

Mandate for the legislative committee due to investigate and propose a new Norwegian Roads Act

Report to the Storting no. 14 (2023–2024) *National Transport Plan 2025–2036* ascertains that major changes have taken place in the roads sector since the Norwegian Roads Act was adopted in 1963. While parts of the body of legislation are very detailed, others are inadequate, and the responsibilities of those involved are not clearly defined. The National Transport Plan 2025–2036 announced that the government would therefore consider revising the Norwegian Roads Act. Subsequent work has also revealed that the relationship between the various rules is also unclear.

The government therefore wishes to revise the Norwegian Roads Act and will be establishing a legislative committee.

1. Background

1.1 The current Roads Act

Act no. 23 of 21 June 1963 (the Roads Act) regulates the planning, construction, maintenance and operation of public and private roads. With the adoption of the Roads Act in 1963, Norway had in place a nationwide roads act and a new division of roads into national, county and municipal roads, where the responsibilities for financing and for roads administration were clearly defined. In addition, a number of provisions were introduced to balance the needs of the environment against the need to preserve the function, technical standard and future development of roads. The Norwegian Roads Act dates from a time where there were different legislative requirements, a different roads infrastructure and different players in the public roads sector than in Norway today. The Act has been amended in a piecemeal manner during the 60 years it has been in force – in recent decades particularly due to reorganisation of the Norwegian Public Roads Administration in 2003 (the establishment of Mesta), administrative reform in 2010, establishment of the Norwegian Road Safety Authority, establishment of a state road development company (hereinafter called Nye Veier), discontinuation of the joint road administration in 2020 and several amendments to Section 27 of the Act on Tolls, etc. Another important change during the Roads Act's period of validity has been the strengthening of the Planning and Building Act as a coordinating piece of legislation for land use planning, and that the planning of public roads must take place in accordance with the rules set forth in the Planning and Building Act.

The scope of the Roads Act was laid down in section 1a in 1996. The scope describes the purpose of the Act as ensuring the planning, construction, maintenance and operation of public and private roads, so that traffic on the roads can proceed in a way that benefits road users and society at all times. Furthermore, the provision setting forth the scope of the Act establishes a goal for the road authorities to create the safest and best possible traffic flow and take into account neighbours, a sound environment and other public interests.

1.2 Issues with the current Roads Act

Some of the key challenges triggering a need for revision of the Roads Act can be divided into the following main categories:

- The current Roads Act has not been comprehensively revised following major organisational changes. Public roads are organised and monitored by three independent levels of administration with approximately 367 road authorities (see section 9 of the Roads Act). Following the establishment of a state road development company and the discontinuation of the joint roads administration, there may be a greater need to regulate the actors by means of laws or regulations, partly because there is a risk of different practices occurring among the road authorities and Nye Veier that could be detrimental to safety and emergency preparedness on the road network.
- Unclear or missing definitions of the actors' roles and responsibilities may result in a need to clarify roles such as sector authority, road authority, specialised body, developer and government agency.
- Unclear demarcation of what lies within the jurisdiction of the various road authorities regarding traffic/use of their own road network. Many road authorities and the use of different statutory bases may present challenges for the individual road authority in terms of providing a good framework for the exercising of authority and management of each road authority, and for good government management of municipalities and county councils.
- Many road authorities that govern on the basis of different statutory bases may create challenges for political autonomy on the municipal side and the fulfilment of sector responsibility on the state side.
- A new geopolitical security situation and an increase in the frequency and intensity of unforeseen events related to extreme weather increase the need for clearer regulation of responsibilities and roles for safety and emergency preparedness in the roads sector.
- Fragmented supervision and control of the road sector, with different supervisory and control bodies at different administrative levels having different roles and responsibilities. Many supervisory and control bodies (the Office of the Auditor General, the Norwegian Road Safety Authority, the Norwegian Safety Investigation Authority and county/municipal auditors) raise questions about whether comprehensive and road-related supervision of the entire sector is carried out.
- Challenges concerning the structure of roads legislation in laws, regulations and standards.
- Unclear interface with other legislation, particularly the relationship between the Roads Act and the Planning and Building Act.
- There is a risk that the special features of road infrastructure are not sufficiently highlighted and taken into account in the design of other sector regulations that primarily regulate things other than roads, but which are also important for road infrastructure.
- Current road legislation does not adequately take into account digitalisation and the use of new technology in the sector. It is difficult to create a comprehensive, digital and navigable road network within the framework of the current Roads Act (including the interface with the ITS Act and the Road Traffic Act), and the current Roads Act has no provision regarding digital security.
- The current Roads Act is not flexible enough to incorporate the main objectives of the road sector at any given time and does not incorporate clear and long-term objectives in areas such as safety, emergency preparedness, the environment, climate, climate adaptation and technology.
- Requirements concerning modern legislative drafting are not adequately addressed in current roads legislation.

1.2.1 More about the challenges with the current roads legislation

The Roads Act applies to the public and private road network throughout the country. Planning, development, operation and maintenance of the road network should be carried out in an efficient manner. A good regulatory framework for road infrastructure contributes to this. The Roads Act is intended to safeguard traffic safety and accessibility. In addition, the Roads Act/road legislation must safeguard a number of social considerations. These include fundamental human rights, innovation, public safety and emergency preparedness, as well as climate and environmental issues.

The vision of achieving zero fatalities and serious injuries on the roads (Vision Zero) is one of the main goals in the roads sector. Road safety is therefore a major consideration in the planning, construction, design, operation and maintenance of road infrastructure. It is important that the road infrastructure is planned, designed, operated and maintained so that there is good interaction between road users and the road infrastructure. This applies in particular to meeting the needs of vulnerable road users. For example, winter operation is one of the most important tasks for ensuring road safety, but this is inadequately regulated in roads legislation.

Vehicles with advanced driver support systems are constantly being developed, and it is highly likely that there will be fully automated vehicles that are also connected to communicate with the road authorities' systems and infrastructure. In order to take advantage of the opportunities this brings, and to prepare for the digital road of the future, it is crucial to develop forward-looking legislation adapted to an infrastructure for digitalisation, automation and communication. This technological development creates new opportunities, but it also creates new challenges and pressure on the current regulation of roads infrastructure. This is particularly true with regard to the responsibilities of the road authorities, Nye Veier and any private actors relating to errors and deficiencies in data in the digital and navigable road network and in related national systems. This also has a bearing on driver responsibility as regulated in the Road Traffic Act, liability provisions in the Act on the Testing of Self-Driving Vehicles and the ITS Act.

In a digitised and navigable road network of the future, vehicles will communicate with the road infrastructure and vehicles will communicate with each other. The data that is transmitted will be such that it will be possible, at least indirectly, to identify natural persons. This means that the requirements of the regulations on the processing of personal data (GDPR) must be met.

Technological developments mean that there is a need for ever greater digital security. The current Roads Act contains no provisions on digital security. Digital security is important both in terms of road safety and more general public safety and emergency preparedness issues. The need for provisions on digital security in a revised Roads Act must therefore be assessed.

The role of the roads sector in security, military mobility and emergency preparedness more generally, including climate adaptation, has also changed. A new geopolitical security situation, which includes Finland and Sweden's membership in NATO, has triggered new needs and requirements for the transport system, and an increase in the frequency and intensity of incidents related to extreme weather conditions is increasing the need for clearer regulation of responsibilities and roles in the roads sector. Section 10, first paragraph of the Roads Act regulates the various road authorities' responsibility for public safety and emergency preparedness for their road networks, while also referring to the Norwegian Public Roads Administration's responsibility for national tasks. The division of responsibilities and tasks in the

area of public safety and emergency preparedness can be demanding, and there are many players involved in both civil and military emergency preparedness in the roads sector. The Norwegian Safety Investigation Authority has also pointed out the need to clarify the division of responsibilities and tasks between the various road authorities in its report following the collapse of the bridge at Tretten in 2022. Under the Norwegian Security Act, the ministries are responsible for preventive security work within their areas of responsibility. At the same time, the municipalities have a responsibility to coordinate and promote emergency preparedness in relation to other relevant emergency response organisations within the municipality's area of jurisdiction. In addition, interrelated safety and emergency preparedness legislation, such as the Industrial Emergency Preparedness Act and the Requisition Regulations, are aimed at other players in the roads sector, both private and public. The Roads Act provides little or no guidance on how to resolve issues in these areas.

Good roads management also has an industrial policy aspect. One of the roads sector's main objectives clearly states that roads must serve the interests of business and industry. Improved accessibility and reduced delays will contribute to increased competitiveness for businesses. The stated scope of the Roads Act emphasises good traffic flow and can thus be interpreted as taking into account business policy interests, but the provision is not particularly clear.

An unclear understanding of how coordination between the Roads Act and the Planning and Building Act will function from a legal perspective raises issues related to how the legislation should be understood. These acts have a number of provisions that overlap to some extent. Lack of clarity as to how such coordination between two pieces of legislation should work and which piece of legislation should give way to the other can lead to inefficient and incorrect case processing. It is important to recognise the link between the Roads Act and the Planning and Building Act when road authorities are to safeguard road interests in planning and construction processes. This applies both to participation in external planning processes and when there is a need to change the boundaries in road zoning plans with regard to cadastral registration.

The law is based on a tripartite division of the public roads network into national, county and municipal roads. The lack of a description of responsibilities and obligations in the Roads Act can create uncertainty about where one party's responsibility begins and another's ends. In turn, this can lead to the road authorities applying previous non-statutory practices, partly based on what appears to be the most appropriate decision. A lack of coherence between the various sources of law makes it difficult for an individual to gain an overview of the coherence and system of roads legislation, and there is a risk that those who use the Act's provisions, road standards, guidelines and instructions may not understand the Act's overarching role in the body of legislation. There may also be ambiguities relating to the change of responsibility between the various road authorities through the reclassification of roads, and how these are applied.

The Norwegian government has ambitious goals to reduce Norwegian greenhouse gas emissions, and Norway has undertaken to meet strict obligations under the terms of the Paris Agreement and our associated agreement with the EU. The transport sector is a major source of emissions, and in order to achieve our national targets and meet out international commitments, emissions from the transport sector must be significantly reduced. The Avoiding, Shifting and Improving Transport (UFF) framework forms the basis for efforts to cut emissions in the transport sector. There is a need to work in all three areas up to the year 2050, and this must be taken into account in the legislative work. Phasing in both light and heavy zero-

emission vehicles requires, among other things, that the charging infrastructure does not restrict the transition to electrically-powered vehicles. This will create new opportunities, but also new challenges and pressure on the current regulation of roads infrastructure. The Alternative Fuels Infrastructure Act and appurtenant regulations govern the characteristics of publicly accessible charging points for electric vehicles and hydrogen refuelling points at energy stations. The establishment of charging points is market-based, which means that it will be up to the individual charging operator to assess where they want to establish new charging points. The establishment and management of charging infrastructure on the public roads network is not specifically regulated in the current Roads Act.

Economic considerations also apply to a greater extent. The use of resources for road-related purposes has increased dramatically in recent decades and has led to a major expansion of the roads network. It is a fundamental management principle in central government that organisations must ensure efficient use of resources. Although the objective of efficient use of resources is widely recognised, it is not reflected in the Roads Act. One reason why the overall use of resources for road-related purposes has risen sharply is the use of road user payments (tolls) to finance public roads. Report to the Storting no. 14 (2023–2024) *National Transport Plan 2025–2036*, for example, mentions an average annual estimate of NOK 8.4 billion in tolls for road projects during the period. This means that tolls will remain an important source of funding moving forward. Changing needs and development trends in urban areas will be an important driver for the development of toll collection systems and can serve as an example of the need for local authorities' involvement in the future, both as regards the development of the roads network and the use of tolls to finance public transport measures and to regulate traffic through time and environmentally differentiated toll rates. At the same time, it is important that toll financing is at a level that gives it legitimacy.

2. The committee's mission

The purpose of the committee's work is to propose changes (substantive, structural and legislative) to the Roads Act. The committee will conduct a comprehensive review of all chapters of the Roads Act and assess whether the structure of the road legislation in laws, regulations and standards is appropriate. The new roads legislation must meet society's need for comprehensible and forward-looking regulations. Furthermore, roads legislation must provide support for the efficient use of society's resources, good accessibility and the safeguarding of road safety, climate and environmental considerations and public safety, in line with the objectives for the transport sector as expressed in Report to the Storting no. 14 (2023–2024) *National Transport Plan 2025–2036*.

2.1 General objectives and framework for the committee's work

The committee shall conduct a complete review of the Norwegian Roads Act and propose improvements to ensure a clear and predictable framework for the road authorities' responsibility for their own road network. The committee must assess what should be regulated in laws, regulations and road standards, whether there are rules that should be repealed/changed and whether there are other instruments within the Ministry of Transport's area of responsibility that should be regulated in the Roads Act. In this context, the Local Government Act's guidelines for state management of municipalities and county councils must be applied. The committee may highlight the need for amendments to other laws where necessary to ensure uniform regulations.

In its work on the new Roads Act, the committee will assume that the Roads Act will include provisions regulating the authority and tasks that are necessary and specific to the organisation, financing, planning, design, construction, operation, maintenance, property acquisition, cadastral registration of property boundaries and other matters necessary to maintain and develop the road infrastructure.

The government considers it appropriate for the committee to make a comparison of regulations governing roads infrastructure in the Nordic countries and possibly for other comparable countries. This will help to identify at an early stage whether other countries have different and more socially beneficial roads infrastructure legislation than we have in Norway. The committee's analysis of this will be included in the committee's report.

In the investigation of society's need for regulation, an assessment must be made of the proposed legislation's financial and administrative consequences. The report must have as its basis an efficient and sustainable utilisation of society's resources facilitating increased overall value creation.

The committee shall prepare a complete proposal for a new Roads Act that is ready to be sent out for consultation and also recommend an overall structure for all roads legislation. The committee shall give emphasis to simplification, clarity and practical applicability.

The committee may obtain external reports within the financial framework for the committee's work.

2.2 Problem areas

The committee shall in particular assess:

- regulation of the current organisation, management and financing of the road sector in Norway
- what will be the key challenges and tasks for the road sector in the future
- a more comprehensive regulation of the road authorities' responsibilities, including whether there is a need for overarching statutory requirements for responsibility for planning, building, operating, maintaining and managing the various categories of public roads
- clarifying the division of responsibilities for public safety and emergency preparedness related to public roads, including responsibilities in connection with unforeseen incidents, provisions on information security and ICT security
- which national tasks should be regulated in the Roads Act, and how to ensure that these tasks are also carried out as a result of the Norwegian Public Roads Administration having to coordinate or obtain information from road authorities and Nye Veier
- a clearer delineation of responsibilities between the various levels of road authorities
- how the Roads Act and the Planning and Building Act are interrelated and clarify ambiguities related to the interface between these and other relevant items of legislation. In this connection, the regulation of other infrastructure, such as harbours, railway terminals and airports, must also be considered
- for which measures or regulatory purposes expropriation may be recommended
- a clearer regulation of the exercising of authority versus private autonomy
- a clearer regulation of the financing of public roads, including tolls

- how the consideration of emergency preparedness and military mobility can be addressed in the new roads legislation
- more user-oriented requirements for public roads
- a clear and forward-looking regulation of responsibility for data, particularly with regard to the development of a digital and navigable road network, including whether there is a need for stronger integration of provisions on intelligent transport systems (ITS)
- more detailed requirements concerning the management systems of the road authorities and state road development company
- whether the delimitation of supervisory authority under the Roads Act is appropriate in view of society's need for comprehensive road-related supervision
- society's need for the regulation of private roads in a future roads legislation
- whether roads legislation facilitates good and efficient processes both for roads infrastructure and in cases where other infrastructure interfaces with public roads
- how the consideration of efficient use of resources can be incorporated into the Roads Act
- legal developments in the EU/EEA and regulation in the other Nordic countries

3. Limitations to the mandate

The report shall take as its point of departure the fact that the current organisation of the roads sector shall remain unchanged. This means that the committee's proposals shall not include any changes to the organisation of the Norwegian Public Roads Administration and that the counties and municipalities shall remain responsible for the administration of their own road networks.

Furthermore, it is assumed that Nye Veier is assigned tasks relating to the national roads.

It must also be assumed that a supervisory authority (the Norwegian Road Safety Authority) has supervisory duties on public roads. The committee may nevertheless (see the points above) consider whether the Norwegian Road Safety Authority's mandate has been designed appropriately. At present, the authority's mandate is limited to national roads, but a study is currently underway in which a possible expansion of the authority's mandate will be assessed on the basis of the needs of society.

The report shall take as its basis the current division of responsibilities within the toll sector, in particular the fact that the collection of tolls requires the Norwegian parliament's (Storting) consent and that toll collection is based on local initiatives. Alternatives or complementary measures to today's toll collection, such as road pricing, are not part of the mandate.

4. General guidelines

The committee must base its work on the reporting instructions, see in particular sections 2-1 and 2-2 of the instructions, including investigation of relevant alternative measures.

The committee shall draft the bills in accordance with the recommendations in the Ministry of Justice and Public Security's guide "Lovteknikk og lovforberedelse" [Legislative drafting and the preparation of legislation] (2000) (see section 4-1 of the reporting instructions). An important aim of the drafting work is to achieve user-friendly rules. The proposed legislation should therefore be systematic and use simple and clear language.

Technological developments are an important premise for any regulatory changes. The committee shall assume that a new Roads Act will be technology-neutral.

5. Implementation

The Ministry of Transport may supplement and amend the mandate as needed. The committee may also propose changes to the mandate to the Ministry.

The committee will have its own secretariat.

The financial framework for the committee's work will be determined separately.

A start-up meeting will be held between the committee chair and the Ministry. If there is any doubt about the content of the mandate, the committee chair must contact the Ministry. The Ministry may make necessary clarifications and adjustments to the mandate.

The committee must facilitate input from relevant centres of expertise. Consideration should be given at an early stage to whether it would be appropriate to organise input meetings, seminars or otherwise obtain views from relevant groups. The main features of the input and the assessments of these shall be stated in the report.

The committee's work shall be based on the current guidelines for committee work in central government.

The committee shall submit its report as an Official Norwegian Government Report (NOU) by the end of April 2028.