

No. 41 of 2020.

Road (Management and Fund) Act 2020.

Certified on : 14 JAN 2021



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No. of 2020.

An Act

entitled

Road (Management and Fund) Act 2020.

Being an Act to make provision for the management of roads (including those that come under the Provincial Governments and Local-level Governments) 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 National Executive Council.

PART I. - PRELIMINARY.

1. OBJECT AND PURPOSE.

(1) The primary object of this Act is to establish a coordinated management system that will promote a road network that operates as part of an integrated and sustainable land transport system and to ensure adequate funding for the purposes of maintaining and rehabilitating the national road network.

(2) The purpose of this Act is to -

- (a) make provision for the planning for and management of public roads and road infrastructure; and
- (b) establish procedures for the declaring, decommissioning and classification of roads; and
- (c) establish a register of public roads; and
- (d) regulate the carrying out of works and associated activities on public roads; and
- (e) set out the functions and powers of road authorities; and
- (f) enable the Minister and the Minister responsible for treasury matters to establish special purpose companies under the provisions of the *Companies Act 1997*; and
- (g) establish the Papua New Guinea Road Fund and its Board; and
- (h) establish the Papua New Guinea Road Maintenance Trust Fund; and
- (i) set out the rights of members of the public to use roads; and
- (j) establish mechanisms to enforce and administer the provision of this Act; and
- (k) exempt the Papua New Guinea Road Fund from provisions of the *Public Money Management Regularisation Act 2017*; and
- (l) repeal the *Road Maintenance Act 1971*; and
- (m) repeal the *National Road Authority Act 2003*.

2. 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 -

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- (a) the right to freedom from arbitrary search and entry conferred by Section 44; and
- (b) the right to freedom of conscience, thought and religion conferred by Section 45; and
- (c) the right to freedom of expression conferred by Section 46; and
- (d) the right to freedom of assembly and association conferred by Section 47; and
- (e) the right to freedom of employment conferred by Section 48; and
- (f) the right to privacy conferred by Section 49; and
- (g) the right to freedom of information conferred by Section 51,

is a law that is made to comply with Section 38 of the *Constitution*, taking account of the National Goals and Directive Principles and Basic Social Obligations.

(2) For the purposes of Section 53 (protections from unjust deprivation of property) of the *Constitution*, the Act is expressed to be made in the national interest.

(3) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Bill relates to a matter of national interest.

3. INTERPRETATION.

In this Act, unless the contrary intention appears -

“ancillary area” means an area adjacent to a public road, within or outside the road boundary, owned or managed by the responsible road authority and designated as an ancillary area under Section 11;

“Board” means the Board of the Papua New Guinea Road Fund established by Section 28;

“carriageway” means that portion of the road designed or marked for use by vehicles;

“Chairperson” means the Chairperson of the Board of the Papua New Guinea Road Fund appointed under Section 30;

“Department” means the Department with national responsibility for roads;

“Deputy Chairperson” means the Deputy Chairperson of the Board of the Papua New Guinea Road Fund appointed under Section 30;

“Designated Strategic National Road Programme” means a programme that meet the criteria set out in Section 14(2);

“district road” means any road managed by the district authority;

“Government Body” means -

- (a) any agency which is part of the State Services established under Part VII of the *Constitution*; or
- (b) a body, authority or instrumentality or other body (corporate or unincorporated) established by or under a Constitutional Law or an Act of the Parliament for government or administrative purposes; or
- (c) a body, authority or instrumentality or other body (corporate or unincorporated) established by a Provincial Government or Local-level Government; or
- (d) a Provincial Government or Local-level Government established under the *Organic Law on Provincial Governments and Local-level Governments*;

“infrastructure manager” means -

- (a) in relation to road infrastructure, the responsible road authority; and
- (b) in relation to non-road infrastructure, the person or body that is responsible for the provision, installation, maintenance or operation of the non-road infrastructure;

“Maintenance” means the routine, periodic and emergency maintenance and rehabilitation of existing public roads but does not include the development of new public roads;

“managed” means under the operational management control of a road authority;

“Minister” means the Minister responsible for works matters;

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- “Minister responsible for finance matters” means the Minister as determined by the Prime Minister under the determination of title and responsibilities under Section 148 of the **Constitution**;
- “National Executive Council” means the National Executive Council established by Section 149 of the **Constitution** of the Independent State of Papua New Guinea;
- “national road” means a road that is classified as a national route road, national main road, national district road or national institutional road;
- “national road network” means those classes of roads that make up the national road network as determined by the National Executive Council;
- “non-road infrastructure” means infrastructure in, on, under or over a road that is not road infrastructure and includes, without limitation electricity poles and cables, gas, water and sewerage pipes, rail infrastructure, public transport infrastructure such as shelters and telecommunications infrastructure such as public telephones and wiring;
- “occupier”, in relation to any land, includes a person or body -
- (a) who has, or is entitled to have, immediate possession of the land; and
 - (b) who is entitled to remove timber, minerals, petroleum or other things on or under the land;
- “owner”, in relation to any land, includes a person, or persons or body who has, or is entitled to have, ownership in the land by legal title or customary law;
- “pathway” means so much of any road as is laid out or constructed by authority of the road authority primarily for pedestrians and bicycles and includes the edging, kerbing and channelling thereof;
- “PNG Road Fund” means the Papua New Guinea Road Fund established under Section 23;
- “PNG Road Maintenance Trust Fund” means the PNG Road Maintenance Trust Fund established under Section 50;
- “provincial road” means any road managed by a provincial government;
- “public body” has the same meaning given to it in the **Public Finances (Management) Act 1995**;
- “public road” means any road that is declared to be a public road under Section 7 of this Act or any other Act for the purposes of this Act;
- “public transport” means buses, taxis, public motor vehicles and any other forms of transport that are available to the public for the purpose of conveyance of passengers from one place to another;
- “Register of Public Roads” means the Register of Public Roads established under Section 12;
- “Registrar of Titles” means the Registrar of Titles appointed under the **Land Registration Act** (Chapter 191);
- “Regulations” means regulations made under Section 57;
- “responsible road authority” means, in relation to a particular public road or class of public roads, the road authority which has operational road management functions or other functions for that road as prescribed in accordance with Section 13 of this Act, including any regulation under this Act or order made by the Minister specifying the road authority responsible for a public road or class of public roads;
- “road” means a public road or part of a public road, and includes -
- (a) the airspace above the surface of the road, and the material beneath the surface of the road; and
 - (b) a bridge, tunnel, culvert, ford, causeway and waterway crossing structure on a road or other work or structure forming part of the road; and

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- (c) any adjacent weighbridge for the purposes of weighing any vehicle traveling on the road; and
 - (d) any adjacent pathway or footpath; and
 - (e) a vehicular ferry used as a link between two roads;
- “Road Advisory Committee” means the Road Advisory Committee established under Section 6;
- “road authority” means a person or body or company that is authorised by this Act or designated by the Minister, under Section 13, to exercise legal and managerial authority over a public road or class of public roads within the ambit of the functions of road authorities set out in Division 2 of Part III of this Act and the Schedule to this Act;
- “Road Fund” means the Papua New Guinea Road Maintenance Trust Fund established under Section 50;
- “Road Fund Manager” means the Road Fund Manager appointed in accordance with Section 42 of this Act who shall function as the Chief Executive Officer of the Papua New Guinea Road Fund;
- “road infrastructure” means -
- (a) infrastructure forming part of a roadway, pathway or shoulder, including structures forming part of the roadway, pathway or shoulder and materials from which a roadway, pathway or shoulder is made; and
 - (b) infrastructure which is installed or constructed by the relevant road authority for road related purposes to facilitate the safe operation or use of the roadway or pathway or support or protect the roadway or pathway and includes, without limitation, vehicle weighbridges, streetlights, traffic control devices, guard railings and crash barriers;
- “Road Traffic Authority” means the body established under Section 4 of the *Road Traffic Act 2014*, or any successor body;
- “road user charges” means fees or charges directly related to the use of roads, including tolls but excluding a tax, excise duty or levy on fuel and fees or charges levied under the *Road Traffic Act 2014* or the regulation or rules made under that Act;
- “roadway” has the same meaning as carriageway;
- “State” means the Independent State of Papua New Guinea;
- “State land” means land declared or deemed to be State land under the *Land Act 1996*;
- “Statutory body” has the meaning given to it by or under the *Public Finances (Management) Act 1995*;
- “Surveyor General” means the Surveyor General appointed the *Survey Act* (Chapter 95);
- “Traffic Control Device” means a device to control traffic as defined in the Road User Rules made under the *Road Traffic Act 2014*;
- “Treasurer” means the person designated as such from time to time by the Prime Minister and published in the National Gazette with respect to the allocation of Ministerial duties and responsibilities of Ministers under Section 148 of the *Constitution*;
- “vehicle” means a vehicle as defined under the *Road Traffic Act 2014*;
- “vehicle registration fees” means fees relating to the registration of motor vehicles imposed under the *Road Traffic Act 2014*;
- “works” means any public works authorised by the responsible road authority in, on, under or over a road, or any ancillary area to the road, for the purpose of maintaining, rehabilitating or developing the road, including any work conducted to improve the efficacy and safety of the road;
- “works manager” means any person or body that is responsible for the conduct of works in, on, under or over a road, or any ancillary area to the road, for the purpose of maintaining, rehabilitating or developing the road, or any ancillary area to the road, including any work conducted to improve the efficacy and safety of the public road.

4. APPLICATION OF THIS ACT.

This Act binds the State.

PART II. - PUBLIC ROADS.

5. PUBLIC RIGHTS IN RESPECT OF ROADS.

(1) A member of the public is entitled, as of right, to pass along a public road.

(2) The right to pass along a public road extends to the right of passage on foot, in a vehicle or by means of public transport.

6. ROAD ADVISORY COMMITTEE.

(1) There is hereby established the Road Advisory Committee.

(2) The Road Advisory Committee shall consist of the following members:

- (a) the departmental head for the department responsible for transport matters or his nominee who shall be an officer of not less than Deputy Secretary level or equivalent, who shall be the Chairperson; and
- (b) the departmental head for the department responsible for road matters or his nominee who shall be an officer of not less than Deputy Secretary level or equivalent; and
- (c) the departmental head for the department responsible for land matters or his nominee who shall be an officer of not less than Deputy Secretary level or equivalent; and
- (d) the departmental head for the department responsible for provincial and local government matters or his nominee who shall be an officer of not less than Deputy Secretary level or equivalent.

(3) The function of the Road Advisory Committee is to advise the Minister on -

- (a) the declaration of public roads; and
- (b) the classification of public roads; and
- (c) the decommissioning of public roads; and
- (d) matters relating to road authorities as specified in this Act.

(4) No public roads shall be declared, classified or decommissioned as a public road except in accordance with this Act.

7. DECLARATION OF PUBLIC ROADS.

(1) Subject to Subsection (3), the Minister, upon recommendation from the Road Advisory Committee, shall by notice published in the National Gazette, declare a public road over any land owned by a road authority.

(2) Subject to Subsection (3), the Minister, upon recommendation of the Road Advisory Committee, shall by notice published in the National Gazette, declare a public road over any land managed by a road authority.

(3) If land managed by a road authority is -

- (a) land reserved under any other Act, a declaration of the land as a public road may only be made if consent, in writing, to the declaration is given by the Minister administering that Act; or

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- (b) land owned by a public authority or any other person, a declaration of the land as a public road may only be made if consent, in writing, to the declaration is given by the public authority or other person; or
- (c) unreserved State land, a declaration of the land as a public road may only be made if consent, in writing, to the declaration is given by the Minister administering the *Land Act 1996*.

(4) The Minister, acting on the recommendation of the Road Advisory Committee and with the concurrence of the Minister administering the *Land Act 1996*, may by notice published in the National Gazette, declare a public road over any land acquired under the *Land Act 1996*.

(5) Land that is acquired under the *Land Act 1996* or otherwise for the purpose of widening an existing public road becomes part of the public road without the need for any separate or additional declaration.

(6) Land declared to be a public road under Subsections (1), (2) or (3), becomes a public road from the date of publication of the notice in the National Gazette or on such later date as may be specified in the notice.

(7) A road authority with responsibility for a public road may, by notice published in the National Gazette and a public consultation period of at least 28 days, name or change the name of a public road.

8. ROAD BOUNDARIES.

(1) The responsible road authority shall, after consulting the Minister, by notice published in the National Gazette, fix the boundaries of the public road.

(2) Where the land affected by the fixing of the boundary is not owned by the responsible road authority, the responsible road authority may only fix the boundaries of the public road after obtaining the approval of the Secretary of the department responsible for lands, after the Secretary has consulted with the office of the Surveyor General, and subject to this Act or any other Act.

(3) The boundaries of a public road shall be fixed by inclusion in a declaration of the Minister under Section 7.

9. CLASSIFICATION OF PUBLIC ROADS.

(1) The Minister, on recommendation from the Road Advisory Committee, and after considering any submission from the responsible road authority, may by notice published in the National Gazette, declare a public road to be classified as any of the following:

- (a) a national road, subject to the approval of the National Executive Council; or
- (b) a provincial road; or
- (c) a district road,

and may also revoke or vary any previous declaration with respect to the classification of a public road, subject to the approval of the National Executive Council in the case of the national road.

(2) Prior to the Minister making a declaration (whether a new declaration or revoking or varying a previous declaration) in respect of a public road under Subsection (1), the Road Advisory Committee shall cause notice of the proposed classification of the public road to be provided -

- (a) in the case of a classification referred to in Subsection (1)(b), to the relevant provincial government; and

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- (b) in the case of a classification referred to in Subsection (1)(c), to the relevant provincial government, district authority, or local-level government, which notice shall -
- (i) provide details of the proposed declaration (whether a new declaration or revoking or varying a previous declaration); and
 - (ii) state that the provincial government, district authority, or local-level government, as applicable, is entitled to make submissions with respect to the proposed classification; and
 - (iii) specify the person to whom submissions should be made and specify the date by which submissions are to be made which shall be no less than 28 days after the date the notice is provided.

(3) Prior to the Minister making a declaration (including revoking or varying a previous declaration) in respect of a public road under Subsection (1), the Minister shall take the following matters into consideration:

- (a) any submissions made by a provincial government, district authority or local-level government under Subsection (2); and
- (b) whether the public road -
 - (i) provides a principal route for the movement of people and goods -
 - (A) between provinces or major regions of the State; or
 - (B) between major centres of population or major city activity centres; or
 - (C) to major transport terminals; or
 - (D) across or around towns or cities; and
 - (ii) is a major route for public transport services; and
 - (iii) has State-wide social, economic or national security significance; and
 - (iv) provides necessary connections between national roads.

(4) A provincial government, district authority, or local-level government that objects to a declaration (whether a new declaration or revoking or varying a previous declaration) made by the Minister under Subsection (1), shall submit a written appeal to the National Executive Council within 21 days after the date of publication in the National Gazette.

(5) Following consideration of an appeal, the National Executive Council may require the Minister to make a further declaration under Subsection (1) on such terms as are advised by the National Executive Council.

10. DECOMMISSIONING OF PUBLIC ROADS.

(1) A road authority, in respect of the roads for which the road authority is responsible, shall monitor and evaluate the effectiveness and safety of those roads on an ongoing basis and advise the Road Advisory Committee to recommend to the Minister to decommission a public road where it considers that a road is no longer required as a public road.

(2) Subject to Subsections (3) and (4) where relevant, the Minister, upon recommendation of the Road Advisory Committee, shall by notice published in the National Gazette, declare a public road to be decommissioned as a public road.

(3) In the case of a national road, the approval of the National Executive Council shall be obtained prior to making such a declaration.

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- (4) Prior to making a recommendation to the Minister under Subsection (2), the Road Advisory Committee must be satisfied that the following procedures have been complied with:
- (a) the responsible road authority shall cause notice of the proposed decommissioning of the public road to be published in a local newspaper which notice must -
 - (i) identify the public road that is proposed to be decommissioned; and
 - (ii) state that any person is entitled to make submissions with respect to the proposed decommissioning of the public road, which submissions may be made by either or both in written submission or by way of appearing in person at a public hearing; and
 - (iii) in relation to written submissions, specify the person within the responsible road authority to whom written submissions should be made and specify the date by which written submissions are to be made which should be no less than 28 days after the date of publication of the notice; and
 - (iv) in relation to a public hearing, specify the place and time and date for a public hearing, which should be no less than 28 days after the date of publication of notice, at which persons may attend to make submissions to the responsible road authority; or
 - (b) the responsible road authority has considered any submissions that have been duly made.
- (5) Upon publication of a notice of decommissioning of a public road under Subsection (2) -
- (a) the road ceases to be a public road; and
 - (b) if the land over which the public road was formerly declared is State land, the land vests in the Minister administering the *Land Act 1996*; and
 - (c) if the land over which the public road was formerly declared is not State land, the land vests in the responsible road authority.
- (6) A public road may not be decommissioned except as set out in this Act.

11. ANCILLARY AREAS.

- (1) The responsible road authority may designate, by inclusion in the Register of Public Roads, an area of land owned by the responsible road authority or, subject to Subsection (2), managed by the responsible road authority, to be maintained by the responsible public authority as an ancillary area to a public road.
- (2) If the land managed by the responsible road authority is -
- (a) land reserved under any other Act, the responsible road authority shall obtain the consent in writing of the Minister administering that Act; or
 - (b) land owned by a public authority or any other person, the responsible road authority shall obtain the consent in writing of that public authority or other person; or
 - (c) unreserved State land, the responsible road authority must obtain the consent in writing of the Minister administering the *Land Act 1996*, or any similar successor Act.

12. REGISTER OF PUBLIC ROADS.

- (1) A road authority shall maintain a Register of Public Roads for which it is the responsible road authority and forward a copy to the Minister annually to enable the department responsible for roads to maintain a central database of all public roads.
- (2) The department responsible for roads shall maintain a consolidated Register of Public Roads, consisting of all public roads managed or owned by road authorities.

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- (3) The Register of Public Roads shall include the following information:
- (a) the name of each public road, or the names of subsections of that public road, or if a public road is unnamed, such details as will enable the road to be identified; and
 - (b) the date on which the road became a public road; and
 - (c) if a road has ceased to be a public road, the date of cessation and if only part of a road has ceased to be a public road, such details as will enable that part to be identified; and
 - (d) any declared classification of the public road; and
 - (e) reference to any plan, survey or instrument, if available, that fixes the boundaries of the public road; and
 - (f) details of any ancillary area to the public road; and
 - (g) details of any arrangement or direction to which the road authority is subject under Section 14; and
 - (h) any other information prescribed for the purposes of this section.
- (4) The Register of Public Roads may include the following information:
- (a) details regarding road infrastructure in, on, over or under the road; and
 - (b) construction standards applicable to the public road; and
 - (c) such other information as the road authority considers appropriate.
- (5) The responsible road authority shall make the Register of Public Roads maintained by it under this Section, available to the public, without charge, during normal business hours and at a reasonable place.

PART III. - MANAGEMENT OF ROADS.

Division 1. - Responsibility for road management.

13. ROAD AUTHORITIES.

- (1) Subject to Subsection (2), the road authority for -
- (a) a national road, is the department responsible for roads until such time as another road authority responsible for national roads, is established by law; and
 - (b) a provincial road or a district road that crosses the boundary between more than one province, is the provincial government for that part of the road located within the province of that provincial government; and
 - (c) a provincial road located wholly within the boundaries of one province, is the provincial government for that province; and
 - (d) a district road that crosses the boundary between more than one district, the District Development Authority for that part of the road located within the district of that District Development Authority; and
 - (e) a district road located wholly within the boundaries of one district, is the District Development Authority for that district; and
 - (f) a public road that is undeclared or has been decommissioned and is on land administered under the *Forests Act 1991*, the *Land Act 1996*, the *National Parks Act 1982* or any other Act, is the person or body specified under or in accordance with that Act; and
 - (g) an ancillary area to a public road, is the road authority for that part of the public road located closest to that ancillary area; and

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- (h) road infrastructure located on, under or above a public road is the road authority for that road infrastructure specified under this Act or any other Act, or where no such road authority is specified, is the road authority for the public road to which the road infrastructure relates.

(2) The regulations may declare a specified public authority or other body to be the road authority for a specified public road, ancillary area or road infrastructure, or for a class of public roads, ancillary areas or road infrastructure.

(3) The Minister may by notice published in the National Gazette declare a specified public authority or other body to be the road authority for a specified public road, ancillary area or road infrastructure, or for a class of public roads, ancillary areas or road infrastructure.

14. DESIGNATED STRATEGIC NATIONAL ROAD PROGRAMME.

(1) Subject to the approval of the National Executive Council, the Minister responsible for treasury matters and the Minister may -

- (a) incorporate a company under the *Companies Act 1997* to undertake a Designated Strategic National Road Programme in relation to the National Road Network, including any ancillary areas or road infrastructure associated with the subject roads; and
- (b) subscribe for, hold, acquire and dispose of any equity securities or debt securities issued by the company.

(2) A Designated Strategic National Road Programme shall be -

- (a) in line with Government priorities; and
- (b) declared by the National Executive Council to be in the national interest; and
- (c) approved by the National Executive Council; and
- (d) have a works program of no less than K200 million.

(3) An equity security issued under Subsection (1)(b) shall not be sold or otherwise disposed of or allotted to any person or body other than the State or an Authority established to manage roads.

(4) Nothing in Subsection (2), shall apply to a redeemable preference share that -

- (a) is not convertible into a share of any other class; and
- (b) does not confer a right to vote at the general meeting of shareholders.

(5) The Minister responsible for treasury matters may from time to time, from the Consolidated Revenue Fund (out of money appropriated by Parliament for the purpose), pay for the acquisition on behalf of the State of any equity securities or debt securities under Subsection (1).

(6) The Minister and the Minister for treasury matters, on behalf of the State, may from time to time, exercise all or any of the State's rights and powers as the holder of any equity securities or debt securities acquired under Subsection (1)(b).

(7) A company established under this section shall adopt a company constitution in accordance with the *Companies Act 1997*.

(8) A company established under this section has a financial year starting on 1 January and ending on 31 December in each year.

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(9) A company established under this section shall cause to be kept proper books and other records of account in respect of receipts and expenditures of the company -

- (a) in accordance with acceptable principles of accounting; and
- (b) in accordance with such principles, standards and general requirements as may be required by the Minister and advised to the company from time to time.

(10) The accounts of a company established under this section shall be audited in accordance with Part III of the *Audit Act 1989*.

(11) A company established under this section is subject to the *National Procurement Act 2018*.

(12) Except as provided in this part, nothing in this Act shall be construed as limiting or affecting the powers, rights, authorities, duties and obligations that a company has under the *Companies Act 1997*.

15. ARRANGEMENTS WITH RESPECT TO ROAD MANAGEMENT.

(1) With the prior approval of the Minister, a road authority may enter into an arrangement with one or more other road authorities under which some or all the functions with respect to a public road or part of a public road are transferred between them.

(2) The Minister may, after consultation with the relevant road authorities, direct that some or all of the functions of a road authority with respect to a public road or part of a public road, are transferred to one or more other road authorities.

(3) A road authority that has entered into an arrangement of the type specified in Subsection (1) or is the subject of a direction of the type specified in Subsection (2), shall enter details of the arrangement or direction in the Register of Public Roads maintained by that road authority.

16. PROVISION OF ADVICE AND TECHNICAL SUPPORT.

The Minister may provide roads authorities and the Papua New Guinea Road Fund with advice and technical support on matters, amongst other things, concerning -

- (a) the development and management of the road network; and
- (b) the monitoring and evaluation of road management activities; and
- (c) the establishment, verification and maintenance of engineering standards for road works, including the planning, design, construction and maintenance of road infrastructure; and
- (d) the monitoring of progress of road development, rehabilitation and maintenance activities of road authorities; and
- (e) the measurement of performance of road authorities; and
- (f) the provision of technical support to road authorities.

17. PROVISION OF INFORMATION.

A road authority shall comply with any request by the Minister, the Papua New Guinea Road Fund or the Department for the provision of information, documentation or advice which the Minister, the PNG Road Fund or the Department requires for the purposes of this Act.

18. GOVERNMENT POLICY WITH RESPECT TO ROAD AUTHORITIES.

(1) The Minister may notify a road authority, in writing, of any Government Policy.

(2) Subject to this Act and any other Act, a road authority shall, in respect of Government Policy, be notified in accordance with Subsection (1) to -

- (a) ensure that the Government Policy is carried out; and
- (b) not perform its functions or exercise its powers in a manner that is inconsistent with the Government Policy.

Division 2. - Objectives, functions and powers of road authorities.

19. OBJECTIVES AND FUNCTIONS OF ROAD AUTHORITIES.

(1) The principal objectives of a road authority for the roads for which the Road Authority is responsible, is to ensure that a network of roads is provided and is available for the passage of persons, vehicles and goods in a safe and efficient manner.

(2) A road authority has such functions as are conferred on it by or under this Act or any other Act.

(3) The general functions conferred on a road authority under this section are not to be construed as limiting other functions conferred on the road authority under this Act or any other Act.

(4) A road authority, in respect of the roads for which the road authority is responsible, has the following general functions -

- (a) to provide and maintain a network of public roads and associated road infrastructure for the safe, efficient and economic movement of people, vehicles and goods as part of an integrated transport system; and
- (b) to manage public roads and associated road infrastructure in a manner that promotes the safe, efficient and economic use of roads; and
- (c) to plan for, design, construct, operate, manage, maintain and repair public roads and associated road infrastructure in a manner that is safe, efficient and economic; and
- (d) to undertake financial administration of the management of public roads and associated road infrastructure in accordance with the provisions of this Act; and
- (e) to manage the provision and installation of road infrastructure and the conduct of other works on roads in a manner that minimises, as far as is reasonably practicable, adverse impacts on the use of roads or on the provision of road infrastructure or utility services; and
- (f) to monitor and evaluate the effectiveness and safety of the public road network and the need for ongoing improvements to the road network; and
- (g) to provide advice to the Minister, the Papua New Guinea Road Fund, the Roads Advisory Committee and others as required under this Act or any other Act; and
- (h) to perform other functions as are given to a road authority by or under this Act or any other Act.

(5) In performing its functions, a road authority shall consult with the community and disseminate information in relation to the exercise of those functions.

20. GENERAL POWERS OF ROAD AUTHORITIES.

(1) A road authority has the power to do all things necessary or convenient to be done for or in connection with -

- (a) the attainment of the road authority's objectives; and
- (b) the performance of the road authority's functions; and
- (c) the exercise of any power given to the road authority under this Act or any other Act.

(2) The general powers conferred on a road authority under this section are not to be construed as overriding or limiting other general or specific powers conferred on the road authority under this Act or any other Act.

21. SPECIFIC POWERS OF ROAD AUTHORITIES.

(1) A road authority, in respect of the roads for which it is responsible, has the power with respect to management of road access set out in Schedule 1, Part I.

(2) A road authority, in respect of the roads for which it is responsible, has the power with respect to planning, design, construction, maintenance and repair of roads set out in Schedule 1, Part II.

(3) A road authority, in respect of the roads for which it is responsible, has the power with respect to temporary traffic management related to road works or hazard protection set out in Schedule 1, Part III.

(4) A road authority, in respect of the roads for which it is responsible, has the power with respect to real property set out in Schedule 1, Part IV.

(5) A road authority, in respect of the roads for which it is responsible, has the power with respect to protection of roads and adjoining land set out in Schedule 1, Part V.

(6) A road authority, in respect of the roads for which it is responsible, has the power with respect to infrastructure and works on roads set out in Schedule 1, Part VI.

22. ADDITIONAL MATTERS IN RESPECT OF ROAD AUTHORITIES.

Subject to the requirements of the *Environment Act 2000* and any other applicable Act or government policy, a road authority may, for the purposes of performing the functions and exercising the powers of the road authority under this Act, take water from any natural watercourse.

PART IV. - PAPUA NEW GUINEA ROAD FUND.

Division 1. - Establishment of the PNG Road Fund and related matters.

23. ESTABLISHMENT AND OBJECTIVE OF THE PNG ROAD FUND.

The PNG Road Fund is established to oversee the collection, disbursement and monitoring of funds for the maintenance, road safety and rehabilitation of the National Road Network so that it is available for the passage of persons, vehicles and goods in a safe and efficient manner in order to optimise the contribution of road assets to the economic and social development of Papua New Guinea.

24. FUNCTIONS OF THE PNG ROAD FUND.

The functions of the PNG Road Fund are to -

- (a) manage the Road Fund and oversee the optimal utilisation of the Road Fund in implementation of programmes relating to the maintenance and safety of the road network; and
- (b) determine the allocation of financial resources from the Road Fund and from any other source of funding available to the Road Fund, based on a five-year road investment programme approved by the Minister and the Minister for Treasury, for the maintenance and safety of the road networks; and

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- (c) review and provide advice in relation to the availability of funds for annual work-plans and annual budget submissions submitted by road authorities and the Road Traffic Authority; and
- (d) monitor the progress of road maintenance and safety and provide direction in this regard to road authorities; and
- (e) measure the performance of road authorities against a set of technical and financial performance indicators and provide periodic reports to the Minister responsible for finance matters.

25. POWERS OF THE PNG ROAD FUND.

(1) The PNG Road Fund may do all things necessary or convenient to be done in relation to the following:

- (a) the attainment of the PNG Road Fund's objectives; and
- (b) the performance of the PNG Road Fund's functions; and
- (c) the exercise of any function or power given to the PNG Road Fund under this Act or any other Act.

(2) The general power conferred on the PNG Road Fund under Subsection (1), are not to be construed as overriding or limiting other general or specific powers conferred on the PNG Road Fund under this Act or any other Act.

(3) Without limiting Subsection (1), the PNG Road Fund shall have the power to -

- (a) control, supervise and administer the assets and finances of the PNG Road Fund in such manner as best promotes the attainment of the PNG Road Fund's objectives and the performance of the PNG Road Fund's functions, including the power to -
 - (i) determine the provisions to be made for capital and recurrent expenditure and for reserves of the PNG Road Fund; and
 - (ii) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom; and
 - (iii) open one or more bank accounts for the funds of the PNG Road Fund; and
 - (iv) invest any funds of the PNG Road Fund not immediately required for its purposes in the manner provided for in this Act; and
- (b) enter into associations with other bodies or organisations as the PNG Road Fund may consider desirable or appropriate; and
- (c) control, supervise and administer the assets and finances of the PNG Road Fund in accordance with the provisions of this Act.

26. POWER WITH RESPECT TO INFORMATION.

(1) The PNG Road Fund shall collect and maintain such information and documentation as the PNG Road Fund considers necessary in relation to the following:

- (a) the attainment of the PNG Road Fund's objectives; and
- (b) the performance of the PNG Road Fund's functions; and
- (c) the exercise of any function or power given to the PNG Road Fund under this Act or any other Act.

(2) The PNG Road Fund may direct a road authority to furnish to the PNG Road Fund such information relevant to the administration of this Act as is specified in the direction within such period (being at least 28 days) as is so specified.

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- (3) Subsections (4) to (10) apply if the PNG Road Fund reasonably believes that -
 - (a) 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 PNG Road Fund 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 PNG Road Fund or that the books or records are made available for inspection by the PNG Road Fund.
- (4) The PNG Road Fund may issue a person with written notice -
 - (a) advising that the PNG Road Fund has formed the view stated in Subsection (3); and
 - (b) specifying the information, books or records to be furnished or produced; and
 - (c) specifying the place and time at which the information, books or records are to be furnished or produced.
- (5) A notice under Subsection (4) shall be signed by the Chairperson or Road Fund Manager.
- (6) A person served with a notice under Subsection (4) shall furnish or produce for inspection at the place and time specified in the notice, the information, books or records specified in the notice.
- (7) Subsection (4) does not affect the operation of any law by or under which any information, books or records are to be kept confidential.
- (8) The PNG Road Fund may make and retain copies or extracts from any information, books or records furnished or produced under Subsection (6).
- (9) A person who does not comply with Subsection (6) commits an offence.
- (10) It is a defence to an offence under Subsection (9), if the person charged proves that the information, books or records were not -
 - (a) relevant to the functions of the PNG Road Fund under this Act; or
 - (b) relevant to the achievement of purposes of this Act; or
 - (c) in the person's possession or custody or under the control of the person at the time of receipt of the notice under Subsection (4).

27. GOVERNMENT POLICY.

- (1) The Minister may notify the PNG Road Fund, in writing, of any government policy.
- (2) Subject to this Act and any other Act, the PNG Road Fund shall, in respect of government policy notified in accordance with Subsection (1) -
 - (a) ensure that the government policy is carried out; and
 - (b) not perform its functions or exercise its powers in a manner that is inconsistent with the government policy.

Division 2. - Establishment and membership of the PNG Road Fund Board.

28. ESTABLISHMENT OF THE BOARD.

There is hereby established a PNG Road Fund Board, which shall, subject to this Act, be responsible for the policy, control and management of the PNG Road Fund.

29. MEMBERS OF THE BOARD.

- (1) The Board shall comprised of the following members:
 - (a) the departmental head of the department responsible for finance matters, *ex officio*, or his nominee, who shall be the Chairperson of the Board; and
 - (b) the departmental head of the department responsible for transport matters, *ex officio*, or his nominee, who shall be Deputy Chairperson of the Board; and
 - (c) the departmental head of the department responsible for national planning matters, *ex officio* or his nominee; and
 - (d) the departmental head of the department responsible for roads, *ex officio*, or his nominee; and
 - (e) the departmental head of the department responsible for treasury matters, *ex officio*, or his nominee; and
 - (f) the State Solicitor, *ex officio*, or his nominee; and
 - (g) the Chief Executive Officer of the Road Traffic Authority, *ex officio*, or his nominee; and
 - (h) one independent member nominated by the Road Transport Association of Papua New Guinea, or any successor body; and
 - (i) one independent member nominated by the Papua New Guinea Chamber of Mines and Petroleum, or any successor body.
- (2) A nominee under Subsection (1)(a) to (g) shall be an officer of not less than Deputy Secretary level or the equivalent.
- (3) The *non-ex officio* members referred to in Subsection (1)(h) and (i) shall -
 - (a) be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
 - (b) be appointed for a term not less than three years and not exceeding five years; and
 - (c) hold office on such terms and be entitled to such fees and allowances as determined by the Minister responsible for finance matters in accordance with any directions or guidelines issued by the National Executive Council; and
 - (d) be eligible for re-appointment for a further term not exceeding three years and shall not be eligible for further re-appointment; and
 - (e) be appointed in such a manner to ensure that their respective appointments do not expire at the same time.
- (4) The names of the members of the Board, as first constituted and at every change in membership, thereafter, shall be published in the National Gazette.
- (5) 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 in relation to which Division 111.2 (*Leadership Code*) of the *Constitution* applies.

30. CHAIRPERSON AND DEPUTY CHAIRPERSON.

- (1) The persons occupying the positions of Chairperson and Deputy Chairperson shall hold the position until the earlier of the following -
 - (a) the expiration of the period of their appointment; or
 - (b) when he ceases to be a member.
- (2) If for any reason the Chairperson is unable to act, the Deputy Chairperson shall exercise and perform the powers and functions of the Chairperson.

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(3) The Chairperson and the Deputy Chairperson shall hold office for a term of three years only, and are eligible for re-appointment.

31. ALTERNATE MEMBERS.

(1) For each of the members appointed under Section 29(1)(h) and (i) 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 shall exercise all of the member's 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 the alternate member 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.

32. LEAVE OF ABSENCE.

(1) The Minister may grant, in writing, leave of absence to the Chairperson on such terms and conditions as the Minister determines.

(2) A member seeking leave of absence shall do so, in writing, to the Chairperson, at least two days before a meeting of the Board.

- (3) The Chairperson may grant, in writing, leave of absence to a member for -
- (a) a particular meeting of the Board; or
 - (b) a specified period of time.

(4) A member who is absent from a meeting of the Board other than in accordance with this section shall be considered absent for the purpose of Subsection (2).

33. VACATION OF OFFICE.

(1) A member, other than an *ex officio* member, may resign from office by giving his signed, written resignation to the Minister responsible for finance matters.

(2) The Minister responsible for finance matters shall terminate the appointment of a member, other than an *ex officio* member, if the member -

- (a) dies; or
- (b) becomes permanently incapable of performing his duties; or
- (c) is absent, except on leave granted in accordance with Section 32, from three consecutive meetings of the Board; or
- (d) fails to comply with Section 35; or
- (e) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his benefits for their benefit; or
- (f) is convicted of an offence punishable under any law by death or a term of imprisonment of one year or longer.

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(3) The Minister responsible for finance matters may, at any time, by written notice, advise a member (other than an *ex officio* member) that the Minister intends to terminate the member's appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) A member may, within 14 days of a notice under Subsection (3), make submissions in writing to the Minister responsible for finance matters.

(5) The Minister responsible for finance matters shall consider any written submissions received under Subsection (4) before making a decision in relation to the termination of the member's appointment.

(6) If a member does not make submissions in accordance with Subsection (4), the member's appointment is terminated after the expiry of 14 days from the date of the notice.

(7) Where there is a vacancy in the membership of the Board, the vacancy shall not affect the exercise of a power or the performance of a function of the Board.

34. VACANCY NOT TO AFFECT POWERS AND FUNCTIONS.

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

35. 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 Board with respect to that matter; or
- (b) shall not take part in any decision of the Board 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 or payment of such fees as the Board may, from time to time, determine.

Division 3. - Meetings, conduct and business of the Board.

36. PROCEDURES OF THE BOARD.

Subject to this Act, the procedures for meetings of the Board are as determined by the Board.

37. 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 Chairperson directs.

(2) The Board shall meet at least once in every three months.

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(3) The Chairperson -

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

give notice to all members of a meeting of the Board, which meeting shall be convened within a further 21 days.

(4) The Chairperson shall give to all members at least 14 days written notice of the meeting of the Board.

(5) At a meeting of the Board -

- (a) five members, including at least one of either the Chairperson or the Deputy Chairperson, constitute a quorum; and
- (b) the Chairperson, or in the Chairperson's absence, the Deputy Chairperson shall preside; and
- (c) matters arising shall be decided by a majority of the votes of the members present; and
- (d) the Chairperson presiding has a deliberative, and in the event of an equality of votes on any matter, a casting vote.

(6) The Board shall cause minutes of its meetings to be recorded and kept by the Road Fund Manager and the minutes shall be presented to the succeeding ordinary meeting of the Board for confirmation and upon confirmation shall be signed by the Chairperson for that meeting.

(7) The Board may adopt its own procedures for the conduct of the business of the Board or of committees established under Section 38.

(8) The Board shall advise the Minister responsible for finance matters in writing of any such procedures of the conduct of the business of the Board or its committees.

38. COMMITTEES OF THE BOARD.

(1) The Board may, from time to time, establish a committee 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) appoint the Chairperson of the committee from amongst the members of the Board; and
- (c) specify the functions and procedures of the committee.

(3) If the PNG Road Fund is in receipt of moneys in accordance with Section 52(2), the Board shall establish a consultative committee with a representative from any authorised institutions, international agencies or organisations, or foreign governments that make a loan, grant or other form of assistance and such other members as the Board considers necessary.

(4) The findings of a committee established by the Board shall be presented to the Board for consideration.

(5) The Board may request a person to attend meetings of the Board but such person is not entitled to a vote on any matters.

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(6) A member of a committee who is not a member of the Board or a person requested to attend meetings of the Board under Subsection (4), may receive fees and allowances under the *Boards (Fees and Allowances) Act* (Chapter 299).

39. AUTHENTICATION OF DOCUMENTS.

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

(2) The common seal of the PNG Road Fund 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 Chairperson 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 Chairperson, a member or the Road Fund Manager, 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 the appending to an instrument or a document a copy of their electronic signature.

(4) The Road Fund Manager shall provide for the safe custody of the seal.

40. REPORTS.

(1) The PNG Road Fund shall furnish to the Minister responsible for finance matters before 31 March in each year a report on the progress and performance of the PNG Road Fund in relation to its functions in respect of the year ending 31 December preceding, and the Minister responsible for finance matters 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 provide -

- (a) an explanation of the PNG Road Fund's mission and objectives; and
- (b) a description of the PNG Road Fund's activities for the year, structure according to the strategies and programmes pursued in relation to each objective, including output measures or indicators against which the PNG Road Fund's performance can be judged; and
- (c) an explanation of the accounting policies adopted by the PNG Road Fund, with a clear demonstration of how the PNG Road Fund fulfils its commitment to transparency of operations; and
- (d) the performance measures achieved by the PNG Road Fund during the year compared with previous years and an explanation of the apparent trends; and
- (e) the audited accounts of the PNG Road Fund, together with the auditor's report; and
- (f) comprehensive appendices of road network and road traffic statistics.

(3) The PNG Road Fund shall also furnish to the Minister responsible for finance matters such other reports, and at such intervals as the Minister responsible for finance matters may determine.

Division 4. - Secretariat of the Board.

41. THE SECRETARIAT OF THE BOARD.

(1) There shall be a Secretariat of the Board.

(2) The Secretariat shall be responsible for the day to day management of the Board and for the implementation of the decisions of the Board.

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(3) The Board shall in accordance with the procedures established by the Board approve a management structure to give effect to this Act.

Division 5. - Staff of the PNG Road Fund.

42. ROAD FUND MANAGER AND STAFF OF THE PNG ROAD FUND.

(1) There shall be a Fund Board.

(2) The Road Fund Manager shall, in accordance with procedures established by the Board, appoint such staff as necessary to carry out the functions of the PNG Road Fund or the purpose of giving effect to this Act.

(3) Staff shall be employed under a written contract of employment on such terms and conditions as determined by the Board.

(4) The management of staff, including termination of employment, promotion, training and other personnel matters shall be in accordance with policies and procedures established by the Board.

(5) An officer or an employee of a Government Department may be seconded to the service of the PNG Road Fund for a period not exceeding three years.

(6) The period during which an officer or an employee is absent on secondment under Subsection (5), shall be counted as part of his service in the Government Department.

(7) An officer or an employee of a Government Department may be transferred to the service of the PNG Road Fund in a permanent capacity.

(8) The secondment or transfer of an officer or an employee under Subsections (5) and (7), shall be subject to the terms and conditions as agreed between the PNG Road Fund and the Government Department, and the employee's individual employment contract.

(9) An employee who is transferred in accordance with Subsection (7) is deemed to have resigned from the Government Department.

43. ADDITIONAL FINANCIAL MATTERS RELATING TO THE PNG ROAD FUND.

(1) The PNG Road Fund has a financial year starting on 1 January and ending on 31 December in each year.

(2) The PNG Road Fund shall cause to be kept, proper books and other records of account in respect of receipts and expenditures of the PNG Road Fund -

(a) in accordance with generally accepted principles of accounting; and

(b) in accordance with such principles, standards and general requirements as may be required by the Minister and advised to the PNG Road Fund from time to time; and

(c) in accordance with any specific requirements as the Minister may notify to the PNG Road Fund from time to time.

44. PROTECTION FROM PERSONAL LIABILITY.

(1) The Board, a member of the Board, the Road Fund Manager and any officer, employee or an agent of the PNG Road Fund, is not personally liable for any act or default of the PNG Road Fund that is done or omitted to be done, in good faith, in the operations of the PNG Road Fund, or for the purpose or function of the PNG Road Fund.

(2) Any act done by the Board, a member of the Board, the Road Fund Manager and any officer, employee or an agent of the PNG Road Fund which is found to be criminal in nature is not subject to Subsection (1).

PART V. - FINANCIAL ARRANGEMENTS.

Division 1. - Road programmes and funding.

45. APPLICATION OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995*.

The *Public Finances (Management) Act 1995* (as amended) applies to this Act.

46. ANNUAL ROADS PROGRAMMES.

(1) A road authority responsible for the national road network shall prepare annual roads programmes in accordance with this section.

(2) A road authority responsible for the national road network shall prepare an annual roads programme for each financial year.

(3) The purpose of an annual roads programme is having regard to the principal object of road management and the works and infrastructure management principles -

- (a) to establish a management system for the road management functions of a road authority which is based on policy and operational objectives and available resources; and
- (b) to set the relevant standard in relation to the discharge of duties in the performance of those road management functions.

(4) The PNG Road Fund shall determine which road authorities are required to submit an annual roads programme and provide guidance to each road authority it requires to submit an annual roads programme, at least four months prior to the commencement of each financial year, regarding -

- (a) the amount of money likely to be available to the PNG Road Fund for allocation in the coming year; and
- (b) the priorities of the PNG Road Fund in funds allocation in the coming year; and
- (c) the criteria to be applied in making allocations.

(5) Each road authority shall, upon request from the PNG Road Fund, at least four months prior to the commencement of each financial year, submit to the PNG Road Fund an annual roads programme in such form and containing such details as the PNG Road Fund shall specify, specifying the roads included in the annual roads programme and outlining a comprehensive plan of action for the maintenance and safety of roads under the charge of the road authority and the estimated costs of every activity required to implement the plan of action.

(6) The PNG Road Fund shall review, individually, the annual roads programmes it has requested to be submitted to it by the road authorities and shall consolidate the annual roads programmes into a national annual roads programme which shall -

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- (a) specify the amounts allocated for the maintenance and safety of each class of roads; and
- (b) match the cost of implementing the annual roads programme with revenues collected or estimated to be collected by and within the Road Fund; and
- (c) identify roads requiring maintenance or safety activities in order of priority, taking into account social and economic requirements of the country or any part thereof in which roads are located and the National Road Network Strategy 2018-2037.

(7) The PNG Road Fund shall submit to the Minister and the Minister responsible for treasury matters the national annual roads programme for approval and the approved national annual roads programme shall form the basis of funds allocation and auditing of works by the PNG Road Fund.

(8) A road authority shall not implement and comply with a national annual roads programme in respect of the roads for which it is responsible, except with the prior written approval of the PNG Road Fund.

(9) The Road Traffic Authority shall, at least four months prior to the commencement of each financial year, submit to the PNG Road Fund an annual operational work programme specifying the activities and programmes under the charge of the Road Traffic Authority to be funded from the Road Fund and the estimated costs of every activity required to implement the annual operational work programme.

(10) Notwithstanding Subsections (1) to (9) in this section, any remaining funds in the PNG Road Fund, after having met its funding obligations under Subsections (1) to (9), may be distributed at the Board's discretion for the maintenance and safety of roads classified as provincial or district roads, upon application from the applicable road authorities in accordance with the procedures set out in this Act.

47. ADDITIONAL FINANCIAL MATTERS RELATING TO ROAD AUTHORITIES.

(1) A road authority has a financial year starting on 1 January and ending on 31 December in each year.

(2) A road authority shall cause to be kept proper books and other records of account in respect of receipts and expenditures of the road authority -

- (a) in accordance with generally accepted principles of accounting; and
- (b) in accordance with such principles, standards and general requirements as may be required by the PNG Road Fund and advised to the road authority from time to time; and
- (c) in accordance with any specific requirements as the PNG Road Fund may notify to the road authority from time to time.

48. AUDIT OF ROAD AUTHORITIES.

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

(2) The PNG Road Fund shall monitor the auditing of road authorities in accordance with Subsection (1) so as to ensure that the accounts of each road authority are subject to ongoing and regular audit in accordance with Part III of the *Audit Act 1989*.

49. ACTIONS IN RESPONSE TO AUDIT.

(1) Following the conduct of an audit under Section 48, the PNG Road Fund may, by notice in writing, direct a road authority to comply, by such date or within such period as may be specified therein, with such directions as the PNG Road Fund considers necessary in connection with any matter arising out of the audit.

(2) Following the conduct of an audit under Section 48, the PNG Road Fund, with the prior approval of the Minister responsible for finance matters, may -

- (a) impose such penalties, including the suspension of funding allocations, as it may prescribe on a road authority which has failed to discharge its functions under this Act; or
- (b) take such remedial, supplementary or alternative measures to ensure the performance of the functions of a road authority which has failed to discharge its functions under this Act.

Division 2. - PNG Road Maintenance Trust Fund.

50. ESTABLISHMENT OF THE PNG ROAD MAINTENANCE TRUST FUND.

The PNG Road Maintenance Trust Fund is hereby established and vests in the PNG Road Fund.

51. COLLECTION OF ROAD RELATED CHARGES AND PAYMENT TO THE ROAD FUND.

(1) All amounts collected by a public or statutory body in respect of the following charges shall be paid or remitted, as the case may be, without deduction, to the PNG Road Maintenance Trust Fund :

- (a) driver licence fees; and
- (b) vehicle registration fees; and
- (c) fuel levies imposed in respect of road users; and
- (d) road user charges including road damage charges.

(2) Subject to the terms of this Act or any other Act, the National Executive Council, after consulting with the Minister and the PNG Road Fund, may issue directions specifying one or more public or statutory bodies that are responsible for collecting the following road related charges and paying the proceeds of those charges to the PNG Road Fund in accordance with Subsection (1) -

- (a) driver licence fees; and
- (b) vehicle registration fees; and
- (c) fuel levies imposed in respect of road users; and
- (d) road user charges including road damage charges.

52. PAYMENTS INTO THE ROAD FUND.

(1) The PNG Road Maintenance Fund shall consist of -

- (a) all monies appropriated by legislation for the purposes of the Road Fund; and
- (b) all amounts paid or remitted to the Road Fund pursuant to Section 51 in respect of driver licence fees; and
- (c) all amounts paid or remitted to the Road Fund pursuant to Section 51 in respect of vehicle registration fees; and
- (d) all amounts paid or remitted to the Road Fund pursuant to Section 51 in respect of fuel levies imposed on road users; and
- (e) all amounts paid or remitted to the Road Fund pursuant to Section 51 in respect of road user charges and road damage charges; and

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- (f) all fines or penalties amounts paid or remitted to the Road Fund pursuant to Section 51, and the *Protection of Transport Infrastructure Act 2010*; and
- (g) all monies appropriated by legislation for the purposes of the Road Fund; and
- (h) all amounts collected by a Government body in respect of driver licence fees; and
- (i) all amounts collected by a Government body in respect of vehicle registration fees; and
- (j) all amounts collected by a Government body in respect of fuel levies imposed on road users; and
- (k) all amounts collected by a Government body in respect of road user charges and road damage charges; and
- (l) all fines or penalties paid or payable under this Act, and the *Protection of Transport Infrastructure Act 2010*; and
- (m) all monies or assets as may accrue to or vest in the Road Fund, whether in the course of the exercise by the PNG Road Fund of its functions or powers or otherwise; and
- (n) monies or assets as may accrue to or vest in the Road 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
- (o) all monies received by the Road Fund by way of voluntary contributions; and
- (p) all moneys received as a loan, grant or assistance from authorised institutions (as that term is defined in Section 3 of the *Banks and Financial Institutions Act 2000*) international agencies or organisations, or foreign governments for the purposes of the Road Fund.

(2) All interests and other receipts, savings and accruals for the Road Fund, shall be retained in the Road Fund until utilised in accordance with Sections 52 and 53.

53. RESTRICTIONS ON USE OF ROAD FUND PAYMENTS INTO THE ROAD FUND.

(1) Subject to Subsection (2), payments from the Road Fund shall only be made in accordance with Section 54.

(2) The Minister responsible for finance matters, after consulting the PNG Road Fund, may direct the PNG Road Fund to approve payments from the Road Fund for the purpose of funding the expenditure incurred or to be incurred by the PNG Road Fund for the exercise of its powers and the performance of its functions under this Act or any other Act including expenditure on salaries, rent, fees, allowances, rentals, utilities and vehicles and other overheads.

54. PAYMENTS FROM THE ROAD FUND.

- (1) Subject to Section 52, payments from the Road Fund shall only be approved by the Board for -
- (a) the cost of maintenance and safety of public roads that form the national road network, subject to Section 46(9); and
 - (b) the contracting of services for the maintenance of public roads that form the national road network, subject to Section 46(9); and
 - (c) the cost of road safety activities and programmes; and
 - (d) expenditure incurred or to be incurred by a road authority and the Road Traffic Authority, or any successor body to the Road Traffic Authority, for the performance of its functions and the exercise of its powers under this Act or any other Act including expenditure on salaries, rent, fees, allowances, rentals, utilities and vehicles and other overheads; and
 - (e) payments to road authorities for the purposes of coordinating and implementing the activities referred to in Subsection (1)(a) and (1)(b), and for no other purpose.

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(2) Subject to Subsection (3), the PNG Road Fund shall ensure that in any financial year, expenditure and commitments from the Road Fund shall not exceed the annual income of the Road Fund together with any surplus income brought forward from a previous year.

(3) If the annual income from the Road Fund together with any surplus income brought forward from a previous year is insufficient to meet the actual or estimated expenditure and commitments from the Road Fund, the Minister for Treasury, with the approval of Parliament, may make advances to the PNG Road Fund and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Minister for Treasury may determine.

55. FINANCIAL ARRANGEMENTS RELATING TO THE ROAD FUND.

(1) The Road Fund has a financial year starting on 1 January and ending on 31 December in each year.

(2) The PNG Road Fund shall cause to be kept proper books and other records of account in respect of receipts and expenditures of the Road Fund -

- (a) in accordance with acceptable principles of accounting; and
- (b) in accordance with such principles, standards and general requirements as may be required by the Minister and advised to the PNG Road Fund from time to time; and
- (c) in accordance with any specific requirements as the Minister may notify to the PNG Road Fund from time to time.

(3) The accounts of the Road Fund shall be audited in accordance with the *Audit Act 1989*.

56. INVESTMENTS OF THE PNG ROAD FUND.

(1) The PNG Road Fund may invest any monies standing to the credit of the Road Fund -

- (a) in any securities of, or guaranteed by, the State; or
- (b) on deposit with an approved bank or a licensed financial institution approved by the Bank of Papua New Guinea; or
- (c) in any manner authorised by the *Public Finances (Management) Act 1995*.

(2) Any balance of monies in the Road Fund at the end of each year shall remain to the credit of the Road Fund and shall be used only in accordance with Sections 52 and 53 and no part of the balance shall be transferred to the Consolidated Revenue Fund.

PART VI. - REGULATIONS.

57. REGULATIONS.

The Head of State, acting on advice, may make Regulations, not inconsistent with this 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 without limiting the generality of the foregoing, regulations may be made for prescribing -

- (a) classification of roads, including the membership of the Road Advisory Committee; and
- (b) standards for the construction, maintenance, safety and repair of roads; and
- (c) the designation of road authorities; and
- (d) road user charges for the purpose of maintenance and safety of roads; and
- (e) procedures for acquisition and compensation of land for use as roads; and

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- (f) procedures for the removal of obstructions from roads; and
- (g) measures for the prevention of damage to or preventing actions likely to cause damage to roads; and
- (h) the provision of and use of service centres and rest areas; and
- (i) the prevention of the obstruction of a person acting under the authority of the PNG Road Fund or under the provisions of this Act; and
- (j) the regulation of the use by the public or a work or undertaking or of property of the PNG Road Fund and authorising or directing the removal of trespassers or other persons causing inconvenience or annoyance; and
- (k) exemptions, absolutely or subject to conditions, of persons or classes of persons from the operation of a provision of the Regulations; and
- (l) the form of any notices to be served or given under this Act and the manner of their service or use; and
- (m) the terms and conditions for the transfer of employees from a government department to the PNG Road Fund on either a temporary or permanent basis; and
- (n) any requirements relating to the governance, structure, staffing, functions and other related matters of a company established under the *Companies Act 1987* to undertake a Designated Strategic National Road Programme under Section 14 of this Act.

PART VII. - MISCELLANEOUS.

58. PROOF OF CERTAIN MATTERS.

In any proceedings by or against the Board of the PNG Road Fund, proof is not required, unless evidence is given to the contrary, of -

- (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 appointment of the Road Fund Manager; or
- (e) the presence of a quorum at a meeting of the Board at which a determination is made or an act is done.

59. SERVICE OF PROCESS.

Any notice, summons, writ or other process required to be served on the PNG Road Fund is sufficiently authenticated by affixing the common seal of the PNG Road Fund on the document.

60. AUTHENTICATION OF DOCUMENTS.

(1) Any document requiring authentication by the PNG Road Fund is sufficiently authenticated by affixing the common seal of the PNG Road Fund on the document.

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

(3) The Road Fund Manager of the PNG Road Fund shall provide for the safe custody of the seal.

61. RECOVERY OF MONEYS DUE.

Any money due to the PNG Road Fund may be recovered by the PNG Road Fund as a debt.

62. CONFIDENTIALITY.

(1) The PNG Road Fund shall take all reasonable steps to protect, from unauthorised 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 purpose of Subsection (1), the disclosure of information as required and permitted by any law or court of competent jurisdiction shall be considered authorised 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 member of the Board, as the Road Fund Manager or as a member of staff of the PNG Road Fund, shall be considered authorised use and disclosure of the information.

63. GENERAL PENALTY.

(1) A person, who acts in contravention of or fails to comply in any respect with a provision of this Act is guilty of an offence against this Act.

(2) A person who commits an offence against this Act for which no penalty is provided elsewhere in this Act, *Protection of Transport Infrastructure Act 2010*, or any other Act, is liable to a penalty of a fine not exceeding K25,000.00 or imprisonment for a term not exceeding two years, or both.

PART VIII. - REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS.

64. REPEAL OF ROAD MAINTENANCE ACT (Chapter 246).

The *Road Maintenance Act* (Chapter 246) is hereby repealed.

65. REPEAL OF THE NATIONAL ROAD AUTHORITY ACT 2003.

The *National Road Authority Act 2003* is hereby repealed.

66. APPLICATION OF OTHER DOCUMENTS.

Subject to this Act, any notice, authorisation, permission, approval, decision, exemption, direction, order, suspension, determination or condition issued, given, granted, made or imposed under any provision of the former *Road Maintenance Act* (Chapter 246) or *National Road Authority Act 2003*, and any other act or thing performed or done under such a provision, shall be regarded and treated as having been issued, given, granted, made, imposed, performed or done under the corresponding provision of this Act by the person or functionary competent in terms of this Act to do so.

67. CLASSIFICATION OF ROADS.

(1) . As from the date this Act comes into force -

- (a) any road classified under Section 10(2) of the *Roads Maintenance Act* (Chapter 246) as a major highway, trunk road or a feeder road, remains as classified; or
- (b) any road classified under Section 10(4) of the *Roads Maintenance Act* (Chapter 246) as a minor road through a declaration, remains as classified.

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- (2) A road is a public road if before the commencement of this Act, it is declared, classified or recognised by any of the following State Departments:
- (a) the department responsible for mineral resources as a road necessary for the purpose of mineral resource development; or
 - (b) the department responsible for forestry as a road necessary for the purpose of forestry development; or
 - (c) the department responsible for tourism as a road necessary for the purpose of tourism; or
 - (d) the department responsible for commerce as a road necessary for the purpose of commercial development; or
 - (e) the department or national agency responsible for environment protection as a road necessary for the purpose of environmental protection or conservation.

68. ASSETS AND LIABILITIES.

- (1) As from the date this Act comes into force, the PNG Road Fund shall become entitled to and have claims to any moneys which, immediately before that date, stand to the credit of the National Road Authority.
- (2) As from the date this Act comes into force, the immovable property for the National Road Authority shall pass to and vest in the PNG Road Fund, including any land and any servitude or other real rights with regard to land (including any right to use land temporarily).
- (3) As from the date this Act comes into force, the liabilities of the National Road Authority shall pass to and vest in the PNG Road Fund.

69. PNG ROAD FUND TRANSFERRED EMPLOYEES.

- (1) On and from the Commencement of this Act, the Minister shall, upon notice in the National Gazette, specify the initial employees and other staff of the National Roads Authority who are to be transferred to and become employees and staff of the PNG Road Fund unless they are part of the non-transferred staff under Section 70.
- (2) Each employee referred to in Subsection (1) is to be referred to in this section as a "transferred employee".
- (3) Each transferred employee is to be regarded as -
- (a) having been employed by PNG Road Fund with effect on and from the commencement of this Act; and
 - (b) having been employed on the same terms and conditions as those that applied to the person immediately before the commencement of this Act; and
 - (c) having the same entitlement to leave accrued in connection with that person's employment by the National Road Authority (as applicable) to the extent that any leave accrues between the time from any payment under Subsection (6) and the commencement of this Act.
- (4) The service of a transferred employee as an employee of PNG Road Fund is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the commencement of this Act.

(5) Subject to Subsection (6), a transferred employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of the National Roads Authority because of this section.

(6) Before the commencement of this Act, the National Roads Authority shall pay to each transferred employee, all accrued leave in connection with that employment by the National Roads Authority that is equivalent to the entitlement that the person had accrued, as an officer or employee of the National Roads Authority, immediately prior to the commencement of this Act.

70. NON-TRANSFERRED EMPLOYEES.

(1) A person who immediately prior to the commencement of this Act, was engaged and employed by the National Roads Authority but who is not to be transferred as an employee of the PNG Road Fund is referred to in this section as a "non-transferring employee".

(2) On and from the commencement of this Act, upon notice in the National Gazette in Section 69, also specify the non-transferring employees.

(3) A non-transferring employee shall, from the commencement of this Act, be made redundant and, immediately prior to the commencement of this Act, shall have his entitlements paid to him by the National Roads Authority.

SCHEDULE. - POWERS OF ROAD AUTHORITIES.

**PART I. - POWERS OF ROAD AUTHORITIES WITH RESPECT TO
MANAGEMENT OF ROAD ACCESS.**

A road authority has the power, in respect of one or more public roads and adjacent land, to determine -

- (a) the location or locations at which access between the land and the road is permitted (a permitted road access location); and
- (b) restrictions on the use of a permitted road access location; and
- (c) conditions on the use of a permitted road access location; and
- (d) where road access works, or a stated type of road access works, must be situated; and
- (e) conditions or restrictions on the use of road access works; and
- (f) that access at a location or locations is no longer permitted; and
- (g) that road access works for construction at a place must be of a stated type, standard or extent or be constructed in a stated way; and
- (h) that either the type, construction or extent of existing road access works must be changed in a way stated by the road authority or the use of the works must be discontinued; and
- (i) that all access between the road and the land is prohibited or no longer prohibited; and
- (j) that stated existing road access works must be removed by the owner within a stated reasonable time; and
- (k) that anything mentioned in Subsection (a) to (j) is changed or must be changed as stated in the decision.

**PART II. - POWERS OF ROAD AUTHORITIES WITH RESPECT TO THE
PLANNING, DESIGN, CONSTRUCTION, MAINTENANCE AND
REPAIR OF ROADS.**

- (1) A road authority may -
 - (a) establish, construct, vary and extend roads and road infrastructure; and
 - (b) fix and alter the level and alignment of roadways and pathways and footpaths; and
 - (c) inspect, maintain and repair roads and road infrastructure; and
 - (d) for the purpose of Paragraphs (a), (b) and (c), perform any other road management functions under this Act.
- (2) A road authority shall determine the standard to which a road and associated road infrastructure is to be planned, designed or constructed.
- (3) For the purposes of this determination, a road authority shall have regard to -
 - (a) the principal object of road management; and
 - (b) any relevant code of practice and any standard or technical reference, guideline or other document referred to or incorporated in a relevant code of practice; and
 - (c) the economic, budgetary, social, environmental or policy factors, objectives or constraints which apply to the road authority.
- (4) A road authority may deviate a road through available land (whether the land is subject to any rights of way).
- (5) A road authority may remove, alter or obliterate anything which is unlawfully located on a road reserve other than -
 - (a) road infrastructure for which another road authority is the infrastructure manager; or
 - (b) non-road infrastructure.
- (6) A road authority may -
 - (a) erect traffic control devices on a road in accordance with the *Road Traffic Act 2014* and the rules made under that Act; and
 - (b) approve, assign and change the number of a road.
- (7) A road authority may cause standard survey marks to be established in roads.
- (8) A road authority may provide temporary roads.
- (9) The power conferred by this section is subject to the road authority obtaining any applicable consent, permit or authorisation under this Act or any other Act.
- (10) A road authority may -
 - (a) permit the erection and maintenance of gates and fences on or near road boundaries; and
 - (b) permit the construction of by-passes for unfenced roads and for this purpose to require the removal of any gate, the erection of notices giving warning of the by-pass, or the maintenance of the by-pass and notices; and
 - (c) revoke the permission given under Paragraphs (a) and (b) and require the removal of the gates, fences, notices and by-passes.

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- (11) Taking account of Schedule 1, Part I, a road authority may -
- (a) make a bridge, underpass or crossing over any pathway or channel adjacent to a road to enable a person using the road to have access to land on the other side of the pathway or channel; and
 - (b) maintain, repair or reconstruct the bridge or crossing; and
 - (c) permit a person to do anything the road authority may do under Paragraph (a) or (b); and
 - (d) require a person to do anything the road authority may do under Paragraph (a) or (b).

(12) A road authority may cut, lop or remove any tree or vegetation on a road, or lop any tree or vegetation overhanging a road, if the road authority considers that it is necessary to do so to remove a danger to road users, to prevent damage or obstruction to the operation of road infrastructure or non-road infrastructure or to carry out works on the road or infrastructure or to carry out works on the road or infrastructure on the road.

(13) A road authority may authorise an infrastructure manager or works manager to exercise the power conferred by Section 10.

(14) The powers conferred by Section 10 are subject to any relevant requirements or restrictions which apply under any other Act.

(15) For the purposes of Schedule 1, Part II, a power requiring the use of any land is subject to the land being available land.

- (16) In regard to Section (15) -
- (a) State land is available land if the Minister administering the relevant State land has given consent to the use of the land; and
 - (b) private land is available land -
 - (i) if the consent of the owners and occupiers to the use of the land has been obtained; or
 - (ii) if the land is acquired under the *Land Act 1996*; or
 - (iii) if the land is State land held under lease or licence; and
 - (c) land is available land if it is within a road reserve or is land owned by the responsible road authority.

PART III. - POWERS OF ROAD AUTHORITIES WITH RESPECT TO TRAFFIC MANAGEMENT.

- (1) For the purposes of enabling works to be carried out on or over a road or land next to a road for which it is responsible, a road authority has the power to -
- (a) manage traffic in accordance with an approved code for temporary traffic control; and
 - (b) fence off and occupy part of the road; and
 - (c) erect a temporary structure or crossing for vehicles or pedestrians on or over the road; and
 - (d) set temporary speed limits to ensure safety; and
 - (e) permit a person to do anything the road authority may do under Subsection (a), (b) or (c).

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(2) To prevent injury to any person or damage to any property (including damage to the road itself) on a road for which it is responsible that it considers is unsafe for that traffic, a road authority may block or restrict the passage or access of vehicles and pedestrians by placing and maintaining a barrier or other obstruction on the road for as long as is necessary.

(3) A road authority may -

- (a) move anything, other than a motor vehicle, that encroaches or obstructs the free use of a roadway or pathway or that reduces the width, or confines the limits, of a roadway or pathway; and
- (b) recover from the owner of anything moved under Paragraph (a) any reasonable costs incurred in moving it.

PART IV. - POWERS OF ROAD AUTHORITIES WITH RESPECT TO REAL PROPERTY.

- (1) If the boundary of a formed road has not been fixed, the boundary is deemed to be -
- (a) if the road adjoins unalienated land, 15 metres beyond either the edge of the roadway, the edge of the road formation or the limit of any road related infrastructure, whichever is furthest from the road centreline; or
 - (b) if the road adjoins freehold land, the boundary of the freehold land; or
 - (c) subject to Section (3), if the road adjoins State land held under a lease or a licence, the boundary of the State land.

(2) Despite any Act or rule of law to the contrary, neither the State nor a road authority is required to fence or contribute to the fencing of any portion of a road.

(3) A road authority may use a road in the performance of its other functions if the use does not unreasonably interfere with the primary purposes of the road.

(4) A road authority has in respect of a road for which it is responsible a right of physical support from land adjacent to the road.

(5) Subject to this section, a road authority may, for the purpose of the construction or maintenance of a road, exercise any power conferred on a road authority under this Act in respect of unreserved State land vested in a public authority.

(6) Before exercising any power under this section, the road authority shall obtain consent in writing -

- (a) in the case of unreserved State land, from the Minister administering the *Land Act 1996*; and
- (b) in the case of land vested in a public authority, the public authority or the Minister administering the Act under which the public authority is constituted.

PART V. - POWERS OF ROAD AUTHORITIES WITH RESPECT TO PROTECTION OF ROADS AND ADJOINING LAND.

(1) A road authority may at its discretion exercise any of its powers with respect to roads in relation to a private road -

- (a) with the agreement of the owner of, or person responsible for, the private land; or

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- (b) if the road authority has reasonable grounds for considering that it is necessary or desirable to do so in the interest of public safety or for environmental reasons.
- (2) A road authority may charge a reasonable amount for any works conducted under this section.
- (3) A road authority may -
- (a) fill any hole or excavation in or near a road; and
 - (b) remove any cause of possible damage to a road, or of danger to anyone or anything using the road; and
 - (c) erect or restore any fence near any hole or excavation that is near a road; and
 - (d) require a person to do any of the things listed in Subsections (a), (b) and (c).
- (4) A road authority may, where the road authority considers that -
- (a) the condition of land near a road may adversely affect:
 - (i) the safety of users of the road (including, without limitation, that the condition of land near a road is to be taken to adversely affect the safety of users of the road if the condition of the land may obscure the field of view of users of the road or may distract the attention of a driver of a vehicle on the road); or
 - (ii) the structural integrity of any part of the road; or
 - (b) a thing on land near a road constitutes a danger to persons or vehicles lawfully entitled to use the road,
- serve a notice on the owner or occupier of the land to remove, mitigate or rectify the condition or thing specified in the notice.
- (5) Without limiting the generality of the power of a road authority, the power includes directing -
- (a) the removal of overhanging trees or other encroachments on air space over a road; and
 - (b) that the landform of the land be altered; and
 - (c) that measures be taken to reduce the flow of water onto a road, including the removal of levee banks or other constructed features that have altered the natural flow of water; and
 - (d) that the risk of materials coming onto the road from the land be reduced; and
 - (e) that excavations on the land are to be filled; and
 - (f) that fences are erected, lights are installed or other measures taken with respect to hazards on the land; and
 - (g) the removal of a hoarding or sign; and
 - (h) the removal or modification of specified traffic hazards; and
 - (i) that rectification works specified in the notice be conducted within the time specified.
- (6) Subject to this Act, a road authority may enter any land to which Section (3) applies for the purpose of exercising powers under that section if -
- (a) the owner or occupier has not complied with a direction under that Section; or
 - (b) the road authority considers that there is an emergency or that the works are required urgently to ensure public safety, the structural integrity of the road or the movement of traffic on the road.
- (7) Without limiting the powers conferred by Subsections (3) and (4), a road authority may construct, install and maintain structures or works on any land near a road for the purpose of ensuring the structural integrity of the road.

**PART VI. - POWERS OF ROAD AUTHORITIES WITH RESPECT TO
INFRASTRUCTURE AND WORKS ON ROADS.**

- (1) An infrastructure manager or works manager shall in installing non-road infrastructure and conducting related works apply good engineering practice and relevant industry standards.
- (2) An infrastructure manager or works manager shall comply with any requirements in relation to the safety of road users.
- (3) An infrastructure manager or works manager shall cooperate in good faith with any other infrastructure manager or works manager in coordinating the management and maintenance of infrastructure and related works on a road.
- (4) An infrastructure manager or works manager shall -
 - (a) if practicable, use methods which do not involve excavating or breaking up the surface of a roadway or pathway or interfering with infrastructure in preference to methods that do; and
 - (b) if it is necessary to excavate or break up the surface of a roadway or pathway, the works should be conducted -
 - (i) at a time and in a manner to minimise as far as is reasonably practicable inconvenience to road users and other persons; and
 - (ii) so as to minimise long term damage or disruption; and
 - (c) as far as it practicable, reinstate at its own cost the roadway or pathway or infrastructure to the standard before the works were commenced.
- (5) An infrastructure manager shall take reasonable measures to -
 - (a) maintain the non-road infrastructure or related works to a satisfactory state of repair; and
 - (b) avoid causing damage to the roadway, road infrastructure or non-road infrastructure; and
 - (c) repair any damage caused to the roadway, road infrastructure or non-road infrastructure by a failure of infrastructure for which the infrastructure manager is responsible; and
 - (d) take reasonable precautions to ensure that anything placed on a roadway or pathway does not cause an obstruction or inconvenience; and
 - (e) take reasonable precautions to ensure that anything placed on a roadway or pathway does not cause an obstruction or danger to any person with a disability; and
 - (f) in the case of any part of a road used for rail infrastructure, ensure that the condition of the surface is maintained to a standard which is equivalent to the standard of the adjacent road surface.
- (6) An infrastructure manager or works manager shall give notice to the relevant road authority of any proposed installation of non-road infrastructure or related works on the road reserve provided, however, that this notification requirement does not apply if the proposed installation of non-road infrastructure or related works are necessary because of an emergency, but the infrastructure manager or works manager shall advise the relevant road authority about the installation of non-road infrastructure or related works as soon as is reasonably practicable.
- (7) An infrastructure manager or works manager shall give notice to any other infrastructure manager or works manager responsible for any non-road infrastructure in the area which could be affected by any proposed installation of infrastructure or related works on a road or the road reserve of any road and shall negotiate in good faith so as to minimise any adverse effects on any other non-road infrastructure.

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- (8) The obligation in Section (7) does not apply if -
- (a) the proposed installation of infrastructure or related works are necessary because of an emergency, but the infrastructure manager or works manager shall advise any other infrastructure manager or works manager responsible for non-road infrastructure in the area which could be affected about the installation of non-road infrastructure or related works as soon as is reasonably practicable; or
 - (b) an exemption under the regulation applies.

(9) If an infrastructure manager or works manager is proposing to install non-road infrastructure or conduct related works which are likely to significantly affect occupiers or owners of property near the road or a class of road users or another section of the public, if practicable, the infrastructure manager or works manager shall conduct appropriate consultation with the persons likely to be significantly affected.

(10) While works are being conducted on a road, the works manager shall take all reasonable measures to -

- (a) minimise disruption to traffic and pedestrians; and
- (b) ensure the safety of the works for all road users and adjoining properties; and
- (c) make adequate provision for persons with a disability.

(11) In completing the works, the works manager shall, after the works are completed, reinstate the roadway, pathway or area of roadside to the standard before the works were commenced -

- (a) as promptly as is reasonably practicable; and
- (b) as nearly as is reasonably practicable to an equivalent standard of quality and design; and
- (c) so as to ensure that any feature to assist persons with a disability is restored.

(12) An infrastructure manager or a works manager shall have regard to the principles specified in this section in the provision of non-road infrastructure on roads.

(13) The primary purpose of a road is use by members of the public and authorised uses shall be managed as far as is reasonably practicable in such a way as to minimise any adverse impacts on the primary purpose.

(14) Without limiting the generality of Paragraph (a), authorised uses shall be managed so as to -

- (a) minimise any damage to roads and road infrastructure; and
- (b) ensure that any works necessary for the provision of non-road infrastructure are conducted as quickly as practicable; and
- (c) minimise any disruption to road users; and
- (d) minimise any disruption to users of different modes of transport which have priority on specified roads; and
- (e) minimise any risk to the safety and property of road users and the public generally; and
- (f) facilitate the design and installation of infrastructure which minimises any risk to the safety of road users; and
- (g) ensure that the road and any other infrastructure is reinstated as nearly as practicable to the condition existing before the works necessary for the provision of the non-road infrastructure were conducted; and
- (h) protect and preserve existing significant roadside vegetation and sites of biological or environmental significance within the road reserve.

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(15) A road authority may enter into an agreement with another road authority, an infrastructure manager or works manager in respect of proposed works on roads.

(16) A term in the agreement in Section (13) is that the road authority shall give consent to proposed works, or give an exemption or variation, to which the agreement applies in sufficient consideration to make the agreement an enforceable contract.

(17) An agreement under this section shall not be inconsistent with this Act.

I hereby certify that the above is a fair print of the ***Road (Management and Fund) Act 2020*** which has been made by the National Parliament.



Clerk of the National Parliament.

14 JAN 2021

I hereby certify that the ***Road (Management and Fund) Act 2020*** was made by the National Parliament on 2 September 2020 by an absolute majority in accordance with the ***Constitution***.



Acting Speaker of the National Parliament.

14 JAN 2021