such tracks , common drive ways or access ways;

shall not unreasonably obstruct such tracks, common driveways or access ways without providing an alternative route.

### **25 Determination by the Supreme Court**

A dispute pertaining to any tracks, common driveways or access ways shall be determined by the Supreme Court.

### **26 Authority to proclaim and declare tracks, common driveways or access way for public usage**

- (1) The Minister may proclaim and declare any such tracks, common driveways or access way for public usage.
- (2) A proclamation made by the Minister under this section shall be published in the Gazette.

## **PART 7 - AUTHORISED OFFICERS**

### **27 Minister may authorise officers**

The Minister may by notice in the Gazette authorise a person to be an authorised officer for the purposes of this Act.

**28 Identification of authorised officer**

- (1) An authorised officer, other than a Police officer, shall be issued with an identification card which:
- (a) contains his or her name and a recent photograph;
  - (b) states that he or she is an authorised officer for the purposes of this Act;
  - (c) provides the period of validity of the identification card;
  - (d) states any conditions in his or her instrument of appointment that limits his or her powers as an authorised officer; and
  - (e) shall be produced for the purposes of inspection or carrying out any duties under the Act.
- (2) Where an authorised officer is a Police officer, he or she shall, produce for inspection his or her Police identification card.

**PART 8 – MISCELLANEOUS**

**29 Jurisdiction of the court**

The District Court shall have jurisdiction to hear and determine all offences under this Act and, shall have power to impose the penalty or punishment in respect of the offences under this Act.

**30 Powers of Police officers**

All Police officers are authorised officers and may exercise all such powers as may be necessary for the enforcement of this Act.

**31 Regulations**

- (1) Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed for giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may provide for:
- (a) any forms that are required under this Act;
  - (b) the drawing of plans and gazetting of all public roads;
  - (c) the fees for any applications or services that are required to be paid under this Act;
  - (d) class or classes of vehicles;
  - (e) provide for the use of the road by heavy vehicles and machinery; and
  - (f) any other ancillary matters.

**Savings**

All roads deemed to be roads proclaimed or declared before or after 10<sup>th</sup> June 1921 and under the Roads Maintenance Ordinance 1922 are deemed to be public roads for the purposes of this Act.

## SCHEDULE 1

### *Heavy vehicles or machinery*

<b>Item No:</b>	<b>Vehicle Type</b>
1.	Dump truck
2.	Bulldozer
3.	Graders
4.	Forward loader
5.	Loading shovel Backhoe
6.	Fuel truck
7.	Tow truck
8.	Cement mixer truck
9.	Fire truck
10.	Scraper
11.	Excavator
12.	Backhoe excavator
13.	Compactor
14.	Rollers
15.	Trucks with trailer for cartage of containers and other goods
16.	Lorry or truck or other large vehicle used to transport cargo
17.	Caterpillar