

**Government of the Republic of Namibia**  
**Ministry of Works, Transport and Communication**



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**Reference Document:**

**Policy on**  
**Road Safety in Namibia**

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Prepared by:  
Department of Transport  
Ministry of Works, Transport and Communication

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### *Note*

*This Reference Document supersedes the Final Draft of the same document dated 31 January 2000 and also the Reference Document dated 11 April 2000 which contained minor editorial corrections of the Final Draft.*

*It reflects editorial improvements of the text and adjustments to, or clarifications with regard to elements of, the proposed policy to manage road safety as contained in the previous Reference Documents. These are mostly the result of further deliberation following issues raised by the National Road Safety Council or due to considerations which cropped up during the course of drafting and finalising the text of the proposed Road Safety Bill, 2001. Further, the sequences of some of the sections have been changed to follow those of the draft Bill and paragraphs numbered for ease of cross-referencing. No policy changes of consequence have been brought about.*

*The previous section on recommendations has been deleted since actions required in terms thereof, namely, to: (i) obtain the approval of the Ministry of Works, Transport and Communication for the policy proposals, (ii) distribute the Reference Document to the National Road Safety Council and other interested parties for comment, and (iii) prepare draft legislation, have been attended to.*

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# **1 INTRODUCTION AND BACKGROUND**

## **1.1 Purpose**

1.1.1 The purpose of this Reference Document is to present, in summary, the policy proposed by the Ministry of Works, Transport and Communication with regard to the management of road safety. The policy is intended to provide answers to questions such as the specific objectives to be achieved, the strategies to be employed, the institutional structures to be established and the resources to be deployed<sup>1</sup>.

1.1.2 The Reference Document also serves as explanatory memorandum for the proposed new Road Safety Bill.

## **1.2 Policy development process, Cabinet's decisions of 1995**

1.2.1 Cabinet, in December 1995, took a number of guiding decisions with regard to road safety policy. The recommendations as approved by Cabinet are listed in Annexure 1. The most important of Cabinet's decisions which are relevant to the new policy are:

- (i) The broad policy objectives of road safety in Namibia should be directed at the achievement of a safer road traffic environment (as reflected in road accident and other statistics), the protection of the road infrastructure against damage and abuse and the protection of the environment against pollution and damage arising from road building and road transport;
- (ii) an Integrated Road Traffic<sup>2</sup> Safety Management System for Namibia should, in principle, be implemented, subject to a more detailed study of the appropriate structures for managing such a system;
- (iii) a new National Road Traffic Safety Act should, in principle, be drafted in order to implement the proposed integrated road safety management system, subject to the final format of the Act being further investigated;
- (iv) the National Road Safety Council (NRSC), as provided for in the National Road Safety Act, 1972, should be activated and it should play a strong guiding role in finalising outstanding issues; and
- (v) the costs associated with the road safety function should, in principle, be regarded as part of

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<sup>1</sup> See section 7.1 of the Report on Road Traffic Safety in Namibia, August 1995, where these are suggested as being the areas to be addressed via a new road safety policy for Namibia.

<sup>2</sup> It has been decided to use the expression "road safety" rather than "road traffic safety" in this document. The inclusion of the word "traffic" does not materially promote, and possibly mitigates against, an understanding of the objectives intended to be achieved by the proposed new policy.

the costs to be recovered from road users through the future road user charges, specifically the fuel levies<sup>3</sup>, subject to the submission of a further report to Cabinet regarding the policy to be followed with respect to recovery of road safety costs from road users.

### 1.3 Implementation of Cabinet's decisions of 1995

1.3.1 The above decisions by Cabinet, specifically those indicating the basic policy objectives (see (i) above), form the basis for the road safety policy proposed herein<sup>4</sup>. The progress in implementing Cabinet's decisions are discussed below and in the relevant parts of this document.

1.3.2 In response to Cabinet's decisions mentioned under (ii) and (iii) an investigation was commissioned by the Ministry. A report, entitled: "Legislative Framework for Road Traffic Safety Legislation in Namibia", was presented in June 1997. It provided information about different models and legislation for managing road safety and made proposals for the system to be adopted for Namibia. The proposals in the above report have, where still relevant, been adopted in compiling this reference document. The recommendations of the report have, however, become dated in view of recent developments in the transport sector in Namibia. In particular the developments to restructure the Ministry of Works, Transport and Communication<sup>5</sup> and the way in which roads will in future be managed and funded<sup>6</sup>. The above developments have led to the acceptance of a new philosophy with regard to policy implementation. In accordance with this philosophy a strong emphasis is placed on the definition of goals and specific objectives. Identified agents are then given the responsibility, subject to transparency and accountability, for achievement of the objectives. The proposals as elaborated in this document cover Cabinet's decisions under (ii) and (iii) above.

1.3.3 The National Road Safety Council was appointed in 1996 (see Cabinet's decision under (iv))

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<sup>3</sup> See later in this document (section 7.2.1). The need to specifically raise the revenue for the road safety function through the fuel levy, as being one of the road user charges, is only relevant to the extent that the Road Fund Administration may wish to, and is able to, implement and emphasise the equity and user pay principles in section 18(3)(a) and (b) of the Road Fund Administration Act, 1999.

<sup>4</sup> The policy objectives relating to protection of the road infrastructure against damage and protection of the environment against pollution are regarded as general objectives which have been provided for in other legislation (see sections 16(1)(e) and 16(5) of the Roads Authority Act, 1999 (Act No. 17 of 1999)). It is therefore not envisaged for the legislation under discussion herein to contain provisions in regard to these matters. It is interesting to note that the SADC Protocol on Transport, Communications and Meteorology, elsewhere referred to, makes reference to "protecting the environment and road infrastructure", see Article 6.1 of the Protocol.

<sup>5</sup> Restructuring of the Ministry and the transport sector formed the subject of a large-scale project called the MWTC2000 Project.

<sup>6</sup> The Road Fund Administration Act, 1999 (Act No. 18 of 1999) was published in the Government Gazette No. 2217 of 22 October 1999. In terms of Government Notice No. 234 of 25 October 1999, the Act came into operation on 25 October 1999, except for sections, 15(1)(b) and 16. The latter sections deal with the power to impose road user charges and the establishment of the Road Fund, respectively. All the provisions of the Act became operational on 1 April 2000.

above) and has in the period since then performed the road safety functions as provided for in the relevant Act.

1.3.4 For purposes of implementing Cabinet's decision that the costs of road safety should in principle be regarded as part of the costs to be recovered from road users (see Cabinet's decision under (v) above), provision was made in section 17(1)(h) of the Road Fund Administration Act, 1999 (Act No. 18 of 1999), that the Road Fund may be utilised for the purpose of defraying the expenditure related to road safety promotion. The funding of road safety via the Road Fund is more fully discussed later in this document. (See section 7.)

1.3.5 Chapter 6 of the SADC Protocol on Transport, Communications and Meteorology, which deals with Road Traffic, is briefly reviewed in section 1.5 of this document. The Protocol contains provisions with regard to road traffic quality management which are of relevance to road safety policy in Namibia and for which provision should be made in legislation.

## **1.4 Status of road safety in Namibia**

1.4.1 Road safety in Namibia has been identified as something which does not function well<sup>7</sup>.

1.4.2 A review of the existing institutional and policy environment shows that:

- (i) No formal policy statement exists with regard to the overall management of various road safety related activities. To the extent that most of the conventional quality regulatory functions such as vehicle roadworthiness certification, driver licensing, the prescribing of rules of the road and traffic law enforcement and adjudication are provided for via various existing and new acts, a *de facto* system of road safety management may be said to exist.
- (ii) Road traffic legislation covering vehicle roadworthiness, driver licensing and rules of the road has recently been updated in line with international norms<sup>8</sup>. The "technical" quality regulatory standards are therefore not a major factor affecting road safety in Namibia. However, compliance with legally prescribed standards is regarded as a problem and should be addressed through education and law enforcement strategies.
- (iii) The standard of Namibia's roads is in general high and not a significant contributory factor to

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<sup>7</sup> See Chapter 5.9.7 of the White Paper on Transport Policy. See also the "Legislative Framework for Road Traffic Safety Legislation in Namibia" June 1997, section 1.3, p4. Fatalities on roads in Namibia, in relation to vehicle numbers, are in the order of 4 to 5 times that in developed countries, despite Namibia having a well-maintained road system. Overloading statistics confirm that there is wide-spread disregard for traffic laws.

<sup>8</sup> The White Paper on Transport Policy made recommendations with regard to Road Traffic Legislation and these have been incorporated in the new Road Traffic and Transport Act, 1999 (Act No. 22 of 1999). This Act is not yet fully in operation.

road safety problems. However, inexperienced drivers, especially visitors to Namibia, are not familiar with dust and driving conditions on earth and gravel roads.

- (iv) Responsibility for road safety functions is divided among a number of different role players. The following Ministries and institutions are involved:
- (a) The Minister responsible for Transport is responsible to administer road traffic legislation covering vehicles, drivers, roads, road usage (rules of the road) and road transport operations (economic regulation of road transport). The relevant legislation is the new Road Traffic and Transport Act, 1999 (Act No. 22 of 1999). All the provisions of the Act are not yet in operation pending finalisation of the Regulations. The performance of some of the functions under the Act, specifically those relating to the operation of a traffic information system, have been assigned to the Roads Authority by the Minister of Works, Transport and Communication in terms of section 16(1)(f) of the Roads Authority Act, 1999. An agreement between the Minister and the Authority is still under negotiation.
  - (b) The Minister responsible for Transport administers the existing, inherited from South Africa, National Road Safety Act, 1972, (Act No. 9 of 1972) in terms of which the road safety “promotion” function is administered. The latter function comprises education, information provision and the raising of public awareness with regard to road safety. The funding for this function is provided via a levy on fuel sales and is approved by the Minister. The operational work is executed by the Traffic Safety Secretariat (TSS) in the Ministry of Works, Transport and Communication under the general guidance of the existing National Road Safety Council (NRSC) established in terms of the above Act.
  - (c) The Division: Road Transport Inspection Services in the Department of Transport of the Ministry of Works, Transport and Communication inspects mostly heavy vehicles for compliance with road transport permit conditions and overloading.
  - (d) The Minister of Home Affairs is responsible for enforcing traffic laws in terms of the new Road Traffic Act, 1999, and for vehicle testing and driver testing through the Traffic Police component of the Namibian Police (Nampol), with one exception, where a local authority performs the function.
  - (e) Within some local authority areas municipal traffic police enforce traffic laws and relevant local bye-laws. Preparations are under way to decentralise this function to



more local authorities, being the ones with their own traffic department<sup>9</sup>.

- (f) The Minister of Justice is responsible for adjudication and punishment of traffic offenders.
  - (g) The Minister of Finance and Parliament, through the Parliamentary Budget process, control the funds made available for ministerial functions related to road safety. Road safety promotion ((b) above) is funded through the Central Road Safety Fund which obtains funding as part of the current tax on fuel.
- (v) An in-depth analysis of the reasons for Namibia's unsatisfactory level of road safety is not available. Factors which are considered relevant are:
- (a) the "human factor" or the general road using public's negative attitude (or "ethic") with regard to road safety, as evidenced by "deliberate" (e.g. overloading, driving without a licence, speeding, etc.) rather than inadvertent transgressions of the law;
  - (b) the general ineffectiveness of the traffic law enforcement effort in creating respect for traffic laws and which needs to be drastically re-engineered in order to reduce the numbers of road traffic offenses<sup>10</sup>;
  - (c) the lack of systematic, scientific analysis to explain the reasons for the unsatisfactory level of road safety (or the "road safety problem");
  - (d) the absence of a programme of remedial action aimed at the achievement of an overall, realistic, expressed in quantified and qualified parameters, road safety goal<sup>11</sup>, which is the responsibility of a specific entity which would, further, also coordinate and monitor the performance of all parties<sup>12</sup>; and

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<sup>9</sup> The new Road Traffic and Transport Act, 1999 (Act 22 of 1999), makes provision for the function to be contracted out, even to the private sector. The Minister of Works, Transport and Communication has decided to assign certain functions under the Act to the Roads Authority.

<sup>10</sup> See 1991 report sponsored by the Overseas Development Administration, entitled "Report on the Namibian Municipal and Traffic Police"

<sup>11</sup> The word "goal" is intended to be interpreted as a reference to an overall, broad mission statement, the achievement of which is dependent on the achievement of various underlying or supporting objectives, e.g. to achieve an acceptable level of road safety as a broad mission, it is necessary to build safe roads, enforce traffic laws, ensure vehicle roadworthiness, change the attitude of the road using public, etc.

<sup>12</sup> The National Road Safety Act, 1972, represents the existing "system" for road safety management. It, however, relies heavily on the willing cooperation, and resources at the disposal, of its participating members with regard to those functions not directly under the control of the Council.

- (e) the inadequate funding and human resources allocated to road safety efforts, which, moreover, are made available in a fragmented manner in competition with various socio-economic priorities funded out of the Government budget.

## 1.5 The SADC Protocol on Transport, Communications and Meteorology

1.5.1 Namibia is a party to the above Protocol<sup>13</sup> and is obliged to give effect to the provisions thereof. Chapter 6 of the Protocol deals with road traffic and contains specific provisions relating to road safety management.

1.5.2 As a general rule the Protocol<sup>14</sup> requires Member States to adopt, amend or repeal national legislation to give effect to the provisions of the Protocol. Some of the provisions relevant to, specifically, the management of road safety are, *inter alia*, that:

- (i) Member States shall cooperate to develop and implement a coordinated regional road traffic quality management plan (Article 6.12);
- (ii) the plan contemplated has to promote collaboration between Member States; and
- (iii) Member States shall develop common road traffic quality indicators<sup>15</sup> with a view to exchanging statistics at least once per annum.

1.5.3 The above is not a complete list but serves to confirm that the proposed policy for the management of road safety in Namibia is in line with the approach being promoted in the Protocol.

1.5.4 The proposed Bill should therefore provide for the function of liaising with appropriate institutional counterparts in other Member States and countries in order to fulfil Namibia's road safety obligations in accordance with the Protocol.

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<sup>13</sup> The signing by Namibia of the SADC Protocol on Transport, Communications and Meteorology was announced by Proclamation No. 24 of 1999 and the text of the Protocol set out in the Schedule to the Proclamation.

<sup>14</sup> See Chapter 14, Final Provisions, of the Protocol.

<sup>15</sup> The concept is the same as herein where reference is made to "quantifiable parameters". The possibility to adopt the same expression for Namibian legislation could be considered, currently the expressions "quantifiable parameters" and "road safety standard" are proposed.

## **1.6 Guidelines for formulating a new policy on road safety**

1.6.1 The road safety problem and various issues have been brought to Cabinet's attention in, particularly, the report on road safety mentioned earlier. As indicated, Cabinet has responded positively and provided a clear directive to proceed with the development of a more detailed policy and strategy for managing road safety in Namibia. Cabinet's directive includes the definitive broad guidelines that road safety should be addressed through an integrated road safety management system, that the appropriate structures for managing such a system should be investigated, that it be implemented via a new "National Road Safety Act" and that funding should be dealt with in terms of the principles applicable to the road user charging system.

1.6.2 Cabinet's directive therefore provides a clear indication that road safety management should be more effective and that institutional and legislative reforms directed at the achievement of an acceptable level of road safety should be implemented. It should also be accepted that new arrangements should be in harmony with other policy developments in the road sector such as those with regard to road management and funding.

## **2 PROPOSED NEW POLICY ON ROAD SAFETY**

### **2.1 General**

2.1.1 In a general sense the recent policies, and legislation drafted in response thereto, signal the introduction of a new philosophy with regard to policy implementation and institutional structuring. Whereas the trend in the past was often, if not always, for legislation to create institutions with wide powers of control, the new legislative philosophy is to make the exercise of powers subject to responsibility for the achievement of clearly defined objectives, as well as compliance with principles clearly spelt out in legislation.

2.1.2 At the same time there is greater attention to the provision of adequate resources, subject to prescribed procedures and compliance with economic principles to ensure efficient use of scarce resources. See more detailed discussion of policies in this regard in section 7.

2.1.3 In line with the new philosophy recent legislation also tends to provide for a greater degree of transparency as well as for more consultation with interested parties than was in the past the normal practice.

### **2.2 Interpretation of the expressions "road safety" and "promotion of road safety"**

2.2.1 "Road safety" is a rather undefined concept unless supported by specific definition. Road safety

is not something which can be “achieved” or “ensured”. The road safety policy proposed herein is based on the approach that it should be mandatory for road safety to be expressed in terms of quantifiable parameters which will define a “level of road safety” or “standard of road safety” which is regarded as realistic for Namibia and which is acceptable to the main role players.

2.2.2 The new policies should, specifically, address the process by which the above level is decided about and reviewed from time to time.

2.2.3 The concept “promotion of road safety”, which is found in the existing National Road Safety Act, 1972, is, in the new policy proposed to be specifically defined as collectively referring to all those functions which have as objective to educate, inform and change the attitude of the general public with regard to road safety<sup>16</sup>.

### **2.3 Philosophy underlying the new road safety policy**

2.3.1 In line with the above and also with the approach generally being adopted in drafting various new Acts which deal with transport in Namibia<sup>17</sup>, the proposed road safety policy should do more than make provision for the establishment of institutional structures and the performance of various conventional functions which are related to road safety.

2.3.2 The road safety policy is therefore proposed to be based on the philosophy that for Government policies and strategies to be effective it is necessary to provide in legislation for:

- (i) An explicit formulation of objectives (in this instance road safety objectives) to be achieved - as opposed to a formulation focussing on the performance of functions;
- (ii) the establishment of parties (institutions) to be responsible for the achievement of specific objectives;
- (iii) the provision of appropriate powers and resources to such responsible parties; subject to
- (iv) mechanisms to ensure transparency, control and accountability.

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<sup>16</sup> There is a school of thought which suggests that ultimately the attitude of the general public can only be meaningfully changed by a much more vigorous traffic law enforcement effort. For the purposes of this document traffic law enforcement is not included under the “promotion” function.

<sup>17</sup> See, for instance, the Road Fund Administration Act, 1999, and the Roads Authority Act, 1999.

## 2.4 The need for an “integrated” approach

2.4.1 A factor which influences the implementation of the above philosophy with regard to the management of road safety is the fact that a number of different and independent parties are involved, each of whom is responsible for a particular function related to the achievement of what is regarded as a “safe road sector”<sup>18</sup>.

2.4.2 The following functions, *inter alia*, affect the level of road safety in Namibia:

- (i) the maintenance and construction of roads;
- (ii) the control of roadworthiness of vehicles; the control of the standards of drivers of vehicles; the regulation of the way in which vehicles are allowed to operate on roads (rules of the road);
- (iii) the promotion of road safety for purposes of influencing the attitude (or the ethic) of the general public in driving vehicles and their actions in the vicinity of roads<sup>19</sup>;
- (iv) the enforcement of traffic laws;
- (v) the adjudication of traffic offenses; and
- (vi) the provision of emergency services for traffic accidents.

2.4.3 Functionaries involved include: the Minister of Works, Transport and Communication, the existing National Road Safety Council, the Traffic Safety Secretariat, the Minister of Home Affairs, the Namibian Police’s Traffic Component and the Minister of Justice.

2.4.4 For the various different functionaries to be able to work together effectively while retaining autonomy for own functions, an integrated (or coordinated) approach is necessary. Such an approach gives effect to the decision by Cabinet, in 1995, that road safety in Namibia should, in principle, be managed through an “integrated” road safety management system. For purposes of the new policy “integrated” is interpreted as implying “effectively coordinated with a view to the achievement of a

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<sup>18</sup> The expression “safe” in relation to the “road sector” is found in the Road Fund Administration Act and the Roads Authority Act and is used together with “efficient” to describe the objectives of the relevant entities, namely the achievement of a “safe and efficient road sector”. The definition of “safe” for the purposes of the above Acts refers to road standards prescribed by the Minister responsible for transport in terms of section 16(5) of the Roads Authority Act. In view of the unique interpretation the proposal is that road safety, other than in terms of road standards, should rather be defined in the manner as proposed in this Reference Document. It should, however, be accepted that the road safety function is part of all activities which are directed at achieving a “safe and efficient road sector”.

<sup>19</sup> Evidence on traffic accident statistics in South Africa suggests that pedestrians, their behaviour in the vicinity of roads and pedestrian fatalities should be regarded as an integral part of road safety management.

clearly defined overall road safety goal”.

2.4.5 It should be noted that, notwithstanding the involvement of the various parties above, there are a number of functions which are currently not the responsibility of any party but which should be provided for in order to ensure that a holistic and truly integrated approach is followed with regard to road safety management.

### **3 PROPOSED INSTITUTIONAL ARRANGEMENTS FOR MANAGING ROAD SAFETY**

#### **3.1 Considerations**

3.1.1 The following considerations should be taken into account in developing proposals for new institutional arrangement:

- (i) An integrated (or coordinated) approach to the management of road safety shall be implemented.
- (ii) The Minister responsible for the transport function (Minister of Works, Transport and Communication) is, and should remain, the main line functionary (as part of his or her responsibility to ensure an “economically efficient” and “safe” road sector). This implies that the new legislation on road safety should be administered by the above Minister.
- (iii) The specialised role of existing role players, in some instances already adequately provided for in existing or new legislation should be recognised. Therefore line responsibilities for matters such as road construction and design and traffic law enforcement should remain with the present Ministers and their supporting institutions. The possibility to draft the new legislation so that it is flexible enough to allow, for instance, a different affiliation of the Traffic Police component in NAMPOL, if Government in future so decides, should be considered<sup>20</sup>.
- (iv) Where it is necessary to direct the activities of a particular Ministry in order to ensure that road safety activities are coordinated and relevant objectives achieved, the approach shall be to seek agreement within the structures provided. Ultimately, however, Cabinet should be involved to ensure that any proposed programme of actions can be enforced and therefore such a programme of actions should be subject to Cabinet’s approval which shall then constitute an

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<sup>20</sup> Recent developments in South Africa suggest that Traffic Law Enforcement should preferably fall under the control of the agency responsible for road safety. For Namibia such an approach is currently not envisaged in the near future, specifically in view of the fact that in 1990 the traffic police component was detached from the Department of Transport and incorporated into the Namibian Police.

executive directive that it be implemented<sup>21</sup>.

### **3.2 Institutional requirements**

3.2.1 The proposed institutional arrangements should therefore meet the requirements as follows:

- (i) Ensure that all interested parties can be involved, for that purpose to provide for the establishment of a permanent forum where interested parties are able to consult, deliberate and contribute constructively towards the solution of the national road safety problem via the institutions and processes provided in the proposed new system;
- (ii) permit the continuance of existing specialised functionaries (e.g. with regard to traffic law enforcement and road design, construction and maintenance), but with due regard to coordination of the activities of such functionaries;
- (iii) ensure the performance of those necessary road safety functions which are not the responsibility of any functionary, for instance:
  - (a) the coordination of the activities of all role players;
  - (b) the preparation of a national road safety programme of actions;
  - (c) the education of the public with regard to road safety matters and the engendering of a road safety ethic (currently the main focus of the existing National Road Safety Council and the Traffic Safety Secretariat (TSS) - defined as "road safety promotion"), because the Council, which is still responsible for this function, will in future be replaced by a new body which will have an enhanced role with regard to deliberation, consultation and representation but with no operational functions;
  - (d) the provision of supporting services; and
  - (e) any other road safety function for which a need has been identified or may be identified in future and which is not the responsibility of a particular entity;

3.2.2 The above requirements must be met within an integrated systems approach. It must be accepted that this will not be possible in a one-dimensional institutional entity. The institutional arrangements must therefore provide for different entities for the function under (i) above, which is of

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<sup>21</sup> A Cabinet directive would normally only apply to government ministries and organisations of state falling under the control of government. The position with regard to role players not directly under control of a minister would depend on particular circumstances, enabling legislation, etc.

a deliberative and consultative nature, and the functions under (iii) above, which are operational in nature, and define the relationship between such entities and also various existing parties such as the Minister responsible for transport and other Ministers.

### 3.3 Policy with regard to existing functional entities

For purposes of the second requirement mentioned in section 3.2.1, namely the performance of existing specialised functions, the policy should be to ensure that all entities involved in and responsible for the performance of functions which are in support of the achievement of a safe road sector shall continue to do so in terms of the legislation or other arrangements under which they currently operate.

### 3.4 Objectives of the Act and institutional entities

3.4.1 It is appropriate to at this point return to the issue of objectives. Different objectives are involved and the distinction should be observed when the legislation is drafted<sup>22</sup>.

3.4.2 It is recognised that the objective of legislation is normally contained in the long title and customarily refers to the establishment of the relevant body or bodies, their powers and duties, etc. Since, moreover, it is herein envisaged (see section 6) that a National Road Safety Plan will be an essential instrument for purposes of defining objectives and coordinating various role players involved in road safety, the long title could also contain an appropriate reference in this regard.

3.4.3 However, in the light of the philosophy earlier expounded, the objectives to be achieved by different functional entities to be created in new legislation should be explicitly defined and the legislation should, if possible, provide for quantification and qualification of objectives so that their achievement can be measured and monitored.

3.4.4 Particularly, it is strongly recommended that the legislation (e.g. in the clauses dealing with the National Road Safety Plan), should place an obligation on a specific party, although preferably in consultation with other interested and involved parties, to translate the concept “road safety” into parameters, for the reasons previously expounded.<sup>23</sup>

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<sup>22</sup> The expression “in order to achieve the objects of this Act” should be carefully weighed against “for purposes of the achievement of the objects of .... (entity concerned)”.

<sup>23</sup> This philosophy, namely to define objectives in specific terms, rather than through expressions such as “to promote ....”, has in recent years been applied in developing policies for funding and managing the national road system. In the Road Fund Administration Act and the Roads Authority Act, the application of the above philosophy has resulted in formulations such as “.... with a view to achieving a safe and efficient road sector” being further supported by provisions such as “*the Administration shall ..... frame rules and principles which shall, for the purposes of the most effective achievement of the ..... be applied and followed by .....*”. Since these Acts deal with specific functions (regulating road funding via the management of the road user charging system and managing the road network) the relevant institutions are only held responsible for the achievement of a “safe and efficient” road sector in as much as their specific functions are relevant. What is important to note is that in these



## **4 ROAD SAFETY AGENCY (AGENCY)**

### **4.1 Objectives of the Agency**

4.1.1 For purposes of providing for the performance of functions currently not the responsibility of any party, it is proposed that a specialised operational unit, to be called the Road Safety Agency (RSA or “Agency”), be established.

4.1.2 The functions of the current National Road Safety Council, in terms of the existing National Road Safety Act, 1972, will also become the responsibility of the Agency.

4.1.3 In line with the philosophy previously expounded the Agency should have a clearly defined role to play and enjoy autonomy with regard to its unique functions and therefore the basic objective of the Agency should be defined as being to manage the integrated road safety management system so that an acceptable level of road safety or road safety standard is achieved in Namibia. In line with the general philosophy earlier herein the goal with regard to road safety should be expressed in specific terms or “quantifiable parameters”.

### **4.2 Institutional considerations**

4.2.1 The Agency should fall under the control of and report to the Minister responsible for transport.

4.2.2 The Agency should be a juristic person to enable it to enter into agreements, appoint personnel, open bank accounts, etc.

4.2.3 The affairs of the Agency should be directed by a board of directors with relevant expertise, not exceeding three in number. The board of directors and its chairperson should be appointed by the Minister.

4.2.4 The Agency should be empowered to appoint permanent staff for operational duties, but the policy should be to keep the costs and numbers of staff down and therefore the Minister should determine remuneration and benefits and also the organisational structure in terms of which appointments may be made. The emphasis should be on professional expertise. The Agency may also

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Acts provision is made for the quantitative definition of terms such as “safe” and “efficient”. The responsibility for quantifying definitions is also spelt out in the legislation. The same approach should be adopted - but referring to the functions to be performed under the proposed road safety legislation. It should be noted that the expression “road sector” above indicates that it is the whole transport operation, comprising roads, vehicles and vehicle operations, which is intended to be ‘safe’ and ‘efficient’.

be staffed with seconded staff<sup>24</sup> and a transitional arrangement may be provided for in the legislation.

4.2.5 The Agency should be empowered to appoint consultants or other persons for the execution of specific tasks and to enter into agreements for the provision of the required services.

4.2.6 The Agency should be represented on and participate in the activities of the Forum (see hereafter).

### **4.3 Functions of the Agency**

4.3.1 The specialised functions of the Agency, namely those which are not the responsibility of any other entity, are suggested as being the following and each may have a number of sub-functions which are not mentioned here:

- (i) Those aimed at assessing and analysing the overall state of road safety (for which a system of definition and measurement, based on selected and quantifiable parameters must be devised and maintained) on the basis of information collected and recorded and reporting thereon in accordance with legally prescribed procedures;
- (ii) those aimed at identifying causes of inadequate road safety and effective remedial strategies to address such inadequacies, but without having the right to intervene directly in the operational activities of other bodies with responsibilities for specific functions. The Agency's role is to monitor overall performance in achieving road safety objectives and to provide feedback from a wider perspective. However, if the Agency is given an "performance audit" function, it could enjoy certain powers to expose under-performance which would then lead to remedial action;
- (iii) those aimed at monitoring and coordinating the activities of all functionaries so that efficiency and effectiveness is enhanced.
- (iv) Those aimed at the engendering of a road safety ethic among the general public and to be collectively defined as the "road safety promotion function". If the word "promotion" is used in relation to all road safety related functions, which in fact "promote" or "advance" road safety, another expression should be sought for purposes of describing this particular function and to render it an unique function of the institutional entity to be established by the Bill;
- (v) the provision of secretariat services to the Forum;

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<sup>24</sup> The legislation should make provision for the secondment of staff members from the public service. However, this is not a preferred option and should only be permitted with the Minister's approval and if suitable persons are, temporarily, not available for recruitment. Reference may be made to the transitional provisions included in recent legislation for the policy with regard to transfer of staff from the public service.

- (vi) the undertaking of relevant research (such work would probably be contracted out);
- (vii) liaising with similar other bodies in the SADC Region or other international bodies and in particular to attend to the Namibian obligations in terms of Chapter 6, Road Traffic, of the SADC Protocol on Transport, Communications and Meteorology to the extent that any such obligation is not the direct responsibility of any other party in Namibia;
- (viii) management of the Road Safety Fund (see sections 7 and 8), including the rendering of advice to the Minister concerning funding policies in general, as well as the funding of entities not receiving funds through the latter Fund. Related to this would be a responsibility for financial record-keeping and for auditing. The Agency should, in this regard, also be given a duty, in co-operation with the Forum, to give attention to the economic justification and (practicable) principles for funding road safety, the results of which should be the subject of discussion and recommendation in a Plan. This is necessary in order that: (a) funding for road safety may be motivated on the basis of a generally acceptable and transparent set of principles, and (b) the principles and procedures for funding road safety are in harmony with those recently introduced in the road sector and provided for in the Road Fund Administration Act (see discussion re the principles for the funding of road safety in section 7);
- (ix) in general, the rendering of advice to the Minister concerning road safety policy;
- (x) any other function under other legislation or the responsibility of the Minister, assigned to the Agency by the Minister (subject to provisions in the legislation<sup>25</sup>), provided such a function is related to the functions of the Agency (or the achievement of road safety objectives), and which can not readily be performed by another existing institutional entity; and
- (xi) any duty or function, provided it is related to the achievement of the objectives of the Agency, delegated by the Minister, subject to agreement, etc<sup>26</sup>.

4.3.2 The instrument to be used by the Agency for facilitating its functions under (i) to (viii) above is the National Road Safety Plan (the “Plan”). The legislation could therefore be formulated as a duty/responsibility to draft and “maintain” the Plan, although the process could be so described as to

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<sup>25</sup> The legislation should, however, make provision that when functions are assigned to the Agency, it will place an obligation on the parties to ensure that funding is provided, and that the necessary delegation of powers in terms of any relevant other legislation will form part of an agreement to be reached between the Minister and the Agency. (Refer the considerations which have recently arisen as a result of the assignment of functions to the Roads Authority in terms of sections 15(1)(c) and 16(1)(f) of that Act.)

<sup>26</sup> See similar provisions in the Road Fund Administration Act and Roads Authority Act. but note that the formulation in legislation should be such as to avoid that the Agency may be used for tasks unrelated to its main functions.

ensure the necessary consultation with and cooperation by interested parties, especially the Forum.

4.3.3 Because of its above responsibility for the Plan and general coordination function, hence a need to have access to information and even to require inputs from others the Agency must have powers:

- (i) to oblige other entities to provide such information; and
- (ii) to obtain inputs from other parties.

## **5 NATIONAL ROAD SAFETY FORUM OF NAMIBIA**

### **5.1 Objective of the Forum**

5.1.1 For purposes of the first requirement mentioned in section 3.2.1 above it is proposed that a forum or council with broad representation of involved parties be created. The role of such a body will be different to that of the National Road Safety Council currently existing.

5.1.2 The proposed name for the new body is the National Road Safety Forum of Namibia<sup>27</sup>.

5.1.3 The objective in establishing the Forum is to provide for a broad platform to facilitate deliberation and consultation regarding road safety matters between parties with: (a) an interest in, (b) relevant knowledge or expertise about, or (c) a specific responsibility of relevance to, road safety and to ensure that their views about road safety matters, the proposed National Road Safety Plan and the performance of parties involved in road safety are given attention at the highest level.

### **5.2 Institutional framework**

5.2.1 Because a forum-type structure is not an effective institution to intervene in or control the activities of autonomous and expert line functionaries, or perform operational activities, the role of the Forum should be clearly defined in order to ensure that it is focussed on its consultative, deliberative and advisory roles. It is proposed that the legislation should therefore provide for the Forum to function in accordance with the following framework:

- (i) Members and the chairperson shall be appointed by the Minister but nominations may be made by particular entities who are to be given representation. The principle being that parties who are to be represented will nominate while the Minister will select for purposes of relevant

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<sup>27</sup> The previous Reference Documents proposed that the name should be "Road Safety Advisory Council" but this has been reconsidered after further consultation with the National Road Safety Council.

- expertise or responsibility;
- (ii) Forum members shall normally not participate in the Forum's activities in a full-time capacity and will not qualify for remuneration, except in as much as that they will be reimbursed for costs incurred on behalf of the Forum;
  - (iii) the procedures and activities of the Forum shall be defined so as to ensure that its deliberative, consultative and advisory functions are highlighted;
  - (iv) the proceedings of the Forum shall be recorded and made available to the Minister and relevant role players, particularly the Forum shall deliberate and express its views regarding:
    - (a) the National Road Safety Plan (see hereafter) which shall be submitted to the Forum for consideration and comment before it is submitted to the Minister;
    - (b) any road safety issue of concern to and raised by a party represented in the Forum;
    - (c) any proposal tabled in the Forum by a member, subject to compliance with due procedures; and
    - (d) any matter referred to the Forum by the Minister.
  - (v) Forum's decisions will not be binding on government Ministries or operational entities involved in road safety functions, but its decisions shall carry weight and be submitted to the Minister and relevant entities and be acknowledged;
  - (vi) where the Forum has a statutorily prescribed advisory role to play with regard to, for instance, the National Road Safety Plan or budgets, before they may be finalised, the meeting dates of the Forum should be so arranged that unnecessary delays are avoided;
  - (vii) attendance at meetings of the Forum for interested parties or persons who can provide inputs should be possible but such parties may not vote; and
  - (viii) the Forum will not be a juristic person.

### **5.3 Composition of the Forum**

The proposed composition of the Forum is set out Annexure 2 of the Document

## **6 NATIONAL ROAD SAFETY PLAN**

### **6.1 Purpose and preparation of the Plan**

6.1.1 The proposed National Road Safety Plan (the Plan ) is the instrument for formally putting together in a written form all the different programmes of action by different parties and for monitoring the progress in achieving objectives.

6.1.2 The Agency should be responsible for the preparation of the Plan.

6.1.3 The Plan should cover a five year planning horizon and be approved at Cabinet level. Amendment of the Plan during the five year period should be possible, if serious deviations from the Plan are dictated by circumstances.

6.1.4 The purpose of having a five year perspective is that it provides a necessary form of stability over a longer period and also to avoid unnecessary work loads on the Minister and Cabinet. However, since no plan can be executed if the necessary resources are not available as required, the funding needs, essentially required for the execution of the approved Plan, should be capable of review annually without having to be re-approved at Cabinet level, provided that any funding adjustment is reasonably close to the projected five-year budget in the Plan. Such adjustments are also necessary to maintain harmony with the funding principles and programme of the Roads Authority and the Road Fund Administration.

6.1.5 The Plan should be submitted to the Forum for comment before it is submitted to the Minister for his acceptance and submitted to Cabinet for approval.

6.1.6 The Plan should be approved in time for the preparation of the budget (or at least the amount comprising the allocation from the Road Fund), the budget to form part of the Plan, to be synchronised with the requirements for budgets in terms of the Road Fund Administration Act.

6.1.7 The amendment of the Plan and budget during its five year period should be possible, but without deviating substantially from the Plan, which should then not require Cabinet approval. Substantial deviations should be approved at Cabinet level. The Cabinet could be kept informed about progress in implementing the Plan each year.

### **6.2 Elements of the Plan**

6.2.1 The Plan should contain the following elements.

(i) An assessment of the current status of road safety and an analysis of the reasons therefor -

based on the previous and current Plan, as relevant.

- (ii) A statement of the aims and objectives for road safety in the plan period (expressed in quantifiable parameters) based on the assessment above. The overall objectives should be supported by and, to the extent relevant, coordinated with the objectives of other involved functionaries.
- (iii) The detailed manner and programmes which each functionary will follow in order to achieve its own aims and objectives in terms of the overall goal. The Agency should essentially record what the relevant functionary intends to do and indicate to what extent the Agency is in agreement therewith but the Agency should at most use consultation procedures and advise, but not prescribe to other functionaries.
- (iv) The proposed human and financial resource requirements for implementing the programmes. To be prepared in accordance with (as far as funding is concerned) the proposals set out in section 7 hereafter. The legislation should provide for the Agency to include in a Plan proposals which will ensure that the road safety funding process is in accordance with (or at least in practicable harmony with) road funding policies and procedures.
- (v) The manner of assessing achievements annually.
- (vi) Any other matter directed by the Minister.

## **7 FUNDING ISSUES AND PRINCIPLES**

### **7.1 Basic road funding policies**

7.1.1 As noted in section 2.3, one of the essential requirements for the successful performance of a function is the provision of adequate resources. These include funds, equipment and personnel with the required expertise.

7.1.2 With the policy development work that has gone into the development of the road user charging system for Namibia the basic policy principles to be applied with regard to the funding of road safety have largely already been resolved. The Cabinet's decision of 1995 confirms that these principles are applicable to road safety management. In particular, that the user pay principle should be applied to the funding of activities such as traffic law enforcement and road safety promotion.

7.1.3 The underlying rationale is that road users are the beneficiaries (or the parties responsible for the need) of activities which are undertaken with regard to road safety and that the costs of such

activities should therefore, to the extent relevant, be borne by road users. In practice this means that it is acceptable for the Road Fund to contribute to the costs of managing road safety.

7.1.4 Of specific interest to road safety is the question whether the Road Fund Administration, which generally has full autonomy in determining the amounts to be allocated out of the Road Fund, will also be able to determine road safety allocations. The answer in this regard is that it has been decided that the Minister responsible for transport shall have the power to determine the part of the budget in terms of this Act which should be funded out of an allocation in terms of section 17(1)(h) of the Road Fund Administration Act. The above decision is based on the reasoning that the Minister responsible for transport has a so-called “pure” government responsibility to ensure public safety on roads and that this responsibility is not capable of delegation to another party. This reasoning is also confirmed elsewhere, namely in the requirement contained in section 19(1) of the Road Fund Administration Act, that the Road Fund Administration is obliged to provide adequate funding to the Roads Authority for it to be able to comply with the road infrastructure safety standards and measures prescribed by the Minister<sup>28</sup>.

7.1.5 The Road Fund Administration Act, in its section 17, therefore provides that the funds in the Road Fund, subject to the proviso: “to the extent that it is to the benefit of road users”, shall be utilised for a range of expenditures as defined in section 17(1) thereof, including in its paragraph (h): “to defray the expenditure referred to in section 15 of the National Road Safety Act, 1972 (Act No. 9 of 1972) by way of transferring to the Central Road Safety Fund, established by that section, such part of a road use charge referred to in section 18(1)(d) of this Act (the Road Fund Administration Act), as may be necessary for the defrayal of that expenditure; ...”. During the drafting of the road safety legislation attention must be given to possible conflicts between the provisions of the Road Fund Administration Act and the intention that the Minister responsible for transport should determine the allocation from the Road Fund to the road safety management function. Specifically, attention should also be given to the differences between the functions of the National Road Safety Council and the Agency. A further point to be noted is the reference to the fuel levy in section 17(1)(h) of the Road Fund Administration Act (see earlier footnote).

7.1.6 It is, however, recognised that the policy principles upon which the Road Fund Administration’s funding determinations shall in general be based are in themselves sound and it is proposed that they should, in principle, also be applicable to (or be in harmony with) the process for determining road safety funding amounts, even if the decisions in this instance are not taken by the Road Fund Administration but by the Minister responsible for transport.

## **7.2 Budgeting procedures and principles**

7.2.1 To give effect to the proposals above the new legislation should make provision for the

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<sup>28</sup> See section 19(1)(a)(ii) of the RFA Act.



following:

- (i) That the Minister shall have the power to approve the budget of the Agency and to determine the part of the budget which shall be provided by the Road Fund Administration in terms of section 17(1)(h) of the Road Fund Administration Act. The formulation may possibly have to take account of the fact that funds in the Road Fund do not retain an identity as to the type<sup>29</sup> of road user charge, in terms of section 18(1)(a) to (d) of the latter Act, from which they derive;
- (ii) the procedures to be followed in determining the road safety budget. It is suggested that, in order to facilitate a similar approach as required in the Road Fund Administration Act, the legislation should, inter alia, provide:
  - (a) that the Agency submits each year a budget to the Minister in accordance with procedures as directed by the Minister (the timing and details should be correlated with that of the Road Fund Administration); and
  - (b) that, in the preparation of budget estimates, and their subsequent evaluation and approval, the amount of funding for each project or programme should be determined, to the extent practicable, in accordance with a defined set of appropriate principles, which should be in harmony with those of the road user charging system of the Road Fund Administration Act<sup>30</sup>.

7.2.2 A point that arises is that, if the provisions referred to above are applied, the unspent funds in the Central Road Safety Fund, established in terms of the existing National Road Safety Act, 1972, and which originate from road users, must be taken into account in determining budget allocations from the Road Fund. Since the Road Fund should in all fairness not be required to make a contribution to the Road Safety Fund if the latter has unspent reserves or access to donations from any other party it must be accepted that the existing Central Road Safety Fund should first be exhausted, but allowing provision for a reasonable reserve of working capital, before the Road Fund should be required to make an allocation to road safety. Alternatively, any reserves in the Central Road Safety Fund should, at the commencement of the new road safety legislation, be paid into the Road Fund.

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<sup>29</sup> The provisions of the Road Fund Administration Act were formulated on the basis of the provisions in the National Road Safety Act, 1972, which referred to a levy on fuel. This distinction may now no longer be of relevance.

<sup>30</sup> Namely that: (a) the amount of funds to be expended should be justified on grounds of the ratio of the benefits to costs; (b) the beneficiaries should pay (user pay principle); and (c) the costs should be recovered from those that pay in as equitable a way as possible taking account of the instrument for charging (the fuel levy, licence fees, etc. of the road user charging system or any other fees which may be imposed in terms of other legislation).

### 7.3 Funding of road traffic law enforcement and traffic information systems

7.3.1 Traffic law enforcement activities play an important role in road safety management and are likely to become more important. In addition, traffic information systems may become important for the purposes of the Agency.

7.3.2 The provisions in the Road Fund Administration Act, 1999, with regard to defrayal of the costs of traffic law enforcement (see section 17(1)(e)) and traffic information systems (see section 17(1)(d)), are not the same as for "road safety promotion" (the latter being defined in terms of the existing National Road Safety Act, 1972). In the case of the former functions the Road Fund Administration has authority, in terms of section 17(2) of its legislation, to determine the types and maximum amounts of expenditure which may be incurred out of the Road Fund.

7.3.3 It is proposed that provision should be made in the road safety legislation so that it will be possible for the Minister responsible for transport to include amounts in the road safety budget, to be paid under section 17(1)(h) of the Road Fund Administration Act, for projects or programmes which have a traffic law enforcement involvement or which may assist the Agency in obtaining and managing information. The principle should be to eventually fund from the Road Fund such a proportion of traffic law enforcement and other activities as can be argued to be related to road safety management and to the direct benefit of road users.

7.3.4 It is recognised that the Traffic Police component in the Ministry of Home Affairs will continue to be only partially funded from road user charges in future and that this part of the road safety function will in effect not fall under the Minister responsible for transport. The balance of funding for the Traffic Component of the Ministry of Home Affairs should continue to be derived from the Ministry's Parliamentary budget appropriation. In this regard it is conceded that the Traffic Police's budget should not necessarily be regarded as a function to be 100% supported through road user charges - in line with the general policy that law enforcement is a basic public responsibility (maintaining law and order) of Government. However, the Agency (and Forum) should actively promote a policy which will lead to the adequate provision of resources, human and financial, for purposes of road safety<sup>31</sup>.

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<sup>31</sup> The role of the Road Fund Administration in providing funding contributions out of the Road Fund (see section 17(1)(a) to (n) of the Road Fund Administration Act, 1999) to activities which are related to the quality regulation of road transport is, further, influenced by the fact that various fees may be imposed on road users in terms of the Road Traffic and Transport Act, 1999, for example, fees for cross-border permits and driver testing, etc. These fees may be seen as a form of "direct" road user charging outside the Road Fund Administration Act, but which the Road Fund Administration will take into account in making its funding determinations. In addition, some of the functions of the Minister responsible for Transport in terms of the Road Traffic and Transport Act have been assigned to the Roads Authority. In terms of the latter Act (section 11(3)) the revenue from fees may be "apportioned" to parties who perform functions under that Act. It is expected that the Roads Authority and the Minister will formalise their relationship with regard to assigned functions by way of an agreement which will also spell out funding responsibilities. At time of writing this document the policy about the above matters was still under consideration.

## **8 ROAD SAFETY FUND**

### **8.1 Existing Central Road safety Fund**

8.1.1 As mentioned above, the existing National Road Safety Act, 1972, makes provision for the establishment of a Central Road Safety Fund in section 15 of the Act. The fund comprises all moneys as listed under paragraphs (a) to (d) of subsection 15(1) of the Act. Subsection 15(2) provides that the Fund shall be administered by the Council and be utilised to defray the expenses incurred by the Council in the performance of its functions. It is also stated that no expenditure may be incurred except in accordance with an estimate of expenditure approved by the Minister.

8.1.2 The above suggest that the new legislation should provide for: (a) the continuation or otherwise of the existing Fund and, if continued, its name, (b) how to deal with the assets of the existing Fund, and (c) the operation of the Fund in relation to the Road Fund.

### **8.2 Composition of the proposed Road Safety Fund**

8.2.1 In considering a new Fund the basic question which must be answered is whether the road safety function should have an own account which is independent of its allocations from the Road Fund. In other words, is it likely that the road safety function may have access to funds other than that allocated from the Road Fund. Further, should the Minister or Agency administer the Fund? (The Council administers the existing Fund.)

8.2.2 It is proposed that the new legislation should provide that:

- (i) the existing Central Road Safety Fund should be continued but that its name should in future be the Road Safety Fund;
- (ii) the assets and obligations of the former Central Road Safety Fund be taken over by the new Fund and that it shall comprise similar sources as per the previous legislation, suitably adjusted for changed circumstances (e.g. the Road Fund and fees imposed in terms of traffic legislation). The assets and liabilities of the National Road Safety Council, in accordance with the balance sheet referred to in section 16(2) referred to in the National Road Safety Act, 1972, must also be taken into account;
- (iii) in order to take account of the general principles in budgeting applicable to the Road Fund Administration and parties eligible for funding from the Road Fund in section 20 (see section 20(2)(d) and section 20(40)(b)(iv) of the Road Fund Administration Act), the Fund be defined as comprising all assets and liabilities of the Agency. In other words not only money or near-money assets. In effect the Fund should represent the balance sheet of the Agency and the

Fund, i.e. assets and liabilities in the name of the Agency and Fund; and

- (iv) the purposes for which the Fund may only be utilised should be specified in the legislation; and
- (v) the Fund be administered by the Agency (a function of the Agency).

## **9 BUDGET OF THE AGENCY**

9.1 Expenditure from the Fund should be in accordance with an approved (by the Minister) estimate of expenditure and which shall form part of the Plan.

9.2 All the assets at the disposal of the Fund should be taken into account by the Minister when considering the budget and deciding about the allocation to be provided from the Road Fund, specifically, the Fund should not hold any reserve in excess of what is required as a reasonable amount of working capital, subject thereto that a reserve fund may be established for purposes of smoothing uneven expenditure and to permit a stable funding allocation from the Road Fund in accordance with section 20(4)(b)(ii) of the Road Fund Administration Act.

9.3 The above rule will also not apply in respect of any donations received by the Fund for a particular project or programme outside its normal scope of operations and which may then be held separate from the reserve mentioned above and not be taken into account in deciding about Road Fund allocations.

9.4 The process for preparing the budget and obtaining approval should comprise:

- (i) preparation by the Agency in accordance with a defined format as to the different projects and programmes to be funded and moneys to be obtained from other sources, such as donations;
- (ii) both revenue and expenditure should be covered;
- (iii) compliance with principles in proposing funding amounts;
- (iv) synchronisation with provisions of the Road Fund Administration Act; and
- (v) approval by the Minister, who should also be bound by the principles for funding.

9.5 Provisions should be made for amendments of the budget during a year.

## **10 CONTROL AND REPORTING**

10.1 In terms of the philosophy proposed earlier (refer to section 2.3 of this document) the empowerment of an institutional entity to achieve specific objectives should be subject to control, transparency and accountability.

10.2 Accountability refers not only to the use of funds in accordance with a budget but also to the objectives to be achieved each year. (Financial and performance auditing.)

10.3 The proposed National Road Safety Plan should be the basis for control and reporting on road safety management and the status of road safety at any point in time.

10.4 An annual report, with the minimum requirements for reporting should be a mandatory requirement.

10.5 The Agency should be obliged to keep accounting records which include a balance sheet and an income statement and be annually audited (see standard provisions in various legislation).

## **11 SUMMARY**

### **11.1 The importance of the new road safety policy to Namibia**

11.1.1 The publicity in recent years given to the poor performance of Namibian (and other countries in the SADC Region) drivers on roads and the appalling road fatality statistics suggest that the approach proposed in the new policy would be very acceptable to the Namibian public in general and that a reporting system which requires publishing in the national press would be equally well-accepted. In this regard reference may again be made to similar provisions in recent roads legislation.

### **11.2 Comparison with existing institutional arrangements**

11.2.1 The existing National Road Safety Act, 1972, has as its objective the “promotion of road safety”, *inter alia*, through research, the collection of information on road safety and the education of the general public with regard to road safety matters. The existing NRSC does not dispose of strong powers to influence the way in which various entities perform their functions.

11.2.2 The institutional arrangements proposed above differ in the following important respects from the existing arrangements:

- (i) They will be established in terms of a Namibian and not an outdated South African Act (in

which many references are made to entities not existing in Namibia);

- (ii) responsibilities will be more clearly defined, specifically, the responsibility to produce a common and coordinated strategic plan, the important components of which will be statutorily defined in the legislation;
- (iii) the programme of actions of all parties will be included in a Plan, approved at Cabinet level, and, once so approved, shall have the power of a Cabinet directive with regard to functions performed by individual Ministers;
- (iv) there will be a board of directors to direct the activities of a small specialised unit (the Agency) to be responsible for the overall management of an “integrated road safety management system “ and for specialised road safety functions not the responsibility of an existing entity. The Agency will in particular be responsible for the implementation of the plan; and
- (v) funding support will be provided through the Road Fund on the basis of a consolidated budget, prepared in accordance with procedures and principles which are in harmony with funding developments in the road sector, but which will be further developed with respect to road safety, while it will also be possible to solicit or accept funds from other sources.

### **11.3 Anticipated benefits of the new arrangements**

11.3.1 In terms of the new policies and the proposed legislation the following benefits are anticipated to be achieved:

- (i) A greater degree of coordination of activities will in future be possible through the proposal to allocate functional responsibility for such a function to an identified agent, supported by the general overview provided by the Forum;
- (ii) the performance of the functional activities of the various involved entities will complement one another, e.g. traffic law enforcement will be supported by education and training and public relations activities undertaken by specialised entities;
- (iii) the funding of road safety related activities of entities, such as the law enforcement activities of the Traffic Police in the Ministry of Home Affairs, will be supported via the contributions from the Road Fund, which will to that extent supplement the normal Parliamentary Budget appropriations. These additional funds will also not be subject to the Parliamentary budget approval process. Rather, they will be subject to the efficiency and equity principles of the Road Fund Administration Act; and

- (iv) the monitoring (control function) of the operational activities of relevant entities will be much improved through scrutiny by a forum comprising interested parties and a specialised operational unit created by the proposed legislation. Failure to perform will in this way be exposed and may then, in principle, become subject to executive action as being in breach of a the directives contained in the Plan approved at the highest executive level.
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## REFERENCES

1. Report on Road Traffic Safety in Namibia. August 1995.
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3. Road Fund Administration Bill, 1999.
4. Roads Authority Act, 1999.
5. Report of the Interministerial Committee of Technical Experts on the Proposed System of Road User Charges. 22 August 1994.
6. Cabinet Memorandum on Road Traffic Safety in Namibia. December 1995.
7. White Paper on Transport Policy. May 1995.
8. SADC Protocol on Transport, Communications and Meteorology. As published by the Southern Africa Transport and Communications Commission. March, 1998.
9. Road Traffic and Transport Act, 1999 (Act No. 22 of 1999).



## **ANNEXURE 1 : RECOMMENDATIONS AS APPROVED BY CABINET IN DECEMBER 1995**

### **RECOMMENDATIONS**

- 4.1 Cabinet is asked to approve that:
- 4.1.1 the broad policy for road traffic safety in Namibia should be directed at the achievement of the following goals:
- (i) To achieve a safer road traffic environment as reflected in road accident, fatality, injury and traffic offense statistics;
  - (ii) To limit damage to, and abuse of, the road infrastructure by road users, especially heavy vehicle operators; and
  - (iii) To prevent damage to and pollution of the environment resulting from road building and road transport operations;
- 4.1.2 (a) in principle the implementation of an Integrated Road Traffic Safety Management System for Namibia, subject
- (b) to a comprehensive study being done on "The future role of Traffic Safety, Traffic Policing and Safety" in the republic of Namibia and all possible options identified during such study being given the necessary consideration;
- 4.1.3 in principle the appointment of an interim Namibia Traffic Safety Council until the statutory position (see below) with regard to such a council has been clarified. The council to be composed of the members likely to be appointed to a future council and to play a strong guiding role with regard to the finalisation of the various outstanding issues;
- 4.1.4 in principle the drafting of a new National Road (Traffic) Safety Act subject to the final format of the Act being further investigated;
- 4.1.5 in principle that the Road Traffic Safety Secretariat function and responsibility for the functions related to driver testing, vehicle testing and the operation of vehicle testing and driver testing stations be returned to the Ministry of Works, Transport and Communication, with on-road traffic policing and traffic law enforcement functions being retained in the Department of Police in the Ministry of Home Affairs, subject to the issue of the personnel involved being further investigated;

- 4.1.6 a decision about the possible amalgamation of municipal traffic police forces into the Namibian Police be recognised as an issue to be further investigated in future and in collaboration with the Ministry of Regional and Local Government and Housing and the Local Government Association of Namibia, but that this should not now be given a high priority;
- 4.1.7 in principle that the costs associated with the road traffic safety function be regarded as part of the costs to be recovered from road users through the future road user charges, specifically the fuel levies, and
- 4.1.8 the managements of the two Ministries initiate the following further actions if the above recommendations are approved:
- (i) the transfer of the functions recommended for transfer as soon as possible, or those of the functions which can be transferred without serious personnel and budget implications;
  - (ii) a comprehensive study regarding "The future role of Traffic Safety, Traffic Policing and Safety" in the republic of Namibia;
  - (iii) a more detailed study of the appropriate structures for managing an Integrated Road Traffic Safety Management System. The possible involvement of donors and expert consultants should be considered - the Ministry of Works, Transport and Communication to advise in this regard; and
  - (iv) submission of a further report to Cabinet regarding the policy to be followed with respect to recovery of road traffic safety costs from road users as part of the road user charging system.

## ANNEXURE 2 : PROPOSED COMPOSITION OF THE FORUM

The Forum should be composed of the following parties, appointed by the Minister:

- (a) A chairperson who has “expertise relevant to the functions of the Forum”<sup>32</sup>;
- (b) a senior staff member nominated by the Permanent Secretary of the Ministry of Works, Transport and Communication who has knowledge of road transport policy matters;
- (c) a senior staff member nominated by the Inspector General of the Namibian Police who has knowledge of road traffic law enforcement matters;
- (d) a senior staff member nominated by the Permanent Secretary of the Ministry of Justice who has knowledge of judicial procedures;
- (e) a senior staff member from the Ministry of Basic Education who has knowledge of educational training;
- (f) a senior staff member nominated by the Permanent Secretary of the Ministry of Health;
- (g) a member of the board of directors of the Agency shall be an *ex officio* member of the Forum;
- (h) a person nominated by the chairperson of the board of directors of the Road Fund Administration;
- (i) a person nominated by the chairperson of the board of directors of the Roads Authority;
- (j) a person nominated by the motor vehicle insurance industry in Namibia;
- (k) a person to represent the MVA Fund in the Ministry of Finance;
- (l) a person to represent the interests of road users other than transport operators in Namibia;
- (m) a person from the Transport Advisory Board of Namibia;
- (n) a person nominated by the Association of Local authorities in Namibia;

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<sup>32</sup> The intention with the above formulation (see also the Road Fund Administration Act and Roads Authority Act) is to appoint a person with standing and the ability to organise and get things done, rather than to focus exclusively on road safety expertise.

- (o) a person nominated by the Association of Regional Councils in Namibia;
- (p) two persons nominated by and to represent the communications Media in Namibia;
- (q) a person to represent the transport operators in Namibia;
- (r) a person to represent professional drivers; and
- (s) two other persons nominated by the Minister who in his or her opinion should be members of the Forum in view of their special responsibilities or knowledge.