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Rights of Way (Cancellation) Act, 1962

Act 16 of 1962

Legislation as at 1 December 1998

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Rights of Way (Cancellation) Act, 1962
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Rights of Way (Cancellation) Act, 1962

Act 16 of 1962

Commenced on 13 April 1962

[This is the version of this document at 1 December 1998.]

An Act to provide machinery for the cancellation of rights of way which have fallen into disuse or have been replaced by roads.

1. Short title

This Act may be cited as the Rights of Way (Cancellation) Act, 1962.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Board**” means the Rights of Way Advisory Board;

“**Minister**” means the Minister for Agriculture.

3. The Board

There is hereby created a Board to be known as the Rights of Way Advisory Board, hereinafter called the Board.

4. Membership of the Board

The Board shall consist of a chairman and two members all of whom shall be appointed by the Minister and who shall hold office for such period as he may decide.

5. Meetings of the Board

The Board shall meet at such places and times as the chairman shall decide, and two members of the Board shall form a quorum.

6. Functions of the Board

The functions of the Board shall be to—

- (a) investigate or to cause to be investigated, such matters relating to rights of way as the Minister may direct;
- (b) give the Minister such help and advice in relation to matters concerning rights of way as he may seek;
- (c) hear objections to the proposed cancellation of rights of way and to report to the Minister thereon as is provided in [section 8](#).

7. Rights and duties of Minister

If the Minister on information supplied to him by any person, is of the opinion that a right of way has been replaced by a public road or has ceased to be of use to the general public, he shall—

- (a) cause as many diagrams of the property traversed by the right of way and clearly indicating the right of way as may be necessary to be prepared and lodged with the District Commissioner of the district concerned, or if the right of way passes through more than one district then with the District Commissioner of each such district for inspection by the general public;
- (b) cause a notice to be published in two copies of the *Gazette* and in two issues of a newspaper circulating in Swaziland describing the right of way and stating his intention of cancelling such right of way, and such notice shall further state that a diagram of the right of way may be examined at the office of the District Commissioner and shall call upon all persons interested to lodge objections to the proposed cancellation at the office where the diagram is inspected by a specified date.

8. Procedure if objections lodged

- (1) If in response to the notice published in terms of [section 7](#), objections are lodged with the District Commissioner, he shall transmit such objections to the Minister who shall lodge them with the chairman of the Board.
- (2) The chairman shall call a meeting of the Board to hear the objectors or their representatives, and to study the details of the objections.
- (3) The Board shall thereafter report to the Minister the details of the objections and shall make to the Minister any recommendations thereon that it may see fit.

9. Procedure if objections succeed

If after receiving the report and recommendation of the Board the Minister in his discretion, decides that the right of way is of value to the general public, no further steps shall be taken for its cancellation.

10. Procedure if no objections lodged or if objections fail

If no objections are lodged with the District Commissioner following the publication of the notice set out in [section 7](#) or if after hearing the report and recommendations of the Board, the Minister in his discretion, decides that the right of way is of no further value to the general public, he shall cancel the right of way.

11. Manner of cancellation

- (1) The Minister shall cause a notice to be published once in the *Gazette* and once in a newspaper circulating in Swaziland, describing the right of way and declaring it to be cancelled, and shall cause a copy of the *Gazette* to be forwarded to the Registrar of Deeds and to the Surveyor-General.
- (2) On publication of the notice referred to in subsection (1), the general public shall have no further right to use the right of way, and any land subject to a servitude in respect of the right of way shall be freed of that servitude, and any owner of land previously subject to such servitude shall be entitled, at his own expense, to have such servitude deleted from his deed of title.

12. Duty of Registrar of Deeds

Upon receipt of the *Gazette* giving notice of the cancellation of a right of way, the Registrar of Deeds shall cause a note thereof to be entered in his records and from such time no subsequent deeds of transfer shall refer to the right of way.

13. Duty of Surveyor-General

Upon cancellation of a right of way, the Minister shall forward to the Surveyor-General a copy of the *Gazette* authorising the cancellation, and the Surveyor-General shall thereupon cause all reference to such right of way to be deleted from his diagrams.

14. Amendment of records in terms of Chapter 207

- (1) The Registrar of Deeds is hereby authorised and required to delete from his records, and the Surveyor-General is hereby authorised to delete from his diagrams, all reference to the rights of way cancelled by the Rights of Way and Outspans Act (Chapter 207) (not reprinted).
- (2) The Registrar of Deeds is hereby authorised and required to delete from any deed of transfer lodged in the Deeds Office, and the Surveyor-General from any diagram lodged in his office, all reference to any right of way cancelled by the Rights of Way and Outspans Act (Chapter 207).