



LAWS OF KENYA

STREETS ADOPTION ACT

CHAPTER 406

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CHAPTER 406

STREETS ADOPTION ACT

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CHAPTER 406

STREETS ADOPTION ACT

[Date of assent: 10th April, 1963.]

[Date of commencement: 16th April, 1963.]

An Act of Parliament to regulate the construction and improvement of streets in certain local authority areas; to provide for the adoption by certain local authorities of streets of a satisfactory standard; and to provide for matters connected with the foregoing and incidental thereto

[Act No. 5 of 1963, L.N. 256/1963, L.N. 2/1964, L.N. 374/1964, Act No. 21 of 1966, Act No. 10 of 1969.]

1. Short title

This Act may be cited as the Streets Adoption Act.

2. Application

This Act shall apply in—

- (a) all municipalities;
- (b) all county divisions established or deemed to have been established by or under the Local Government Regulations, 1963 (L.N. 256/1963).

[L.N.256/1963, Fourth Sch., L.N. 2/1964, s. 2.]

3. Interpretation

(1) In this Act, except where the context otherwise requires—

“**adopted street**”, subject to the provisions of section 21(2) of this Act, means a street in a register of adopted streets;

“**local authority**”, in an area where there is both a county council and an urban or area council, does not include the former;

“**owner**”—

- (a) where there is a valuation roll or draft valuation roll prepared under the Rating Act (Cap. 266) for the area of the local authority, means the person or persons shown in accordance with that Act as the rateable owner on such valuation roll;
- (b) where there is no such valuation roll as aforesaid, has the meaning assigned to the expression “**rateable owner**” in section 8(1) of the Rating Act (Cap. 266);

“**plot**” means a parcel of land which is the subject of a registered conveyance or certificate of title, or of a lease or grant from the Government or a Region or a county council, or any portion thereof the position and boundaries whereof are delineated on a plan of subdivision, such plan having received the approval in writing of the local authority and the Commissioner of Lands, or having been approved by the Commissioner of Lands or other authority authorized to approve the plan by any written law for the time being in force;

“register of adopted streets” means a register prepared under section 16 of this Act;

“street” means a highway, bridge, road, lane, footway, courtyard, alley, square or passage or any lands reserved therefor, within the area of a local authority, used or intended to be used as a means of access to two or more premises or areas of land in different occupation, whether the public have a right of way over it or not, and includes all channels, ditches, drains, sidewalks, bridges, culverts and other works appurtenant thereto;

“unadopted street” means a street other than an adopted street;

“unadopted street works” means, in relation to an unadopted street, the construction of that street in accordance with plans and specifications approved by the local authority under this Act, and includes all works ancillary thereto and any works which the local authority thinks necessary as regards sewerage, drainage levelling, lighting or other matters for bringing the street into conformity with an other street or connecting the sewers or drains into any sewerage or drainage system.

(2) Where, in respect of a plot or premises, the owner as defined in this section is a lessee with less than twenty-five years of his lease still to run—

- (a) he shall only be responsible for charges raised against him under this Act in the proportion that the remaining number of years of his lease bears to the period of twenty-five years, and the remaining proportion of the charges shall be the responsibility of the lessor; and
- (b) subject to paragraph (a) of this subsection, a reference in this Act to an owner shall be deemed to be a reference to both the lessor and the lessee.

[L.N. 256/1963, Fourth Sch., L.N. 2/1964, s. 2, L.N. 374/1964, Sch.]

4. Making of unadopted streets

(1) Any person who intends to lay out, form, construct, widen, extend or alter an unadopted street, whether or not to the standard required for adoption under section 7 of this Act, shall make written application to the local authority for its sanction so to do and shall, with the application, submit plans, longitudinal sections, cross-sections and specifications showing the following particulars, that is to say—

- (a) the intended levels, gradients, direction and width of the street;
- (b) the street alignment, the building lines and the lines of carriageway and footways and the lines or spaces (if any) to be reserved for the planting of trees, grass or shrubs or other flora;
- (c) the mode of construction and the materials proposed to be used;
- (d) the proposed position of any access to plots fronting on to the street;
- (e) the intended lines, levels, gradients and dimensions of the proposed sewers and drains or means of drainage;
- (f) the levels of the street and its sewers and drains relative to the levels of the adjacent land;
- (g) the means of drainage of the buildings erected or to be erected fronting or abutting thereon;

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- (h) if required by the local authority, the estimated volume, expressed in cubic feet per second, of sewage and rainwater to be conveyed by the proposed sewers and drains and the carrying capacity of those sewers and drains;
- (i) the proposed method of disposal of the sewage and rainwater conveyed by the proposed sewers and drains;
- (j) all ancillary works necessary for bringing the street into conformity with any other street and for connecting the sewers or drains thereof to a sewerage or drainage system.

(2) Any person who makes application as aforesaid shall furnish such additional plans, sections, specifications, levels and information as the local authority may require.

(3) Unless within two calendar months after the submission of an application under subsection (1) of this section, or within two calendar months after the submission of any further plans, sections, specifications, levels or information requested, the local authority has sanctioned the application, the application shall be deemed to have been refused.

(4) An application under this section shall be refused—

- (a) if the proposed street would conflict with any plans which have been made, or which are, in the opinion of the local authority, likely to be made, for carrying out a general scheme of street improvement or town planning; or
- (b) if the requirements of this Act are not complied with; or
- (c) if the requirements of the local authority under this section are not complied with.

(5) Subject to the provisions of subsection (4) of this section, where the plans, longitudinal sections, cross-sections and specifications accompanying an application under this section are not defective and do not contravene any by-laws of the local authority, then the local authority shall sanction the application.

(6) The local authority may prohibit the erection of any building fronting or abutting on any new unadopted street in any case where in its opinion any part of the proposed building would be likely to be within a distance of fifteen feet from the boundary of the street until sanction for the formation of the street has been granted, and any person who erects or permits to be erected a building in contravention of any such prohibition shall be guilty of an offence.

(7) The plans, sections, specifications and levels approved by the local authority, together with any conditions they may impose, shall, except in so far as they may afterwards be altered by agreement with the local authority, be adhered to by the applicant and his successors and by any person erecting any buildings fronting or abutting on any unadopted street, and a person who fails so to adhere to any such plans, sections, specifications, levels or conditions shall be guilty of an offence.

(8) If any part of an unadopted street for the formation of which sanction has been obtained is not laid out or formed within two years from the date of that sanction, the sanction shall lapse and any person who thereafter lays out or forms any portion of such street without obtaining a fresh sanction shall be guilty of an offence.

[L.N. 2/1964, s. 2]

5. Conditions may be imposed by local authority

(1) A person presenting an application to the local authority to sanction the laying out, forming or construction of an unadopted street shall comply with such conditions as the local authority may, at the time of sanctioning the application, impose with regard to the following matters—

- (a) the avoidance of a cul-de-sac;
- (b) the provision of suitable and convenient means of access to plots fronting on the street, and of access to the street by cross streets, continuation of streets or otherwise;
- (c) the formation of lanes (parallel to the street or otherwise) or other secondary means of access to buildings for the purpose of removing refuse;
- (d) the fixing of the line, levels, width, position and direction of the street, carriageways and footways so as to make provision for the amenity of the locality, for convenient communication with other streets or proposed streets or with adjacent land, for gradients suitable for traffic, for the convenient drainage of the streets and footways and of buildings fronting or abutting thereon and for areas for light and ventilation;
- (e) provision for carrying off surface water; and
- (f) the rounding off or truncating of street corners.

(2) A person who contravenes or fails to comply with any of the provisions of subsection (1) of this section shall be guilty of an offence.

(3) A local authority shall not impose a condition under this section in a case in which it is shown to the satisfaction of the local authority that compliance with the condition would entail the purchase of additional land by the applicant or the execution of works elsewhere than on his land or land held therewith on which building operations associated with the street are intended to be undertaken.

6. Offence to lay out, etc., unadopted street without permission

A person who begins to lay out, form, construct, widen, extend or otherwise alter an unadopted street, or to make an excavation for any of the aforementioned purposes, otherwise than with the sanction of the local authority, shall be guilty of an offence.

7. Unadopted streets when properly paved, etc., to be declared adopted streets

(1) Where any street or part thereof has to the satisfaction of the local authority been levelled, paved or metalled, kerbed, channelled, lighted, sewered and drained or otherwise constructed, the local authority shall forthwith declare it to be an adopted street and thereupon the street or part thereof shall become maintainable by and at the expense of the local authority, and, if notice of the fact that a register of adopted streets is in force has been published under section 16(16) of this Act it shall be added to the register together with, if only a part of a street has been so added, such details as may be necessary adequately to describe that part.

(2) If an unadopted street or part thereof (excluding any street lighting facilities required therefor) has been constructed to the satisfaction of the local authority then, on an application in writing made and signed by the majority by rateable value or, where there is no valuation roll in force, the majority in area, of the owners of plots fronting on to the street or part thereof, the local authority shall, within the period of three months from the date of the application, declare the street or any part thereof to be an adopted street, and such street or part thereof shall thereafter be maintainable by and at the expense of the local authority, and, if notice of the fact that a register of adopted streets is in force has been published in accordance with section 16(6) of this Act, it shall be added to the register, together with, if only a part of a street has been so added, such details as may be necessary adequately to describe that part.

(3) For the purposes of subsection (2) of this section, the rateable value shall be determined as at the date of any application made there under.

(4) Where in an unadopted street the sewers, drains or lighting facilities have been constructed to the satisfaction of the local authority, the sewers, drains or lighting facilities shall be adopted by the local authority and particulars of such adoption shall be entered in a separate register kept for that purpose, and thereupon the sewers, drains or lighting facilities shall become maintainable by and at the expense of the local authority, without prejudice to the status of the other works constituting the unadopted street.

(5) Every register kept under subsection (4) of this section shall be open to the inspection of any person, without payment, during the normal office hours of the local authority.

[L.N. 2/1964, s. 2.]

8. Power of local authority to carry out unadopted street works and method of so doing

(1) If an unadopted street, or any part thereof, is not constructed to the standard required for adoption under section 7 of this Act, the local authority may resolve with respect to such street or part thereof to carry out unadopted street works, and such expenses incurred by the local authority in executing the unadopted street works, including a reasonable charge for supervision and survey, or such part of the expenses as may be deemed reasonable by the local authority, shall be apportioned by the local authority in the manner prescribed in subsection (5) of this section and shall be recoverable from the owners of plots affected by such works.

(2) Before making a resolution in terms of subsection (1) of this section, the local authority shall serve upon each owner liable to contribute towards the expenses of such unadopted street works a notice—

- (a) indicating the unadopted street works proposed to be undertaken, the total estimated cost thereof and a draft provisional apportionment of that cost as it affects each owner; and
- (b) stating the time and place at which the plans and particulars of the unadopted street works may be inspected, and the date by which an objection thereto must be received by the local authority.

(3) Before making a resolution in terms of subsection (1) of this section, the local authority shall afford an opportunity for each owner to lodge an objection in

writing within forty days of the service of a notice under subsection (2) of this section against the proposed works or against the draft provisional apportionment of the cost thereof on any of the following grounds that is to say—

- (a) that the alleged unadopted street or part thereof is not or does not form part of an unadopted street within the meaning of this Act;
- (b) that there is some material informality, defect or error in, or in respect of, the notice, plans, particulars of the proposed works, total estimated cost or apportionment of the cost thereof;
- (c) that the proposed works are insufficient or unreasonable or that the estimated cost thereof is excessive;
- (d) that any plot or premises ought to be excluded from or included in the apportionment;
- (e) that the apportionment is incorrect in respect of some matter of fact to be specified in the objection or (where the apportionment is made having regard to the degree of benefit) in respect of the degree of benefit to be derived in relation to any plot or premises;
- (f) that account has not been taken of the amount or value of any work already done to the street by the owner or occupier of any plot liable to contribute towards the expenses of the works,
- (g) or on any other grounds:

Provided that for the purposes of this Act joint owners or owners in common may object through one of their number authorized in writing under the hands of the majority of such owners.

(4) No objection which could be made under this section but has not been so made, nor any suit for declaration based upon such objection which has not been so made, shall be otherwise made or allowed in any court, proceeding or manner whatsoever.

(5) In apportioning the expenses of any unadopted street works against the owner of any plot or premises, the local authority shall use one, or a combination of more than one of the following methods—

- (a) frontage, that is to say the ratio that the length of the boundary common to a plot and the street bears to the total length of boundaries common to all the plots on the street and the street;
- (b) area, that is to say the ratio that the areas of the plots abutting on the street bear to one another;
- (c) benefit, that is to say the greater or less benefit to be derived by each plot from the street works to be undertaken, whether or not the plot abuts on the street:

Provided that where the owners of plots of a rateable value amounting to not less than seventy-five per cent of the rateable value of all the plots affected by the street works to be undertaken, or, if there is no valuation roll in force, where the owners of plots amounting to not less than seventy-five per cent of the area of all the plots so affected, agree in writing to some other method of apportionment then the local authority may use such other method; and for the purposes of this proviso the rateable value shall be taken as at the date of any agreement made hereunder.

(6) (a) Where drainage works required to carry off the water from an unadopted street proposed to be constructed under this section pass along or are likely to serve another unadopted street or proposed unadopted street and it is for that reason desirable to construct a drain of a larger capacity than would be necessary to drain the first mentioned unadopted street, the local authority may construct a larger drain and hold in suspense the additional cost incurred thereby.

(b) Any such additional cost as is referred to in paragraph (a) of this subsection, or any part thereof, may be included in the apportioned expenses of the construction of any other unadopted street which the drain serves, and the inclusion of the additional cost in the apportionment shall not of itself be a valid reason for objections to the unadopted street works proposed to be undertaken.

(7) Where part of another road, road reserve or street fronts or abuts on any proposed unadopted street, the local authority, in making an apportionment under this section, shall not apportion any of the expenses of the unadopted street works against that other road, road reserve or street, and the persons liable in respect of that other road, road reserve or street shall not be liable therefor in respect of any part of the costs of the unadopted street works.

(8) The local authority may at any time resolve to contribute any proportion of the expenses of an unadopted street works which would otherwise be recoverable from the owners of the plots affected thereby.

(9) Without prejudice to their powers under subsection (8) of this section, the local authority may at any time resolve to bear the whole or a proportion of the expenses of any unadopted street works, being expenses that would otherwise be apportioned on plots of which only a rear or flank fronts the street, and where a local authority so resolves the liability of the owner of those plots shall, in respect of those expenses, be discharged or reduced accordingly.

(10) Every resolution to do any unadopted street works and every provisional apportionment made by the local authority shall be published in the *Gazette* and, if the local authority thinks fit, in one or more newspapers circulating in the district.

(11) In determining, for the purposes of subsection (2) of this section, the total estimated cost of unadopted street works, the local authority may add to the estimated expenses of executing the unadopted street works an amount representing not more than ten per cent of the estimated expenses in respect of expenses of administration.

[L.N. 2/1964, s. 2.]

9. Appeals against decision of local authority on objection under s. 8(3)

(1) The decision of the local authority on every objection made under section 8(3) of this Act shall be notified in the *Gazette*, and any person aggrieved by the decision may, within one calendar month of such notification, appeal to a subordinate court of the first class against the decision, and shall serve a copy of the appeal on the local authority, and the decision of the court on the facts involved shall be final:

Provided that a party to the appeal who is dissatisfied with the decision of the court may, within fifteen days of that decision, appeal on a matter of law only to the High Court.

(2) Upon an appeal under this section any resolution of a local authority to carry out unadopted street works may be set aside, and the court shall state its grounds for so doing.

(3) Where any resolution of a local authority to carry out unadopted street works is set aside under subsection (2) of this section, the local authority, in making any further resolutions to carry out the said or similar works, shall follow the procedure laid down in section 8 of this Act, and that section shall apply accordingly.

[L.N. 2/1964, s. 2.]

10. Costs of appeals

The costs of any proceedings before a court in relation to appeals under this Act shall be in the discretion of the court, and the court shall have power, if it thinks fit, to direct that the whole or any part of costs ordered to be paid by an appellant or appellants shall be paid in the first instance by the local authority, and charged as part of the expenses of the works on the plot or premises of the appellant or appellants in such proportions as may appear just.

11. Final apportionment of expenses of unadopted street works and appeals in connexion therewith

(1) Where any unadopted street works have been completed and the expenses thereof ascertained, the local authority shall make a final apportionment by apportioning the expenses thereof in the same manner as that in which the estimated expenses were apportioned in the provisional apportionment.

(2) The local authority shall serve a notice of final apportionment upon the owners as at the date of the final apportionment of the plot or premises affected thereby and shall (informing the owners accordingly in the notice) afford an opportunity for such owners to object, within forty days of the service of the notice, to such final apportionment on any of the following grounds, which must be stated, but on no other—

- (a) that the actual expenses have unnecessarily or unreasonably exceeded the estimated expenses by more than fifteen per cent;
- (b) that the final apportionment has not been made in accordance with this section;
- (c) that there has been an unreasonable departure from the plans and particulars available for inspection under section 8(2) of this Act.

(3) Any person who has objected, within the specified period, to a final apportionment under this section and who is aggrieved by the decision of the local authority in respect of that objection may, within one calendar month of being notified by the local authority of the decision, appeal to a subordinate court of the first class on any of the grounds, and on no other, specified in paragraphs (a), (b) and (c) of subsection (2) of this section, and shall serve a copy of any such appeal on the local authority, and the decision of the court on the facts of the appeal shall be final:

Provided that any party to such appeal dissatisfied with the decision of the court may, within fifteen days of such decision, appeal on a matter of law only to the Supreme Court.

[L.N. 2/1964, s. 2.]

12. Partial construction of unadopted streets

(1) Where, in the opinion of the local authority, the construction of an unadopted street to the standard required for adoption under section 7 of this Act is not for the time being required or advisable, the local authority may resolve

to construct it to a lower standard, and the apportionment of the expenses of such works shall be made, and the expenses shall be recoverable, by the local authority in the manner prescribed in section 8, 9 and 11 of this Act.

(2) Any person aggrieved by a resolution under subsection (1) of this section shall have the rights of objection and appeal referred to in sections 8, 9 and 11 of this Act, with the additional ground of objection that the street should be constructed to the standard required for adoption under section 7 of this Act.

(3) The expenses which may be apportioned in respect of street works carried out pursuant to this section may include the estimated cost to the local authority of maintaining such street for a period not exceeding four years to be indicated in the notice of apportionment.

(4) The carrying out of street works by a local authority in an unadopted street pursuant to this section shall not affect the unadopted status of the street, and a resolution under this section shall not vitiate the effect of a further such resolution or of a resolution under section 8 of this Act:

Provided that no such further resolution shall be made within the period specified in the notice of provisional apportionment in respect of which a maintenance charge is levied, or two years, whichever is the greater.

[L.N. 2/1964, s. 2.]

13. Enforcement of apportionments

(1) Any sum (and any portion thereof remaining unpaid) apportioned against the owner of a plot liable for the payment of a proportionate part of the expenses of any unadopted street works undertaken by a local authority shall be a charge against that plot.

(2) If any such sum is not paid within six months of the date of the notice of the final apportionment, the local authority may charge interest thereon after the expiry of the aforesaid period of six months at such rate as the authority may fix, and the interest shall, in the like manner as the principal sum, be a charge against the land:

Provided that the rate of interest charged under this subsection shall not exceed that which is determined from time to time by the Minister by notice in the *Gazette*.

(3) Where the title to the land is registered under any law relating to the registration of title to land, the local authority may deliver to the registrar a notification in the prescribed form that a sum of money is payable to it by virtue of this Act in respect of that land, and where it does so—

- (a) the registrar shall register the notification against the title to the land; and
- (b) upon registration, and not before, the charge shall take effect and shall have priority to all encumbrances and charges (whether registered before it or after it) except debts due to the Government.

(4) Any sum recoverable by or under this Act may, if the local authority by resolution so determines, be paid by instalments over a period not exceeding twenty years, and interest may be charged on any sum paid in instalments at such rate as the local authority may fix:

Provided that the rate of interest charged on any sum under the provisions of this subsection shall not exceed that which, at the date of the resolution passed respecting the payment of that sum by instalments, has been determined by the Minister by notice in the *Gazette*.

[Act No. 21 of 1966, First Sch.]

14. Repairs to remove source of danger

(1) Where any repairs to an unadopted street or part thereof are required to obviate or remove what in the opinion of the local authority constitutes a danger to any person, passenger or vehicle in the street, the local authority may serve notice on the owners of the plots affected thereby requiring them to execute the repairs within such reasonable time as may be specified in such notice.

(2) If the repairs described in a notice served under subsection (1) of this section are not executed within the time specified in the notice or if the owners of the plots abutting on the major portion of the boundaries of the street or part of the street affected so request, the local authority shall execute the repairs, and may recover the cost thereof from the owners upon whom the notice was served.

(3) Any expenses incurred by the local authority in executing repairs in pursuance of subsection (2) of this section shall be apportioned amongst the owners of plots affected thereby in accordance with section 8(5) of this Act, and notice of apportionment shall be served upon the owners.

(4) A person aggrieved by a requirement of a local authority to pay the whole or any part of any expense incurred by that local authority pursuant to this section may, within twenty-one days of the service of the demand, appeal to a subordinate court of the first class whose decision thereon shall be final:

Provided that any party to such appeal dissatisfied with the decision of the court may, within fifteen days of that decision, appeal on a matter of law only to the Supreme Court.

(5) Repairs executed by a local authority in an unadopted street under this section shall not affect the unadopted status of that street.

[L.N. 2/1964, s. 2.]

15. Liability for expenses on change of ownership

(1) Where the ownership of any plot charged with the expenses of unadopted street works or of any repairs executed by a local authority under section 14(2) of this Act has changed between the date of a resolution made under this Act provisionally apportioning the expenses and the date of service of the notice referred to in section 11(2), section 12 or section 14(3) of this Act, the new owner shall be liable for the sum due.

(2) Where a plot has been subdivided between the dates mentioned in subsection (1) of this section, the decision regarding the apportionment of the sum due or any sums which may subsequently become due under the resolution or the order of the court between the owners of the subdivision shall rest with the local authority, and such decision shall be final.

[L.N. 2/1964, s. 2.]

16. Register of adopted streets

(1) Every local authority to which this Act or this section applies or may be applied shall, within seven years of the commencement of this Act, or of the creation

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of the local authority or of any increase in the area administered thereby, or of the application of this Act or this section to that area or any part thereof,

whichever date is the later, prepare a draft register for the area of the local authority, or for the part or parts of the area to which this Act or this section applies or has been applied, to be called the draft register of adopted streets:

Provided that the Minister may, by notice in the *Gazette* extend the period within which the draft register is to be prepared by a further period of two years.

(2) In preparing the draft register, the local authority shall include therein only those streets or parts thereof which in its opinion are public streets, and may attach thereto a map showing those streets, and the map shall form part of the draft register:

Provided that, if a new local authority is created or the area of a local authority is enlarged, all streets or parts thereof already in the register of adopted streets of any other local authority in the area added to an existing local authority or in which a new local authority has been created shall be placed in the register of adopted streets of the new or enlarged local authority, as the case may be.

(3) When the draft register as aforesaid has been prepared to the satisfaction of the local authority, the local authority shall, so far as its records permit and within nine months of the preparation aforesaid, serve upon the owner of every plot within its area a notice drawing attention to the streets or parts of streets which have been placed in the draft register and the local authority shall, within such period, publish a similar notice in the *Gazette* and in three successive issues of at least one newspaper circulating in its area.

(4) Every notice referred to in subsection (3) of this section shall explain that all streets or parts thereof other than those in the draft are deemed to be unadopted streets for the maintenance of which the local authority is not liable.

(5) Owners of plots abutting on any street or part thereof which is not included in the draft register as aforesaid may object to the local authority, within twelve months of the date of the publication of the notice in the *Gazette*, on the grounds that the street in question or part thereof is a public street or an adopted street within the meaning of this Act and should be included in the draft register, and may, if aggrieved by the decision of the local authority on their objection, which decision shall be given as soon as possible, appeal, within a period of three months from the date of the receipt of the decision of the local authority, to a subordinate court of the first class, whose decision thereon shall be final:

Provided that any party to such appeal who is dissatisfied with the decision of the court may, within fifteen days of that decision, appeal on a matter of law only to the Supreme Court.

(6) After the expiry of the time permitted under this section for objections in respect of the draft register, or after the determination of any appeal as herein provided, whichever is the later, the local authority shall amend the draft register in accordance with the decisions on any such claims and appeals, and shall publish a notice in the *Gazette* indicating that the register of adopted streets is in force in its area and setting forth a description of or reference to the streets and parts of streets included in the register.

(7) After the publication of the notice referred to in subsection (6) of this section, the local authority shall publish a notice in the *Gazette* whenever a street or part thereof is adopted as an adopted street under section 7 of this Act, and such notice shall describe the street or part thereof which has been so adopted.

(8) Every register prepared under this section shall be open to the inspection of any person, without payment, during the normal office hours of the local authority.

(9) For the purposes of this section—

“**appropriate date**” means, in relation to the area of a local authority, the date upon which any of the provisions of the Township Private Streets Act (repealed), (Cap.135, (1948)) or the Municipalities and Townships (Private Streets) Act, 1951 (No. 17 of 1951) (repealed), or this Act, were first applied to the area or any part thereof;

“**public street**” means—

- (a) Any street or part thereof which has been wholly constructed by or at the expense of the local authority or of the Road Authority; or
- (b) Any street or part thereof which has since the appropriate date been wholly maintained by or at the expense of the local authority or of the Road Authority or which is so maintainable by virtue of a declaration made under subsection (1) or subsection (2) of section 7 of this Act:

Provided that a street shall be deemed, for the purposes of this section, to be a public street, notwithstanding that minor works have from time to time been effected thereon other than at the expense of the local authority or of the Road Authority, if it is apparent that such minor works were subsidiary and incidental to repairs or maintenance carried out at the expense of the local authority or of the Road Authority; or

- (c) Any street which has been expressly adopted as a public street under any Act.

[L.N. 2/1964, s.2, Act No. 21 of 1966, Sch., Act No. 10 of 1969, Sch.]

17. Service of notices

Service of a notice under this Act may be effected—

- (a) by delivering it to the person on whom it is to be served; or
- (b) by leaving it at the last known address of that person; or
- (c) by registered post addressed to the last known postal address of that person:

Provided that—

- (i) if the person on whom the notice is to be served cannot be traced; or
- (ii) he has no known address at which the notice may be left; or
- (iii) he has no known postal address, or the notice sent by registered post to his last known postal address has been returned as undelivered,

service may be effected by notice in the *Gazette* and in a newspaper circulating in the area of the local authority.

[L.N. 2/1964, s.2.]

18. Borrowing powers of local authorities

Any local authority may, for the purpose of carrying out works under this Act, or for financing the costs of those works until the receipt by the local authority or

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reimbursement of the costs from the persons liable to pay them, raise loans on such terms and conditions as the Minister may approve.

19. Penalties and recovery of expenses

A person who is guilty of an offence under this Act shall be liable to a fine not exceeding five thousand shillings, and the local authority may, at the expense of such person, take such steps as may be necessary to do anything omitted to be done in contravention of this Act or to remove or restore to its original condition any work or thing done in contravention of this Act, and such expense shall be recoverable from such person as a civil debt.

[L.N. 2/1964, s. 2.]

20. Rules

The Minister may make rules for the more effective carrying out of the provisions and purposes of this Act and for prescribing any forms and notices which may be appropriate thereto

[L.N. 2/1964, s. 2.]

21. Repeal and transitional provisions

(1) The Municipalities and Townships (Private Streets) Act, 1951 (No. 17 of 1951), is repealed:

Provided that—

- (i) any private street works commenced under the repealed Act may be continued and completed under and in accordance with that Act as though that Act were still in force, and the powers and remedies provided by that Act shall apply accordingly;
- (ii) a debt or other liability arising under the repealed Act shall not be affected by such repeal, but shall be recoverable or enforceable, and shall remain secured, in manner provided by that Act as though it were still in force.

(2) Within the area of any local authority, until such time as the register of adopted streets has been brought into force under section 16(6) of this Act, every public street as defined in that section shall be deemed for the purposes of this Act to be an adopted street.
