

No. 3 of 2003.

National Roads Authority Act 2003.

Certified on: 8/7/2003.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

National Roads Authority Act 2003,

Being an Act to establish the National Roads Authority and to make provision for its functions and powers, and to establish the Road Fund, and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART 1. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (qualified rights) of the *Constitution*, namely –

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to freedom of employment conferred by Section 46 of the *Constitution*;
- (c) the right to privacy conferred by Section 49 of the *Constitution*; and
- (d) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purposes of giving effect to the public interest in public safety, public order and public welfare and the development of underprivileged or less advanced areas.

(2) For the purposes of Section 53 of the *Constitution* (protection from unjust deprivation of property), it is hereby declared that the purposes of the Authority and of this Act are public purposes.

(3) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments* it is hereby declared that this Act relates to a matter of national interest and that it is dealing with a matter of urgent national importance.

2. INTERPRETATION.

In this Act, unless the contrary intention appears –

“**Authority**” means the National Roads Authority established by Section 4;

“**Board**” means the Board of the Authority established by Section 8;

“**Chairman**” means the Chairman of the Board appointed under Section 10;

“**charge**” means the charge levied pursuant to Section 32 on vehicles or the fuel consumed by vehicles for the use of roads;

“**Chief Executive Officer**” means the Chief Executive Officer of the Authority appointed under Section 22;

“**emergency maintenance**” means repairs carried out to remedy damages to a road caused by unforeseen circumstances;

“**fuel**” means petrol and diesel and includes gas or other light oils of the type used as fuel in piston engines in motor vehicles;

“**maintenance**” means routine, specific and emergency maintenance carried out on a road to keep it in an appropriate condition;

“**member**” means a member of the Board;

“**public authority**” means any –

- (a) Department; or
- (b) State Service; or
- (c) authority or instrumentality or other body (corporate or unincorporated (other than a Provincial Government) established by or under a Constitutional Law or an Act of Parliament for government or administrative purposes;

“**public road**” means a street, road, lane or thoroughfare open to or used by the public;

“**road**” means a public road or part of a public road, and includes –

- (a) a bridge, culvert, ford and any waterway crossing structure on a road; and
- (b) a vehicular ferry used as a link between two roads, but does not include a footpath or footway;

“**Road Fund**” means the Road Fund established by Section 30;

“**road reconstruction**” means major structural repairs that are required to bring back the road or bridge to its original condition;

“road rehabilitation” means repair works carried out to bring back the road to its original condition;

“road user charge” (RUC) means a charge imposed by Section 32;

“routine maintenance” means maintenance to a road that is done in programme cycle/frequencies (on a more frequent cycle than periodic maintenance), involving spot gravel regarding and reshaping, pothole repairs, edge patching, shoulder repairs, crack resealing, grass cutting, drainage clearing, line marking, road furniture repair, bridge repainting and other minor repairs under 1 per cent of a km length of each road section;

“Secretary” means the Board Secretary appointed under Section 25;

“specific maintenance” means specific and periodic road maintenance to a road which is carried out on a condition-responsive basis and includes regravelling, resealing, line marking, pavement, bridge and culvert repairs, road furniture replacement, and pot hold repairs, spot regravelling, edge and shoulder repairs over 1 per cent of a km length of each road section.

“this Act” includes the Regulations.

“Unit Manager” means a Unit Management appointed under Section 24.

3. APPLICATION.

This Act binds the State.

PART 2. – ESTABLISHMENT, ETC., OF NATIONAL ROADS AUTHORITY.**4. ESTABLISHMENT OF THE NATIONAL ROADS AUTHORITY.**

(1) The National Roads Authority is hereby established.

(2) The National Roads Authority –

(a) is a body corporate with perpetual succession; and

(b) shall have a common seal; and

(c) may acquire, hold and dispose of property; and

(d) may sue and be sued in its corporate name.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the National Roads Authority affixed to document and shall presume that it was duly affixed.

5. OBJECTIVE OF THE AUTHORITY.

The objective of the Authority is –

(a) to raise funds for the maintenance of public roads; and

(b) to ensure the efficient preparation of effective annual road maintenance programmes; and

(c) to ensure that all routine, specific and emergency maintenance of roads and road rehabilitation and reconstruction funded by the Authority are executed in a transparent, effective and efficient manner,

in order to optimise the contribution of road assets to the economic and social development of Papua New Guinea.

6. FUNCTIONS OF THE AUTHORITY.

(1) Subject to Subsection (2), the functions of the Authority are –

(a) to establish and operate a Road Fund from road user charges, budget and other sources; and

(b) to establish resources and an organisation to enable the Authority to perform its functions; and

(c) to maintain and manage updated data on asset conditions using the Road Asset Management System, Bridge Inventory and Bridge Maintenance and other approved systems; and

(d) to formulate and determine prioritised annual road maintenance plans and programmes using the Road Asset Maintenance System, Bridge Inventory and Bridge Maintenance and other approved systems to be supported by the road sector cost recovery revenue; and

- (e) to establish annual road maintenance funding requirements in accordance with the future annual road maintenance plans; and
- (f) to determine and implement road user charges in accordance with the financial resource requirements of the annual road maintenance plans; and
- (g) to deliver the required routine, specific and emergency road maintenance in accordance with the maintenance service levels established for each class or type of road, through the contracting of independent contractors, and to monitor and supervise the contracts as they are executed; and
- (h) to deliver road improvement, and road restoration when required, by undertaking the design studies necessary for the programmed road improvement or rehabilitation projects –
 - (i) by preparing corresponding construction plans, specifications, cost estimates, and the other documents required for the proper tendering of the programmed works; and
 - (ii) by monitoring and supervising the works as are executed, by such qualified consultants and/or contractors as are engaged; and
 - (iii) by ensuring safety audits on design, construction, maintenance and safety aspects of road; and
- (i) to establish and sustain contract management capacity to ensure the validity of contracts and the effective management of contracts awarded for the execution of agreed road maintenance works and rehabilitation and reconstruction projects; and
- (j) to ensure that all contracts are tendered through a transparent and competitive procedure to ascertain economic efficiency and sustainability in delivery of road maintenance and rehabilitation works, and
- (k) to keep adequate records and to maintain a management information system which provides the Board and staff with accurate and timely information on commitments, expenditures and revenue for the purchase of consultancy and contracting services and other purchases and outlays;
- (l) to report publicly and transparently on collection of user charges, revenues, and in detail on the use of the revenues on the road maintenance programmes in accordance with internationally accepted accounting principles; and
- (m) to establish environmental management capacity;
- (n) to provide a continuing programme of professional staff development and required skills training for non-professional staff; and

- (o) to construct, erect or affix signs or marks on road transport infrastructure in accordance with the *Motor Traffic Act 1950*.

(2) Notwithstanding the commencement of this Act, functions specified under Subsection (1) shall not be carried out by the Authority until such time as the Minister on the advice of the Board by notice in the National Gazette directs that –

- (a) on and from the date specified in the National Gazette; and
- (b) subject to such terms and conditions as the Minister determines,

a function referred to in Subsection (1) shall be carried out by the Authority in accordance with the operational requirements of the Authority or such plans or programmes for the proper implementation of this Act.

7. POWERS OF THE AUTHORITY.

(1) The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions under this Act and may require a person to provide to it such particulars, as the Authority may determine, relating to that person or his functions which affect any of the functions of the Authority.

(2) Where in the opinion of the Authority –

- (a) any information, books or records in the possession of or under the authority of a person is or are relevant to the exercise or performance of the powers or functions of the Authority under this Act or to the achievement of the purposes of this Act; and
- (b) it is desirable that the information be given to the Authority or that the books or records be made available for inspection by the Authority,

the Authority may issue to the person a written notice to that effect under the hand of the Chairman specifying the relevant information, books and records and specifying the place and time at which any information, books and records are to be furnished or produced.

(3) Where a notice under Subsection (2) has been furnished to the person to whom it is issued, the person shall furnish or produce for inspection at the place and time specified in the notice such information, books and records as are specified in the notice and copies of or extracts from any information, books and records so furnished may be made and retained by the Authority.

(4) The provisions of Subsection (3) do not affect the operation of any law by or under which any information, book or record is to be kept confidential.

(5) A person, who fails to comply with Subsection (3), is guilty of an offence.

Penalty: A fine not exceeding K5, 000.00 or imprisonment for a term not exceeding one year, or both.

(6) It is a defence to the charge of an offence under Subsection (5), where the person charged proves that the information, books or records –

- (a) was not or were not relevant to the functions of the Authority under this Act, or to the achievement of the purposes of this Act; or
- (b) was not or were not in his possession or custody or under his control at the time of receipt of the notice under Subsection (2).

PART 3. – BOARD, ETC., OF THE AUTHORITY.

8. BOARD OF THE AUTHORITY.

(1) There shall be a Board of the Authority which shall consist of the following members: –

- (a) the Departmental Head of the Department responsible for treasury matters, *ex officio*, or his nominee; and
- (b) the Departmental Head of the Department responsible for planning and monitoring matters, *ex officio*, or his nominee; and
- (c) the Departmental Head of the Department responsible for works matters, *ex officio*, or his nominee; and
- (d) the Departmental Head of the Department responsible for transport and civil aviation matters, *ex officio*, or his nominee; and
- (e) the Chairman of the Transport and Infrastructure Sector Committee of the Consultative Implementation and Monitoring Council; and
- (f) one person nominated by the Papua New Guinea Chamber of Commerce and Industry; and
- (g) one person nominated by the Road Transport Association of Papua New Guinea; and
- (h) one person nominated by the Papua New Guinea Chamber of Mines and Petroleum; and
- (i) one person nominated by the Papua New Guinea Institute of Accountants; and
- (j) one person nominated by the Institution of Engineers PNG; and
- (k) one person nominated by the Rural Industries Council.

(2) The Board shall –

- (a) carry out the functions, exercise the powers and manage the affairs of the Authority; and
- (b) provide for the safe custody of the common seal of the Authority.

(3) In carrying out of its functions under Subsection (2), the Board shall be responsible and accountable to the Minister for ensuring achievement of optimal road conditions, efficiency, effectiveness, transparency and propriety in the collection of funds, conduct of its business and the effective operation of the activities of the Authority.

(4) The members of the Board referred to in Subsection (1)(e), (f), (g), (h), (i), (j) and (k) –

- (a)¹ shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b) shall hold office for a term not exceeding three years; and
- (c) are eligible for re-appointment.

(5) The members referred to in Subsection (1)(e), (f), (g), (h), (i), (j) and (k) shall be entitled to such fees and allowance as are determined by the Minister.

(6) Where under Subsection (1)(a), (b), (c) or (d) a nominee is nominated, the nominee shall be an officer of not less than First Assistant Secretary level of the equivalent.

9. ALTERNATE MEMBERS.

(1) For each of the members appointed under Section 8(1)(e) to (k) inclusive an alternate member shall be appointed in the same manner and subject to the same conditions as the member for whom he is the alternate.

(2) In the event of the inability to act of a member, the alternate member has and may exercise all his powers, functions, duties and responsibilities and this Act applies accordingly.

(3) An alternate member may, unless the Board otherwise directs, attend all meetings of the Board but shall not, except where he is attending in the absence of the member for whom he is the alternate, take part in debate, vote on any matter or be counted towards a quorum.

10. CHAIRMAN AND DEPUTY CHAIRMAN.

(1) The members shall elect –

- (a) one of the members referred to in Section 8(1)(e), (f), (g), (h), (i), (j) or (k) to be the Chairman; and
- (b) one other member to be the Deputy Chairman,

of the Board and shall fix the period of their terms as Chairman and Deputy Chairman respectively.

(2) The Chairman and Deputy Chairman shall hold office as Chairman and Deputy Chairman until the expiry of the period of their terms under Subsection (1), or until they cease to be members, whichever shall first happen.

(3) Where for any reason the Chairman is unable to act, the Deputy Chairman may exercise or perform all or any of the powers and functions of the Chairman.

¹ Section 8 Subsection (4) amended by No. 97 of 2006, Sched. 1.

11. APPLICATION OF LEADERSHIP CODE.

Pursuant to Section 26(3) of the *Constitution* (Application of Division 2), the office of a member of the Board is declared to be a public office to and in relation to which Division III.2 (Leadership Code) of the *Constitution* applies.

12. LEAVE OF ABSENCE.

(1) The Minister may grant leave of absence to the Chairman on such terms and conditions as he determines.

(2) The Chairman may grant leave of absence to a member on such terms and conditions as he determines.

13. VACATION OF OFFICE OF MEMBER ON THE BOARD.

(1) A member, other than an *ex officio* member, may resign his office by writing, signed by him and delivered to the Minister.

(2) If a member, other than an *ex officio* member –

(a) dies; or

(b) becomes permanently incapable of performing his duties; or

(c) resigns his office in accordance to Subsection (1); or

(d) absents himself, except on leave granted in accordance with Section 12, from three consecutive meetings of the Board; and

(e) fails to comply with the provisions of Section 16 or

(f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(g) is convicted of an offence punishable under a law by death or imprisonment for one year or longer, and as a result of the conviction is subject to be sentenced to death or imprisonment;

the Minister shall terminate his appointment.

14. DECLARATION OF OFFICE.

A member shall, before entering on the duties of this office, make or subscribe before the Minister, or a person authorized by the Minister for the purpose, an oath or affirmation of office in the form specified in the Schedule.

15. VACANCY NOT TO AFFECT POWERS AND FUNCTIONS.

The exercise of a power or performance of a function of the Authority under this Act is not invalidated by reason only of a vacancy in the membership of the Board.

16. DISCLOSURE OF INTERESTS.

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the meeting of the Board and, unless the Minister or the Board determines otherwise, the member –

- (a) shall not be present during any deliberation of the Authority with respect to that matter; or
- (b) shall not take part in any decision of the Authority with respect to that matter; and
- (c) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

(3) The Board shall cause particulars of any disclosure recorded under Subsection (2) to be made available at all reasonable hours for inspection by any person on payment of such fees as the Board may, from time to time, determine.

17. MEETINGS OF THE BOARD.

(1) The Board shall hold such meetings as are necessary for the efficient performance of its functions and at such times and places as it determines or as the Chairman directs, but in any event, shall meet not less frequently than once in every three months.

(2) The Chairman –

- (a) may, at any time, convene a meeting of the Board; and
- (b) shall, on receipt of a written request signed by not less than two other members of the Board, convene a meeting of the Board within 15 days.

(3) The Chairman shall give to all members at least seven days written notice of the meeting of the Board.

(4) Subject to Subsection (5), the Chairman shall preside at all meetings of the Board.

(5) Where the Chairman is not present at a meeting of the Board, the Deputy Chairman shall preside and if both the Chairman and Deputy Chairman are not present, the members present shall elect one of their number to preside at the meeting.

(6) At a meeting of the Board –

- (a) the Chairman or the Deputy Chairman and five members are a quorum; and
- (b) matters arising shall be decided by a majority of votes of the members present and voting; and

(c) the person presiding has a deliberative and, in the event of an equality of votes on any matter, also casting vote.

(7) The Board shall cause minutes of its meetings to be recorded and kept.

(8) Subject to this Act, the procedures of the Board are as determined by the Board.

18. COMMITTEES OF THE BOARD.

(1) The Board may, from time to time, establish committees of the Board to advise the Board on such matters as the Board considers necessary.

(2) In establishing a committee under Subsection (1), the Board may –

(a) appoint such persons as it considers necessary; and

(b) specify the functions and procedures of the committee.

(3) A member of a committee who is not a member of the Board may receive fees and allowances under the *Boards (Fees and Allowances) Act 1955*.

19. CONSULTANTS.

(1) The Board may from time to time, within the limit of funds available for the purpose appoint, as a consultant or consultants on any matter in relation to its functions, such person or persons as possesses the appropriate expertise.

(2) The terms and conditions of a consultant or consultants employed under Subsection (1) are as determined by the Board subject to the approval of the Minister.

20. REPORTS.

(1) The Board shall furnish to the Minister before 31 March in each year a report on the progress and performance of the National Roads Authority in relation to its functions in respect of the year ending 31 December preceding, and the Minister shall table such report at the first sitting of the National Parliament after the date of his receipt of it.

(2) The Annual Report shall, *inter alia*, state –

(a) an explanation of the Authority's mission and objectives; and

(b) a description of the Authority's activities for the year, structured according to the strategies and programmes pursued in relation to each objective, including output measures or indicators against which the Authority's performance can be judged; and

(c) an explanation of the accounting policies adopted by the Authority, with a clear demonstration of how the Board fulfils its commitment to transparency of operations; and

- (d) the performance measures achieved by the Authority during the year compared with previous years and an explanation of the apparent trends; and
- (e) the audited accounts of the Authority, together with the auditor's report; and
- (f) comprehensive appendices of road network and road traffic statistics.

(3) The Board shall also furnish to the Minister such other reports as the Minister may require at such intervals as the Minister may determine.

PART 4. – STAFF OF THE NATIONAL ROADS AUTHORITY.**21. STAFF OF THE NATIONAL ROADS AUTHORITY.**

(1) There shall be –

- (a)² a Chief Executive Officer of the Authority, appointed in accordance with Section 22; and
- (b) three Unit Managers, appointed by the Board in accordance with Section 24; and
- (c) a Secretary appointed by the Board in accordance with Section 25; and
- (d) such other persons as the Chief Executive Officer considers necessary for the purposes of this Act, appointed by the Chief Executive Officer in accordance with Section 26.

(2) The Chief Executive Officer, Unit Manager, Secretary and persons referred to in Subsection (1)(d) constitute the staff of the Authority.

22. CHIEF EXECUTIVE OFFICER.

(1)³ ⁴There shall be the Chief Executive Officer of the Authority whose manner of appointment, suspension and dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) Before making an appointment under Subsection (1), the Board shall –

- (a) determine the qualifications and experience required for the office of Chief Executive Officer and the criteria to be applied in selecting a suitable person; and
- (b) determine, subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of employment so as to ensure merit-based performance evaluation, adequacy of remuneration and performance-based salary; and
- (c) advertise the office –
 - (i) on at least two occasions in a newspaper circulating nationally; and
 - (ii) in such other manner (if any) as the Board considers to be necessary or desirable.

(3) The Chief Executive Officer –

- (a)⁵ shall hold office at the pleasure of the Head of State, acting on advice; and

² Section 21 Subsection (1) amended by No. 97 of 2006, Sched. 1.

³ Section 22 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

⁴ Section 22 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

⁵ Section 22 Subsection (3) amended by No. 97 of 2006, Sched. 1.

- (b) shall hold office on terms and conditions determined by the Board under Subsection (2)(b); and
- (c) is eligible for re-appointment.

(4) The terms and conditions of employment of the Chief Executive Officer shall be contained in a written contract which shall be signed by the Chairman on behalf of the Authority and by the Chief Executive Officer.

23. FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER.

The functions of the Chief Executive Officer are: –

- (a) to be responsible for the day-to-day business of the Authority; and
- (b) to implement the Board's decisions; and
- (c) to administer the staff and organization of the Authority in an efficient and effective manner and in accordance with the policy of the Authority and the directions of the Board; and
- (d) to be responsible and accountable to the Board for the development of the Authority into a fully operational road maintenance and assets management agency.

24. UNIT MANAGER.

(1) There shall be, within the staff of the Authority –

- (a) a planning and programming unit responsible for formulating road maintenance, rehabilitation and reconstruction plans based on the Road Asset Management System and the Bridge Inventory and Management Systems; and
- (b) a Road Fund unit to secure funds for, operate and manage the Road Fund; and
- (c) an implementation management unit to manage the contracting of services for road maintenance and for rehabilitation and reconstruction,

and the Board shall, subject to Subsection (2), in the case of each unit, appoint a suitably qualified person to be a Unit Manager.

(2) Before making appointments under Subsection (1), the Board Shall –

- (a) determine the qualifications and experience required for each of the offices of Unit Manager; and
- (b) determine subject to the *Salaries and Conditions Monitoring Committee Act 1988*, for the terms and conditions of employment of each such office; and
- (c) advertise the offices –
 - (i) on at least two occasions in a newspaper circulating nationally; and

- (ii) in such other manner (if any) as the Board considers necessary or desirable.

(3) The terms and conditions of employment of a Unit Manager shall be contained in a written contract of employment which shall be signed by the Chief Executive Officer on behalf of the Authority and by the relevant Unit Manager.

(4) The functions of each Unit Manager are –

- (a) to manage the unit for which he is responsible in accordance with the policy of the Authority and the directions of the Chief Executive Officer; and
- (b) to report to and be responsible to the Chief Executive Officer.

25. BOARD SECRETARY.

(1) Subject to Subsection (2), the Board shall, by notice in the National Gazette, appoint a suitably qualified person to be the Board Secretary.

(2) Before making appointments under Subsection (1), the Board shall –

- (a) determine the qualifications and experience required for the office of Secretary; and
- (b) determine, subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of employment of the office; and
- (c) advertise the office –
 - (i) on at least two occasions in a newspaper circulating nationally; and
 - (ii) in such other manner (if any) as the Board considers necessary or desirable.

(3) The terms and conditions of employment of the Secretary shall be contained in a written contract of employment which shall be signed by the Chairman on behalf of the Authority and by the Secretary.

(4) The functions of the Secretary are –

- (a) to perform secretarial services on behalf of the Board; and
- (b) to keep register of documents so authenticated; and
- (c) otherwise to be responsible to the Chief Executive Officer,

26. OTHER STAFF OF THE AUTHORITY.

(1) The Chief Executive Officer shall appoint to be members of the staff of the Authority such number of persons with such qualifications as he considers necessary for the purpose of giving effect to this Act and in accordance with an approved organisational structure and remuneration levels.

(2) The tenure of office and the salary and terms and conditions of employment of a person appointed under Subsection (1) are, subject to the *Salaries and Conditions Monitoring Committee Act 1988*, as determined by the Board.

27. PUBLIC SERVICE RIGHTS.

Where an officer of the Public Service is appointed to be –

- (a) the Chief Executive Officer; or
- (b) a Unit Manager; or
- (c) the Secretary; or
- (d) a member of the staff of the Authority appointed under Section 26(1),

his service with the Authority shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of –

- (e) leave of absence on the grounds of illness; and
- (f) furlough or pay instead of furlough (including pay to dependants on his death).

PART 5. – FINANCES OF THE AUTHORITY.**28. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995*.**

Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the Authority subject to the exception and modification specified in Schedule 2.

29. AUDITING PROCEDURES.

(1) The accounts of the Authority shall be audited in accordance with Part III of the *Audit Act 1989*.

(2) Subject to the *Audit Act 1989*, the Board shall cause to be kept proper books and other records of account in respect of receipts and expenditures of the Authority in accordance with acceptable principles of accounting.

(3) Subject to the *Audit Act 1989* the Road Fund and its component parts shall be subject to regular and open audit and reporting.

30. ESTABLISHMENT AND OPERATION, ETC., OF THE ROAD FUND.

(1) The Road Fund is hereby established.

(2) The Road fund shall consist of –

- (a) all monies appropriated by Act for the purposes of carrying out or giving effect to this Act; and
- (b) all monies received by the Authority on account of road user charges imposed under Section 32; and
- (c) all monies or assets as may accrue to or vest in the Fund, whether in the course of the exercise by the Board of its functions or powers or otherwise; and
- (d) monies or assets as may accrue to or vest in the Fund by way of grants, subsidies, bequests, donations, gifts and subscriptions, from the National Government or from a Provincial Government or from any other person; and
- (e) all monies received by the Fund by way of voluntary contribution; and
- (f) all monies received as a loan, grant or assistance from authorized institutions (as that term is defined in Section 3 of the *Banks and Financial Institutions Act 2000*) international agencies or organizations, or foreign governments for the purposes of the Authority; and
- (g) all other monies received by the Authority in the exercise and performance of its functions and powers; and
- (h) fines payable under this Act.

(3) Payments approved by the Board in the prescribed manner shall be paid from the Road Fund for –

- (a) the cost of road maintenance and rehabilitation as approved by the Authority; and
- (b) any other payments necessary to give effect to this Act.

31. USE OF THE ROAD FUND.

Subject to Section 30(3), the Fund shall be used only for –

- (a) the administrative expenses associated with the execution of the duties and responsibilities of the Authority and the management of the Fund; and
- (b) the contracting of services for the routine, periodic and emergency maintenance of public roads; and
- (c) the human and technological resources required for enforcing limits on weights and dimensions of vehicles; and
- (d) the purposes prescribed under Paragraphs (a), (b) and (c) and no other purpose.

32. IMPOSITION OF ROAD USER CHARGE.

(1) For the purposes of the maintenance of roads, there is hereby imposed, a charge, to be known as road user charge payable by users of roads.

(2) Different rates of road user charges by be prescribed for different types of road user charges.

(3) The Board shall pay into the Road Funds monies received from the collection of the charges imposed under Subsection (1).

(4) The Authority may prescribe exemptions from the rebates to specified users of roads.

33. ACCOUNTS.

(1) The Authority shall open and maintain one or more accounts as it considers necessary within the country with such approved banks or licensed financial institutions as the Board thinks fit and shall at all times maintain at least one such account.

(2) The Authority shall pay all monies received by it into an account referred to in Subsection (1).

34. INVESTMENTS OF THE AUTHORITY.

(1) The Authority may invest any monies standing to the credit of the Fund –

- (a) in any securities of, or guaranteed by, the State; or

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- (b) on deposit with an approved bank or a licensed financial institution; or
- (c) in any manner authorised by Section 57 of the *Public Finances (Management) Act 1995*; or
- (d) in any other manner approved by the Minister responsible for financial matters; or
- (e) in any other manner approved by the Board and the Minister responsible for financial matters.

(2) Any balance of monies at the end of each year shall be placed to the credit of the Authority, and used only for the purposes of the Act, and no part of the balances may be transferred to the Consolidated Revenue Fund.

PART 6. – MISCELLANEOUS.

35. EXECUTION OF CONTRACTS.

(1) Contracts on behalf of the Authority may be made, varied or discharged in accordance with this section, and any contract so made is effectual in law, and is binding on the Authority and on all other parties to the contract, their heirs, successors, assigns, executors and administrators.

(2) A contract that, if made between private persons, would by law be required to be in writing under seal may be made, varied or discharged in the name and on behalf of the Authority in writing under the seal of the Authority.

(3) A contract that, if made between private persons, would by law be required to be in writing and signed by the parties to be charged with it may be made, varied or discharged in the name and on behalf of the Authority in writing signed by a person acting with the express or implied authority of the Authority.

(4) A contract that, if made between private persons, would by law be valid although made by parol only may be made, varied or discharged by parol in the name and on behalf of the Authority by a person acting with the express or implied authority of the Authority.

(5) This section does not invalidate a contract executed on behalf of the Authority by duly appointed attorney of the Authority if the contract would be valid if executed by the attorney on his own behalf.

36. OBLIGATIONS OF PUBLIC AUTHORITIES.

All public authorities and all governing bodies (by whatever name known), executives, Departmental Heads, officers and employees of public authorities shall co-operate with and assist the Authority in the performance of the functions and exercise of the powers of the Authority under Act.

37. PROTECTION FROM PERSONAL LIABILITY.

A member of the Board, a member of a committee of the Board, the Chief Executive Officer, a Unit Manager, the Board Secretary or a member of the staff of the Authority is not personally liable for any act or default of himself or the Authority done or omitted to be done in good faith in the course of the operations of the Authority or for the purposes of the Authority.

38. PROOF OF CERTAIN MATTERS.

In any proceedings by or against the Authority, proof is not required, unless evidence is given to the contrary in relation to –

- (a) the constitution of the Board; or
- (b) a resolution of the Board; or
- (c) the appointment of a member of the Board; or

- (d) the presence of a quorum at a meeting at which a determination is made or an act done by the Board.

39. SERVICE OF PROCESS.

Any notice, summons, writ or other process required to be served on the Authority may be served by being left at the office of the National Roads Authority or in the case of a notice, by post.

40. AUTHENTICATION OF DOCUMENTS.

(1) Any document requiring authentication by the Authority is authenticated by affixing the common seal of the Authority on the document.

(2) The common seal of the Authority shall not be affixed to an instrument except in pursuance of a resolution of the Board and the affixing of the seal shall be attested by the Chairman and one other member and countersigned by the Secretary or such other person appointed by the Board.

(3) The Board may by resolution authorise the Chairman, a member or the Secretary, either generally or in a particular case, that, in the event of their absence, either of them, may execute an instrument or a document requiring their signature by means of forwarding and appending to an instrument or a document a copy of their facsimile signature.

(4) The Board shall provide for the safe custody of the seal.

41. RECOVERY OF MONEY DUE.

Any money due to the Authority under this Act may be recovered by the Authority as a debt.

42. CONFIDENTIALITY.

(1) The Authority shall take all reasonable steps to protect, from unauthorized use or disclosure, information given to it in confidence in connection with the performance of its functions or the exercise of its powers.

(2) For the purposes of Subsection (1), the disclosure of information as required and permitted by any law or court of competent jurisdiction shall be considered authorized use and disclosure of the information.

(3) For the purposes of Subsection (1), the disclosure of information by a person for the purposes of performing that person's functions as –

- (a) the Chief Executive Officer, a Unit Manager, the Board Secretary or a member of the staff of the Authority; or
- (b) a member of the Board or of a committee of the Board,

shall be considered authorized use and disclosure of the information.

43. REGULATIONS.

The Head of State, acting on advice, may make Regulations, not inconsistent with the Act, prescribing all matters that by this Act are permitted or required to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act, and in particular for prescribing –

- (a) standards and classification of roads; and
- (b) restrictions regulating the use of roads –
 - (i) by heavy vehicles licensed under the *Licensing of Heavy Vehicles Act 1977*; and
 - (ii) for maintenance or for public safety purposes; and
- (c) procedures for acquisition and compensation of land for use as roads; and
- (d) fees for the use of roads; and
- (e) procedures for the removal of obstructions from roads; and
- (f) the control and regulation of persons and vehicles using toll works; and
- (g) measures for the preservation of trees and vegetation forming part of roads; and
- (h) measures for the prevention of damage to or preventing actions likely to cause damage to roads; and
- (i) the display of notices for or with respect to any matter to which regulation may be made, and requiring compliance with the provisions of such notice; and
- (j) the provision of and use of services centres and rest areas; and
- (k) the control of flagmen of traffic on, or proceeding to or from road or toll work; and
- (l) the control of littering on any classified road, toll work, service centre or rest area; and
- (m) the prevention of the obstruction of a person acting under the authority of the Authority or under the provisions of this Act; and
- (n) the regulation of the use by the public or a work or undertaking or of property of the Authority and authorising or directing the removal of trespassers or other persons causing inconvenience or annoyance; and
- (o) exemptions, absolutely or subject to conditions, of persons or classes of persons from the operation of a provision of the regulations; and
- (p) the form of any notices to be served or given under this Act and the manner of their service or use; and
- (q) penalties of fines not exceeding K2,000.00 for –

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- (i) offences against the regulations; or
- (ii) offences against any provision of the Act for which no penalty is provided.

SCHEDULE 1 - .

Section 14

DECLARATION OF OFFICE

I _____, do promise and declare that I will and truly serve the Independent State of Papua New Guinea and its people in the office of member of the Board of the National Roads Authority:

MADE this _____ day of _____ 20 ____.

Before me _____.

SCHEDULE 2 – .Exception and modification to the *Public Finances (Management) Act 1995*

Provision	Modification
Section 59	The Authority may prescribe its own tender procedures for all works, supplies and services taken by the Authority.
Provision	Modification
Section 59	The Authority may prescribe its own tender procedures for all works, supplies and services taken by the Authority.