CHAPTER 1 DECLARATION OF NATIONAL ROADS

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1.1 OVERVIEW

1.1.1 In terms of section 40 of the Act, the Minister\(^1\) may declare a road to be a national road, subject to certain requirements.

1.1.2 The Minister is also empowered to amend or withdraw the declaration of a national road by notice in the Government Gazette\(^2\).

1.1.3 The declaration, or withdrawal or amendment of a declaration, must take place by notice in the Government Gazette\(^3\).

1.1.4 In the case where an existing road is declared a national road, this can be undertaken by way of a description of such road\(^4\).

1.1.5 If a new route is to be declared a national road, the declaration must refer to the boundaries of such road which must be fixed by survey\(^5\).

1.2 AUTHORITY OF AND/OR RESTRICTIONS PLACED ON SANRAL

1.2.1 The Minister may only declare an existing road to be a national road if:

1.2.1.1 The SANRAL has recommended such declaration\(^6\); and

1.2.1.2 agreement has been reached with the Premier of each province in which the road is situated\(^7\).

1.2.2 For the purpose of obtaining the agreement of a Premier, the SANRAL and the Premier must act in a manner and spirit consistent with the principles of co-operative government prescribed by section 41 of the Constitution\(^8\).

1.2.3 If the Premier's agreement cannot be obtained after having made every reasonable effort to settle the dispute or difference and having exhausted all the mechanisms and procedures available for that purpose, then the matter may be referred to the Constitutional Court for decision\(^9\).

1.2.4 The Minister may only declare a new road to be a national road if:

1.2.4.1 the SANRAL has recommended such declaration\(^10\); and

1.2.4.2 If the SANRAL has consulted with the Premier of any province where the road may be situated if such new road will have a substantial impact on the traffic flows in such province\(^11\).
1.2.5 After a national road has been declared, the SANRAL must submit a written request to the Registrar of Deeds having jurisdiction over the land concerned, to endorse the fact of that declaration on the title deeds of the land affected by the declaration.  

1.2.6 Roads or routes which were previously declared national roads under the National Roads Act and which existed as a national road on 19 May 1998 (the date of incorporation of the SANRAL), shall be regarded and treated for all purposes as national roads declared under the Act.

1.3 POLICIES AND PROCEDURES

1.3.1 Types of declaration

1.3.1.1 As stated above, there are two methods for the declaration of a national road.

1.3.1.2 If an existing provincial road is declared a national road, this can be undertaken by way of a description of such road.

1.3.1.3 If a new route is to be declared a national road, the declaration must refer to the boundaries of such road which must be fixed by survey.

1.3.2 Declaration of an existing provincial road as a national road

1.3.2.1 If an existing road is to be declared a national road, the SANRAL will usually have details of the road reserve.

1.3.2.2 The SANRAL must source all relevant information relating to that road from the Provincial Roads' Authorities.

1.3.2.3 Such information will include details of the proclamations in terms of which the provincial road was proclaimed and information relating to the properties affected by the road.

1.3.2.4 The SANRAL must provide the SANRAL's Survey Service Provider with the information that has been obtained.

1.3.2.5 The Survey Service Provider will undertake a historical declaration investigation and prepare a report including a schematic diagram of the historical and current declarations of the road which will serve as an annexure to the declaration investigation report.

1.3.2.6 The Survey Service Provider prepare the draft wording for publication in the Government Gazette of the declaration of the existing road as a national road and will submit this to the SANRAL.

1.3.2.7 If it is intended to declare an existing road as a national road, the Premier of each affected province must be approached by the SANRAL in order to obtain his agreement to the declaration of an existing road as a national road. The Minister should be informed of this communication.

1.3.2.8 Once such agreement has been obtained, a memorandum must be prepared for consideration by the Board of the SANRAL.

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1 Section 40(2)(b)
2 Section 44; the process required is described in the N14/5/6 manual
Act 54 of 1971
3 Section 40(1)(a)
4 See Annexure 1.4.5
5 Section 40(5)
6 See Annexure 1.4.7
1.3.2.9 If the Board of the SANRAL approves the declaration of the existing road as a national road, then the SANRAL shall submit a memorandum to the Minister recommending such declaration, and requesting approval of the draft declaration.

1.3.2.10 If the Minister approves the declaration of the existing road as a national road, the declaration wording must be submitted to the Government Printer in order for it to be published in the Government Gazette.

### Declaration of a new route as a national road.

1.3.3.1 Where a new route is to be declared a national road, the consulting engineers responsible for the route alignment of that road will provide the SANRAL with the centre lines of several possible route alignments. The SANRAL will thereafter choose an alignment and the width of the road reserve will be determined during the detailed design stage of the road.

1.3.3.2 When the SANRAL has chosen an alignment, the Survey Service Provider must prepare a declaration key plan depicting the preferred road reserve.

1.3.3.3 The Survey Service Provider must obtain:

1.3.3.3.1 The Surveyor-General diagrams for the affected properties;

1.3.3.3.2 A cadastral key-plan must then be prepared in order to depict the road reserve with reference to the cadastre in order to create a declaration key plan;

1.3.3.3.3 The preparation of cadastral key-plans is dealt with in detail in the N14/5/6 manual.

1.3.3.4 Once the declaration key-plan has been prepared, declaration sketches can be prepared.

1.3.3.5 The actual road reserve will be determined taking into account all relevant factors including topographical features.

1.3.3.6 After compilation of the declaration sketches, the Survey Service Provider will prepare draft wording for the declaration to be published in the Government Gazette and will submit this to the SANRAL with the declaration sketches.

1.3.3.7 In the case of a new route, and provided there will be a substantial impact on traffic flows in one or more provinces, the Premier of each affected province must be consulted by the SANRAL prior to the declaration of the route as a national road.

1.3.3.8 Thereafter, a memorandum must be prepared for consideration by the Board of the SANRAL.

1.3.3.9 If the Board of the SANRAL approves the declaration of the route as a national road, then the SANRAL shall submit a memorandum to the Minister recommending such declaration, and requesting approval of the draft declaration.

1.3.3.10 If the Minister approves the declaration of the route as a national road,
the declaration wording and sketches must be submitted to the Government Printer in order for it to be published in the Government Gazette.

1.3.4 Process for the amendment of an existing declaration

1.3.4.1 It may be necessary to amend an existing declaration of a national road because, for example, the SANRAL wishes to dispose of land which is no longer required for road building purposes.

1.3.4.2 In this instance, the redundant land must be subdivided from the road reserve. However, before proceeding with the registration of transfer of the sub-divided portion, the declaration of the national road must be amended to exclude the redundant land. The SANRAL cannot sell land encumbered by a declared national road.

1.3.4.3 A sub-divisional diagram will therefore be prepared and an amending declaration of the national road will be published.

1.3.4.4 If a road is to be widened, then it may also be necessary to amend the declaration of the national road if additional land, outside the road reserve, is required for such widening.

1.3.4.5 In this instance, the additional portion of land will be identified and included in the declaration of the national road. This portion will be sub-divided for transfer into the name of the SANRAL although it is not a pre-requisite for the amendment of the declaration.

1.3.4.6 In practice, the sheets of the existing national road declaration which are affected by changes are replaced and this is referred to in the amending national road declaration.

1.3.5 Process for the withdrawal of declarations

1.3.5.1 It may be necessary to withdraw an existing declaration of a national road because, for example, a previously declared national route is no longer required by the SANRAL.

1.3.5.2 In this event, notice must be given in the Government Gazette withdrawing the previous declaration.

1.3.6 Staking of road reserve boundaries and placing of road reserve beacons

1.3.6.1 If an existing road has been declared a national road, the SANRAL will survey the existing road reserve boundary bending points\(^{23}\), taking previous declarations, compensated areas and such information into consideration, and stake the new road reserve boundary where it does not coincide with the fence line.

1.3.6.2 Prior to a new route being declared a national road, the road reserve boundaries must be fixed by survey\(^{24}\) and the road reserve boundaries must be staked in the field. Beacons must be placed at all road reserve boundary bending points.

1.3.6.3 In that event, the co-ordinates of the road reserve boundaries must be staked in the field and beacons must be placed\(^{25}\).

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\(^{23}\) See *** in the N14/5/6 manual

\(^{24}\) Section 40(1)(a)

\(^{25}\) See *** in the N4/5/6 manual
1.3.7  **Endorsement of title deeds**

1.3.7.1 After a national road has been declared, the SANRAL must arrange for the title deeds of the land affected by such declaration to be endorsed to reflect the fact that the relevant property is affected by the alignment of the declared national route\(^2\).

1.3.7.2 The endorsement of the title deeds must take place within a reasonable period\(^27\).

1.4  **ANNEXURES**

1.4.1 Precedent of the declaration of a national road by description;

1.4.2 Precedent of the declaration of a national road on co-ordinates;

1.4.3 Precedent of an amendment to the declaration of a national road;

1.4.4 Precedent for the withdrawal of a declaration of a national road;

1.4.5 Precedent of the content of a letter to a Premier requesting his or her agreement to the declaration of an existing road as a national road;

1.4.6 Precedent of the content of a letter to a Premier requesting his or her comments on the declaration of a new national road;

1.4.7 Matters to be contained in the memorandum to the SANRAL's Board of Directors requesting approval for the declaration of a national road;

1.4.8 Matters to be contained in the memorandum to the Minister of Transport requesting approval for the declaration of a national road.

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\(^2\) Section 40(4); the process is described in the N14/5/6 manual

\(^27\) Section 40(4) refers to a prescribed period but regulations dealing with this issue have not yet been made in accordance with Section 58. 
1.4 ANNEXURES

Annexure 1.4.1 Precedent of the declaration of a national road by description.
This is an example only and must be adapted to suit the circumstances

DECLARATION OF EXISTING PROVINCIAL ROADS * AND DISTRICT ROAD * AS A NATIONAL ROAD *: DISTRICT OF *.

By virtue of the powers vested in me by Section 40(1)(a) of The South African National Roads Agency Limited and National Roads Act (Act No. 7 of 1998), as amended, and on the recommendation of The South African National Roads Agency Limited, I hereby declare the sections of Provincial Roads * and District Road * from the intersection with * up to the intersection with * as described in the Annexure hereto, to be a National Road.

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Minister of Transport.
Annexure 1.4.2  Precedent of the declaration of a national road on co-ordinates -
This is an example only and must be adapted to suit the circumstances

NATIONAL ROUTE *, SECTION *: DECLARATION OF NATIONAL ROAD: * (Description of Route): PROVINCE OF *

In order to construct the (Description of the Route) I hereby, by virtue of the powers vested in me by section 40(1)(a) of the South African National Roads Agency Limited and National Roads Act, 7 of 1998, as amended, and on the recommendation of the South African National Roads Agency Limited, declare that the portion of road as indicated on the attached Plan * shall be a National Road.

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Minister of Transport.
Annexure 1.4.3 Precedent of an amendment to the declaration of a national road

This is an example only and must be adapted to suit the circumstances

AMENDMENT OF DECLARATION NO. * OF *, A PORTION OF NATIONAL ROUTE *, SECTION *, BETWEEN * AND *, * PROVINCE.


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Minister of Transport.
1.4 ANNEXURES

Annexure 1.4.4 Precedent for the withdrawal of a declaration of a national road -
This is an example only and must be adapted to suit the circumstances

WITHDRAWAL OF DECLARATION NO. * OF * : A PORTION OF NATIONAL ROUTE *, SECTION *, BETWEEN * AND *, * PROVINCE.


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Minister of Transport.
NOTIFICATION OF INTENTION TO DECLARE EXISTING PROVINCIAL ROADS * AS A NATIONAL ROAD *: DISTRICT OF *.

By virtue of Section 40(2) of The South African National Roads Agency Limited and National Roads Act (Act No. 7 of 1998), as amended, it is the intention of The South African National Roads Agency Limited to recommend to the Minister of Transport that the sections of Provincial Roads * from the intersection with * up to the intersection with * as described in the Annexure hereto, be declared a National Road in accordance with Section 40(1)(a) of Act 7 of 1998.

In terms of section 40(2) of Act 7 of 1998, your agreement to such declaration is required.

The reasons for the proposed declaration are the following:

1. *
2. *

In the circumstances therefore, please would you indicate whether you are prepared to grant such agreement to enable the declaration of the national road to be effected.
Annexure 1.4.6 Precedent of the content of a letter to a Premier requesting his or her comment on the declaration of a new national road -
This is an example only and must be adapted to suit the circumstances.

NOTIFICATION OF INTENTION TO DECLARE NATIONAL ROUTE *, SECTION *: * (Description of Route): PROVINCE OF * AS A NATIONAL ROAD

By virtue of Section 40(2) of The South African National Roads Agency Limited and National Roads Act (Act No. 7 of 1998), as amended, it is the intention of The South African National Roads Agency Limited to recommend to the Minister of Transport that sections * of national route *, as depicted on the plan annexed hereto, be declared a National Road in accordance with Section 40(1)(a) of Act 7 of 1998.

The reasons for the proposed declaration of this national route as a national road are the following:

1. *
2. *

In the circumstances therefore, and in accordance with Section 40(2)(b) of Act 7 of 1998, please would you provide us with your comments on this proposed declaration.
1.4 ANNEXURES

Annexure 1.4.7 Matters to be contained in the memorandum to the SANRAL's Board of Directors requesting approval for the declaration of a national road

MEMORANDUM PERTAINING TO THE PROPOSED DECLARATION OF AN EXISTING ROAD OR NATIONAL ROUTE AS A NATIONAL ROAD

This memorandum must contain the following information:

(a) details of the route of the national road;

(b) the reasons why the declaration of the national route or existing road as a national road is required;

(c) the comments of the relevant Premier or Premiers in the case of the declaration of a national route (new road) as a national road;

(d) the agreement of the relevant Premier or Premiers in the case of the declaration of an existing road as a national road;

(e) the budget required in the event that the national route or existing road is declared a national road.
MEMORANDUM PERTAINING TO THE PROPOSED DECLARATION OF AN EXISTING ROAD OR NATIONAL ROUTE AS A NATIONAL ROAD

This memorandum must contain the following information:

(a) details of the route of the national road;

(b) the reasons why the declaration of the national route or existing road as a national road is required;

(c) the comments of the relevant Premier or Premiers in the case of the declaration of a national route (new road) as a national road;

(d) the agreement of the relevant Premier or Premiers in the case of the declaration of an existing road as a national road;

(e) the budget required in the event that the national route or existing road is declared a national road.

(f) the minutes of the meeting of SANRAL’s Board of Directors at which the decision was taken to apply to the Minister for the declaration of the national route or existing road as a national road.