



FEDERAL ROADS MAINTENANCE AGENCY (ESTABLISHMENT, ETC) ACT

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SCHEDULE

Supplementary Provisions relating to the Board

FEDERAL ROADS MAINTENANCE AGENCY (ESTABLISHMENT, ETC.) ACT

An Act to establish the Federal Roads Maintenance Agency and for matters connected therewith.

[30th November, 2002] [Commencement.]

ENACTED by the National Assembly of the Federal Republic of Nigeria.

PART I: Establishment of the Federal Roads Maintenance Agency

1. Establishment of the Agency and location of its headquarters and operational offices

- (1) There is established an agency to be known as the Federal Roads Maintenance Agency (in this Act referred to as "the Agency").
- (2) The Agency-
 - (a) shall be a body corporate with perpetual succession and a common seal; and
 - (b) may sue and be sued in its corporate name.
- (3) The Agency headquarters shall be located in the Federal Capital Territory, Abuja.
- (4) The Agency shall maintain Operational Offices in each State of the Federation, which shall establish road camps for proper monitoring and maintenance of all Federal roads.

2. Establishment of governing board

- (1) There shall be established for the Agency, a fourteen-member governing board for the running of the affairs of the Agency (in this Act referred to as "the Board").
- (2) The Board shall consist of-
 - (a) the Chairman, who shall be drawn from the private sector;
 - (b) a representative of the-
 - (i) Director in charge of Federal Highways Development;

- (ii) the Federal Ministry of Finance;
- (iii) NARTO;
- (iv) Petroleum Pricing Regulatory Agency (PPRA);
- (v) Nigerian Association of Public Highways and Transportation Officials (NAPHTO);
- (vi) the Federal Roads Safety Corps;
- (vii) from each of the six geo-political zones; and
- (c) the Managing Director of the Agency.

(3) Members of the Board shall be appointed by the President subject to confirmation by the Senate.

3. Powers of the Board

- (1) The Board shall have power to-
 - (a) provide the general policies and guidelines relating to the programmes of the Agency;
 - (b) manage and superintend the affairs of the Agency;
 - (c) subject to the provisions of this Act, make, alter and revoke rules and regulations for carrying on the functions of the Agency;
 - (d) fix terms and conditions of service, including remuneration of the employees of the Agency; and
 - (e) do such other things which in the opinion of the Board are necessary to ensure the efficient performance of the functions of the Agency.
- (2) The supplementary provisions set out in the Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters contained therein.

4. Tenure of Office, etc.

The chairman and other members of the Board, other than *ex officio* members shall hold Office-

- (a) for a term of 4 years and may be re-appointed for a further term of 4 years and no more; and
- (b) on such terms and conditions as may be specified in their letters of appointments.

5. Removal from Office, etc.

- (1) Notwithstanding the provisions of section 4 of this Act, a member may at any time be removed from Office by the President of the Federal Republic of Nigeria on the occurrence of any of the following-
 - (a) he becomes bankrupt;
 - (b) he is convicted for a felony or any offence involving dishonesty or fraud;
 - (c) he becomes of unsound mind or is incapable of carrying out his duties;
 - (d) he is guilty of a serious misconduct in relation to his duties; or
 - (e) in the case of a person possessed of professional qualification, he is disqualified or suspended, other than at his own request, from practicing his profession in any part of the world by any order of a competent authority made in respect of that member.
- (2) A member of the Board may resign his appointment by a notice in writing under his hand, addressed to the President and that member shall, on the date of the receipt of the notice by the President of the Federal Republic of Nigeria cease to be a member of the Board.
- (3) Where a member of the Board ceases to hold Office for any reason whatsoever, before the expiration of the term for which he is appointed, another person representing the same interest as that member shall be appointed to the Board for the unexpired term.
- (4) A member of the Board may, subject to the ratification of the National Assembly by a simple majority vote, be removed by the

President upon being satisfied that it is not in the interest of the Agency or the public that the member should continue in Office.

6. Emoluments, etc.

Members of the Board shall be paid such allowances as the Government may direct from time to time.

PART II

Functions and Powers of the Agency

7. Functions of the Agency

The Agency shall ensure the efficient and effective maintenance of all existing Federal trunk roads or such other roads as may be declared, from time to time, as Federal trunk roads by the National Assembly.

9. Powers of the Agency

Without prejudice to the generality of the following, the Agency shall -

- (a) enter into road concession contracts for the purpose of executing relevant projects;
- (b) set guidelines for the working of concessions contracts;
- (c) plan and manage the development and implementation of the road safety standards;
- (d) plan and develop strategies towards ensuring efficient and effective movement of traffic on the Federal trunk roads and ensure their implementation;
- (e) make policy recommendations to the Federal Government on matters relating to the maintenance of Federal trunk roads;
- (f) carry out such other activities as appear to it necessary or expedient for the full and efficient discharge of its functions under this Act.

PART III

Staff of the Agency

9. Appointment and duties, etc. of the Managing Director

- (1) There shall be for the Agency, a Managing Director who shall be appointed by the President of the Federal Republic of Nigeria, on the recommendation of the Minister in charge of Highways.
- (2) The Managing Director shall be the Chief Executive and Accounting Officer of the Agency and be responsible for the execution of the policy and the day to day administration of the affairs of the Agency.
- (3) The Managing Director shall hold Office -
 - (a) for a term of 4 years in the first instance and may be re-appointed for a further term of 4 years and no more; and
 - (b) on such terms and conditions as may be specified in the letter of appointment.
- (4) The Managing Director may resign his appointment by a notice in writing under his hand, addressed to the President through the Board.

10. Appointment and duties of the Secretary

The Board shall appoint for the Agency a Secretary who shall -

- (a) be a legal practitioner and is so qualified to practice for a period of not less than 10 years;
- (b) keep the records and conduct the correspondences of the Agency; and
- (c) perform such other functions as the Board or the Managing Director may direct.

11. Other employees of the Agency

The Board shall appoint, for the Agency, such officers and other employees as it may, from time to time, deem necessary.

12. Appointment and secondment from Public Service

- (1) Notwithstanding the provisions of sections 10 and 11, the Board shall have power to appoint for the Agency either directly or on secondment from any public service in the Federation, such number of employees as

may, in the opinion of the Board be required to assist the Agency in the discharge of any of its functions under this Act.

- (2) The person so seconded under this section may elect to be transferred to the service of the Agency, and any previous service he may have rendered in the public service shall count as service to the Agency for the purpose of any pension subsequently payable by the Agency.

13. Pensions

- (1) It is hereby declared that service in the Agency shall be approved service for the purpose of the Pension Act and, accordingly, employees of the Agency shall be entitled to pension, gratuities and other retirement benefits as are prescribed under the Pensions Act.
- (2) Notwithstanding the provisions of subsection (1) of this section nothing in this Act shall prevent the appointment of a person to any Office on terms which preclude the grant of a pension, gratuity or other retirement benefits in respect of that Office.
- (3) For the purposes of the application of the provisions of the Pensions Act, any power exercisable by a Minister or other authority of the Federal Government, other than the power to make regulations under section 23 of the Pensions Act, is hereby vested in and shall be exercisable by the Agency and not by any other person or authority.

PART IV

Financial Provisions

14. Funds of the Agency

- (1) The funds of the Agency shall consist of-
 - (a) the take-off grant from the Federal Government;

- (b) annual subvention from the Federal Government as provided for in the Appropriation Act;
 - (c) loans and grant-in-aid from Federal, bilateral and multilateral agencies;
 - (d) rents, fees and other internally generated revenues from services provided by the Agency;
 - (e) all monies collected from the toll gates;
 - (f) such monies accruing from road concessions;
 - (g) all other sums accruing to the Agency from time to time;
 - (h) 5% user's charge on pump price of petrol, diesel and of which 40% will accrue to FERMA and 60% to be utilised by the established State Roads Maintenance Agencies; and
 - (i) international vehicles transit charge as may be determined by the Honourable Minister of Transportation.
- (2) The Board shall cause the publication of its funds under section 14 (1) (h) of this section to be utilised by the established State Roads Maintenance Agencies and its disbursement in the electronic and print media from time to time.

15. Application of the Agency's fund

The Agency may, from time to time, apply its funds-

- (a) to the cost of administration of the Agency;
- (b) to the paying of the emoluments, allowances and benefits of members of the Board and for reimbursing members of the Board or of any committee set up by the Board for such expenses as may be expressly authorised by the Board;
- (c) to the payment of the salaries, fees or other remuneration or allowances, gratuities and pensions, and other benefits payable to the officers and other employees of the Agency, so however that no payment of any kind under this paragraph (except such as may be expressly authorised by the Board) shall be made to any person who is in receipt of emoluments from the Federal or State Government;

- (d) for the development and maintenance of any property vested in or owned by the Agency; and
- (e) for and in connection with all or any of its functions under this Act.

16. Annual estimates and accounts

- (1) The Agency shall, not later than 30th August in each year, submit to the Minister an estimate of its expenditure and income (including payments to the Agency) for the next succeeding year.
- (2) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within three months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

17. Audit

- (1) The Auditor-General of the Federation shall-
 - (a) inspect and audit the accounts and records of the financial transactions of the Agency;
 - (b) inspect records relating to assets of the Agency, and
 - (c) draw the attention of the Minister to any irregularity, which is disclosed, by the inspection and audit.
- (2) The Auditor-General or an officer authorised by him is entitled at all reasonable time to full and free access to all accounts, records, documents and papers of the Agency relating directly or indirectly to the receipt or payment of money by the Agency or to the acquisition, receipt, custody or disposal of assets by the Agency.

18. Annual reports

The Agency shall prepare and submit to the President, through the Minister in charge of Highways, not later than six months after the end of each financial year, a report of the activities of the Agency during the immediate preceding year, and shall include in such report a copy of the audited accounts of the Agency for that year and the Auditor's report on the accounts.

19. Power to accept gift, etc.

The Agency may accept any gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift; provided that the Agency shall not accept any gift if the conditions attached are inconsistent with the functions of the Agency and the terms of existing laws.

20. Power to borrow

- (1) The Agency may, from time to time, borrow such sums as it may require for the performance of its functions under this Act.
- (2) The Agency shall not, without the approval of the Minister, borrow money which exceeds, at any time, the amount set by the Minister.
- (3) Notwithstanding subsection (1) of this section, where the sum to be borrowed is in foreign currency, the Agency shall not borrow the sum without the prior approval of the Minister

21. Investment

The Agency may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds in any security prescribed by the Trustee Investments Act or in such other securities as may, from time to time, be approved by the Board.

22. No exemption from payment of income tax

The Agency shall not be exempted from the payment of income tax on any income accruing from investments made by the Board for the Agency or otherwise howsoever.

23. Power to acquire land

The Agency may subject to the Land Use Act, acquire, any land for discharging its functions. PART V:

Miscellaneous Provisions

24. Limitation of suits against the Agency, etc.

Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against an officer or employee of the Agency.

25. Service of documents

A notice, summons or other documents required or authorised to be served upon the Agency under the provisions of this Act or any other enactment or law may be served by delivering it to the Managing Director or by sending it by registered post addressed to the Managing Director at any of the principal offices of the Agency.

26. Indemnity of officers

A member of the Board, the Managing Director, any officer or employee of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, if any such proceeding is brought against him in his capacity as a member of the Board, the Managing Director, officer or other employee of the Agency.

27. Secrecy

(1) A member of the Board or the Managing Director or any other officer or employee of the Agency shall-

- (a) not, for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty as a member of the Board or as the Managing Director, officer or employee of the Agency;
- (b) treat as confidential any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his duties under this Act;
- (c) not disclose any information referred to under paragraph (b) of this subsection, except where required to do so by a court or in such other circumstances as may be prescribed by the Board, from time to time.

- (2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine of not less than ₦20,000 or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

28. Establishment of road camps

The Agency may establish road camps in each Local Government Area where a Federal road is located.

29. Savings and transitional provisions

- (1) The statutory functions, rights, interest, obligations and liabilities of the department responsible for the maintenance of Federal roads before the commencement of this Act under any contract or instrument by virtue of this Act shall be deemed to have been assigned to and vested in the Agency.
- (2) All assets, funds, resources and any other movable or immovable property which immediately before the commencement of this Act were vested in the department responsible for the maintenance of the Federal roads shall be vested in the Agency.
- (3) Any person who immediately before the coming into force of this Act is the holder of any Office in the department responsible for the maintenance of the Federal roads shall continue in Office and be deemed to have been appointed to the Office by the Agency.

30. Regulations

The Board may, with the approval of the Minister in charge of Highways make such regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration of its provisions.

31. Interpretation

In this Act, except where the context otherwise requires-

"Agency" means the Federal Roads Maintenance Agency established by section 1 of this Act;

"Board" means the governing board established for the Agency by section 2 of this Act;

"Federal roads" has the meaning given to it by section 28 of the Federal Highway Act Cap. 135;

"function" includes power and duty;

"geo-political zones" mean the geo-political units of the Federation;

"member" means a member of the Board and includes the Chairman;

"Minister" means the Federal Minister in charge of Federal Highways;

"Ministry" shall be construed accordingly;

"President" means the President of the Federal Republic of Nigeria;

"power" includes functions and duty; and

"road camps" means the outfit and/or unit office established by the Agency along Federal roads in each Local Government Area and include the Federal roads' camps which cater for clusters of Local Government Areas in high population density urban areas.

32. Citation

This Act may be cited as the Federal Roads Maintenance Agency (Establishment, etc.) Act.

SCHEDULE

Supplementary Provisions relating to the Board

Proceedings of the Board

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of any of its Committees.
2. At every meeting of the Board the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their members to preside.
3. The quorum at a meeting of the Board shall consist of the Chairman or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule, and five other members.
4. The Board shall for the purposes of this Act, meet not less than three times in each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman, and if required to do so, by notice given to the Chairman by not less than five members, the Chairman shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.
5. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it thinks fit, but a person who is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.
6. **Committees**
 - (1) Subject to its standing orders, the Board may appoint such number of standing and *ad hoc* committees as it thinks fit to consider and report on any matter with which the Agency is concerned.
 - (2) A committee appointed under this paragraph shall-
 - (a) consist of such number of persons (not necessarily members of the Board as may be determined by the Board), and a person other than a member of the Board shall hold Office on the committee in accordance with the terms of his appointment; and
 - (b) be presided over by a member of the Board.

- (3) The quorum of any committee set up by the Board shall be as may be determined by the Board.
- (4) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

- 7.** The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman, the Managing Director or any other person generally or specifically authorised by the Board to act for that purpose.
- 8.** Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Agency by the Managing Director or by any other person generally or specifically authorised by the Board to act for that purpose.
- 9.** Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Agency shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.
- 10.** The validity of any proceedings of the Board, or of any of its committees shall not be affected by-
 - (a) any vacancy in the membership of the Board or committee; or
 - (b) any defect in the appointment of a member of the Board or committee; or
 - (c) reason that any person not entitled to do so took part in the proceedings of the Board or committee.
- 11.** (1) A member of the Board who is directly or indirectly interested in any matter being deliberated on by the Board or is interested in any contract made or proposed to be made by the Agency shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.
 - (2) A disclosure under subparagraph (1) of this section shall be recorded in the Minutes of the Meeting of the Board and the member concerned shall-

- (a) not, after the disclosure take part in any deliberation or decision of the Board on the issue; and
 - (b) be excluded for the purpose of constituting a quorum of any meeting of the Board for any deliberation or decision, with regard to the subject-matter in respect of which his interest is so disclosed.
- 12.** No member of the Board shall be personally liable for any act or omission done or made in good faith while engaged on the business of the Agency.

FEDERAL ROADS MAINTENANCE AGENCY (ESTABLISHMENT, ETC.) ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation

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