

FEDERAL ROADS AUTHORITY BILL, 2017

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SCHEDULES

A BILL

FOR

AN ACT TO REPEAL THE FEDERAL ROADS MAINTENANCE AGENCY (ESTABLISHMENT, ETC.) ACT, 2002 (AS AMENDED) AND TO ESTABLISH THE FEDERAL ROADS AUTHORITY TO PROMOTE A SAFE AND EFFICIENT MANAGEMENT OF THE FEDERAL ROADS NETWORK AND FOR RELATED MATTERS

Sponsored by Hon. Gideon L. Gwani

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

PART I - OBJECTIVES

- 1 1. The objectives of this Act are to: Objectives
- 2 (a) establish the Federal Roads Authority to perform the functions
- 3 set out in accordance with the provisions of this Act;
- 4 (b) manage the Federal Roads Network so that it is safe and
- 5 efficient, with a view to meeting the socio-economic demands of the
- 6 country;
- 7 (c) promote the sustainable development and operation of the road
- 8 sector; and
- 9 (d) facilitate the development of competitive markets and the
- 10 promotion of enabling environment for private sector participation in the
- 11 financing, maintenance and improvement of roads in Nigeria.

PART II - ESTABLISHMENT OF FEDERAL ROADS AUTHORITY

- 13 2.-(1) There is established a body to be known as the Federal Roads Establishment of
- 14 Authority (in this Act referred to as the "Authority"). the Federal Roads
- 15 (2) The Authority shall be a body corporate: Authority
- 16 (a) with perpetual succession and a common seal;
- 17 (b) may sue or be sued in its corporate name; and

1 (c) may own, hold or dispose of property whether movable or
2 immovable.

3 (3) The Headquarters of the Authority shall be situated in the Federal
4 Capital Territory, Abuja and the Authority may establish and maintain
5 operational offices and base camps in other parts of the Federation for the
6 purpose of the management of Federal roads.

Governing Board
of the Authority

7 3.-(1) There is established for the Authority a Governing Board (in
8 this Act referred to as the Board') which shall be responsible for policy
9 formulation for the Authority and superintending over the affairs of the
10 Authority.

11 (2) The Board shall consist of the following members:

12 (a) a non - Executive Chairman;

13 (b) four persons from the private sector with cognate experience in the
14 road sector;

15 (c) one representative each of the following Ministries and Agencies
16 not below the rank of a Deputy Director:

17 (i) Federal Ministry responsible for Roads;

18 (ii) Federal Ministry of Transport;

19 (iii) Federal Ministry in-charge of Lands;

20 (iv) Federal Ministry of Environment;

21 (v) Federal Ministry of Finance;

22 (vi) Federal Road Safety Corps;

23 (vii) Nigerian Society of Engineers; and

24 (viii) National Planning Commission.

25 (d) the Managing Director of the Authority

26 (3) The Authority's Board shall be responsible to the Minister.

27 (4) The Supplementary Provisions set out in the Schedule I to this Act
28 shall have effect with respect to the proceedings of the Board and other matters
29 contained therein.

1 4.-(1) The Chairman and other members of the Board, other than
2 the Managing Director, shall be appointed on part time basis by the
3 President on the recommendation of the Minister.

Appointm
qualificati
a Board M

4 (2) The Chairman and members of the Board, other than the
5 Managing Director, shall be persons of proven integrity, recognized expert
6 knowledge, qualification and with not less than fifteen years cognate
7 experience in one or more of the following fields:

8 (a) civil engineering or other relevant engineering disciplines;

9 (b) construction management;

10 (c) law;

11 (d) finance;

12 (e) accounts; and

13 (f) economics

14 5.-(1) A member of the Board, other than the Managing Director,
15 shall hold office:

Tenure and
removal from
office of a Board
Member

16 (a) for a term of four years in the first instance and may be
17 reappointed for a further term of four years and no more, and

18 (b) on such terms and conditions as may be specified in the letter of
19 appointment.

20 (2) A person shall cease to hold office as a member of the Board
21 where:

22 (a) he becomes bankrupt;

23 (b) he is convicted of a felony or any offence involving dishonesty
24 or fraud;

25 (c) he becomes of unsound mind or is incapable of carrying out his
26 duties;

27 (d) he is guilty of a serious misconduct in relation to his duties;

28 (e) he possesses professional qualification and is disqualified or
29 suspended from practicing his profession in any part of the world by an order
30 of a competent authority; he resigns his appointment by a letter addressed to

1 the President through Minister responsible for Roads;

2 (g) the President is satisfied that it is not in the interest of the Authority
3 or of the public for the person appointed to continue in office; or

4 (h) in the case of an ex-officio member, he ceases to hold the office on
5 the basis of which he became a member of the Board.

Functions of
the Board

6 6. For the purpose of achieving the objectives of the Authority, the
7 Board shall provide policy guidelines for the effective discharge of the duties
8 of the Management of the Authority in the provision of an efficient and safe
9 network of Federal Roads and ensure harmonious professional and working
10 relationships between the management of the Authority and the Ministry.

Cessation of
Office

11 7. Where a member of the Board ceases to hold office for any reason
12 whatsoever before the expiration of the term for which he is appointed, another
13 person representing the same interest as that member shall be appointed to the
14 Board for the unexpired term.

Emoluments

15 8. The Chairman and members of the Board shall be paid such
16 allowances or incidental expenses as the Government, may from time to time
17 approve, in accordance with existing laws and regulations.

18 PART III - STAFF OF THE AUTHORITY

Appointment
and removal of
the Managing
Director

19 9.-(1) The Managing Director shall be appointed by the President, on
20 the recommendation of the Minister.

21 (2) The Managing Director shall be:

22 (a) the chief executive and accounting officer of the Authority;

23 (b) responsible for the day-to-day administration of the Authority;

24 (c) appointed for a term of four years in the first instance and may be
25 re-appointed for a further term of four years and no more; and

26 (d) a person who possesses a degree in Civil Engineering or other
27 relevant engineering discipline, land survey and construction management
28 with not less than 20 years professional experience.

29 (3) The Managing Director may be suspended or removed from office
30 by the President if he:

1 (a) has demonstrated inability to effectively perform the duties of
2 his office;

3 (b) has been absent from five consecutive meetings of the Board
4 without the consent of the Chairman, unless he shows good reason for such
5 absence;

6 (c) is guilty of serious misconduct in relation to his duties as
7 Managing Director;

8 (d) possesses professional qualifications, he is disqualified or
9 suspended from practicing his profession in any part of the world by an order
10 of a competent authority; or

11 (e) Is incapable of carrying out the functions of his office either
12 arising from infirmity of mind or body.

13 (4) The Managing Director shall not be removed from office
14 except in accordance with the provisions of this Act

15 10.-(1) The Board shall appoint a Secretary to keep the corporate
16 records of the Authority and undertake such other functions as the Board
17 may from time to time direct.

Secretary and
other staff of the
Authority

18 (2) The Secretary shall possess adequate professional
19 qualifications, skills and experience as a legal practitioner with not less than
20 10 years cognate experience.

21 (3) The Authority shall employ such other number of persons as it
22 considers necessary for the exercise of its powers and performance of its
23 functions under this Act.

24 (4) The Board shall determine the terms and conditions of service
25 of the members of staff of the Authority and shall in consultation with the
26 National Salaries, Incomes and Wages Commission, review the
27 remuneration and allowances payable to the employees of the Authority,
28 from time to time.

29 11.-(1) Service in the Authority is pensionable under the Pension
30 Reform Act and accordingly, officers and other persons employed in the

Service in the
Authority to be
pensionable

1 authority shall be entitled to pension and other retirement benefits in respect of
2 their service in the Authority as prescribed in that Act.

3 (2) Notwithstanding the provisions of sub-section (1) of this section,
4 nothing in this Act shall prevent the appointment of a person to any office on
5 terms which preclude a grant of a pension or other retirement benefits in
6 respect of that office.

7 (3) For the purposes of the application of the provisions of the
8 Pensions Reform Act, any power exercisable by the Minister or other authority
9 of the Government of the Federation, other than the power to make regulations
10 under the Pensions Reform Act, is hereby vested in and shall be exercisable by
11 the Authority and not by any other person or authority.

12 PART IV - FUNCTIONS AND POWERS OF THE AUTHORITY

Functions of the
Authority

13 12. The Authority shall:

14 (a) manage federal road assets in accordance with the provisions of
15 this Act;

16 (b) ensure the efficient and effective construction, rehabilitation,
17 reconstruction and maintenance of all Federal roads;

18 (c) enter into road concession contracts and other forms of contracts
19 with anybody corporate incorporated under the laws of Nigeria for the purpose
20 of executing relevant projects provided that the grant of a concession or a
21 Public Private Partnership (PPP) contract shall be subject to competitive public
22 tender rules approved and published by the Federal Government from time to
23 time and in accordance with the relevant laws for the time being in force, for the
24 procurement of concessions or PPP contracts;

25 (d) carry out routine and emergency repair of roads as the Authority
26 may by its discretion determine;

27 (e) plan and manage the development of road safety technical
28 designs, standards and audit in collaboration with the Federal Road Safety
29 Commission;

30 (f) work in partnership with similar agencies at the State and Local

1 Government levels by providing policy advice, guidance and technical
2 support for the efficient and effective rehabilitation, reconstruction and
3 maintenance of road networks;

4 (g) prescribe measures for preventing damage however caused by
5 any person to any road or any part thereof and for recovering, in full or in
6 part, the cost of repairing the damage from such person or his insurers;

7 (h) advise the Government in consultation with the Federal Road
8 Safety Corps and other relevant Ministries, Departments and Agencies, on
9 appropriate and effective methods of enforcing road traffic legislation for
10 the purposes of preventing damage to roads and promoting road safety;

11 (i) ensure effective monitoring of the conditions of all roads for the
12 purposes of timely implementation of road maintenance, rehabilitation and
13 development programmes;

14 (j) publish periodic reports of the activities and achievements of
15 the Authority and make the reports available to the general public;

16 (k) advise the Minister on the specifications, design, standards and
17 classification of roads and the prohibition of any act that may lead to damage
18 to roads;

19 (l) advise the Minister on the types, sizes, and usage of vehicles on
20 national roads and the laden and axle weight of vehicles for the purpose of
21 protecting national roads from damage;

22 (m) advise the Minister on the development and training of human
23 resources, research and studies necessary or required for maintenance,
24 rehabilitation and development of roads;

25 (n) advise the Minister on appropriate road signs, and other road
26 agencies on the location of road signs on public roads;

27 (o) recommend to the Minister, from time to time, appropriate
28 levels of charges, fines, penalties, levies or any sum required to be collected
29 under this Act and paid into the Road Fund;

30 (p) provide technical regulations on road development and usage;

1 (q) recommend to the National Roads Fund Board from time to time,
2 such reviews in road user charges as are necessary for the purpose of the Road
3 Fund;

4 (r) liaising with the Federal Road Safety Commission or any other
5 body charged with matters relating to safety of persons on the road;

6 (s) plan and develop strategies towards ensuring efficient and
7 effective movement of traffic on the federal road network and ensure their
8 implementation;

9 (t) identify and recommend to the Minister, donor funding for the
10 construction, maintenance, rehabilitation and reconstruction of federal roads.

11 (u) develop an appropriate Road Management System;

12 (v) prepare and publish reports on the Authority's projects funded by
13 the National Roads Fund;

14 (w) make policy recommendations to the Federal Government on
15 matters relating to the construction, rehabilitation, reconstruction and
16 maintenance of Federal roads; and

17 (x) carry out other functions which in the opinion of the Board are
18 necessary to ensure the efficient performance of the functions of the Authority.

Powers of the
Authority

19 **13.** The Authority shall, in order to fulfill its functions under this Act,
20 have the power in respect of federal trunk roads:

21 (a) to consider applications for concessions and other forms of PPPs
22 and to issue and if necessary extend and renew any concessions or contracts;

23 (b) to, subject to extant regulations and laws carry out inquiries, tests,
24 audits or investigations and take such other steps as may be necessary to
25 monitor the activities of concessionaires and other PPPs and to secure and
26 enforce compliance with the provisions of this Act or any subsidiary
27 legislation, concession, terms, contracts or conditions made pursuant to this
28 Act;

29 (c) where it considers it to be in the public interest, to compel a
30 concessionaire or other PPPs to provide any information or any document

1 concerning activities notwithstanding that such information or document
2 may contain business secrets; provided that any such information or
3 documents shall be restricted to those that a person can be legally compelled
4 to produce as evidence by a court of law in Nigeria;

5 (d) to publish information received in the course of exercising its
6 powers and functions under this Act or to require concessionaires and other
7 PPPs to publish certain information if it is satisfied that the publication is
8 consistent with the objects of this Act provided that the Authority shall
9 consider the commercial interests of the parties to whom the information
10 relates before publishing the information;

11 (e) to undertake consultations with members of the public, road
12 operators and industry participants affected by or with an interest in its
13 directions and to consider any responses to the consultations;

14 (f) to enter into contracts and incur obligations;

15 (g) to acquire, hold, mortgage, purchase and deal howsoever with
16 property whether moveable or immoveable, real or personal;

17 (h) subject to section 16 of this Act borrow such sums as it may
18 require for the performance of its functions under this Act;

19 (i) subject to the provisions in relevant treasury and establishment
20 circulars, approve the award and termination of contracts to consider
21 applications for concession and other forms of Public Private Partnership
22 contracts and to issue, extend, renew, modify, suspend and if necessary,
23 revoke any concession or contracts;

24 (j) to carry out inquiries, tests, audits or investigations and take
25 such other steps as may be necessary to monitor the activities of
26 concessionaires and other Public Private Partnerships and to secure and
27 enforce compliance with the provisions of this Act or any subsidiary
28 legislation, concession, terms, contracts or conditions made pursuant to this
29 Act;

30 (k) to work in partnership with similar agencies at the States and

1 Local Government levels by providing policy advice, guidance and technical
2 support for the efficient and effective rehabilitation, reconstruction and
3 maintenance of road networks; and

4 (l) to do all things necessary or convenient to be done for or in
5 connection with the performance of its functions and to enable it to achieve its
6 objectives under this Act; and

7 PART V - FINANCIAL PROVISIONS

Fund of the
Authority

8 14. The Authority shall establish and maintain a fund which shall
9 comprise:

10 (a) an initial take off grant or subvention as may be appropriated to the
11 Authority by the National Assembly;

12 (b) such moneys as may be appropriated to the Authority from time to
13 time by the National Assembly through the national budgetary process;

14 (c) allocations from the National Roads Fund;

15 (d) concession fees, levies and other charges imposed by the
16 Authority;

17 (e) international vehicles transit charges as may be determined by the
18 Minister in charge of Roads on the advice of the Board of the Authority;

19 (f) gifts, loans and grants from national, bilateral and multilateral
20 agencies;

21 (g) proceeds from the sale of assets that may accrue to the Authority;
22 and

23 (h) rents, toll fees and other internally generated revenues from
24 services provided by the Authority.

Application of
Fund of the
Authority

25 15. The Authority may from time to time apply its funds:

26 (a) to road construction, rehabilitation, reconstruction and
27 maintenance expenditure;

28 (b) to the development and maintenance of roads deemed to be federal
29 roads within the meaning of this Act;

30 (c) to the administration of the Authority;

1 (d) to the paying of the emolument, allowances and benefits of
2 members of the Board and for reimbursing members of the Board or of any
3 Committee set up by the Board for such expenses as may be expressly
4 authorized by the Board;

5 (e) to the payment of the salaries fees or other remuneration or
6 allowances and Pensions, and other benefits payable to the officers and
7 other employees of the Authority, so however that no payment of any kind
8 under this paragraph (except such as may be expressly authorized by the
9 Board) shall be made to any person who is in receipt of emoluments from the
10 Federal or State Government;

11 (f) for the development and maintenance of any property vested in
12 or owned by the Authority; and

13 (g) for any other payment in connection with all or any of its
14 functions under this Act.

15 **16.-**(1) The Authority may, with the consent of the Minister
16 responsible for Finance, borrow such money as the Board may require in the
17 exercise of its functions under this Act.

Borrowing powers,
gifts, etc.

18 (2) The Authority may accept gifts, grants of money, aid or other
19 property from national, bilateral or multilateral organizations and upon such
20 terms and conditions as may be agreed upon between the donor and the
21 Authority provided that any conditions attached to such gifts are not
22 inconsistent with the objectives and functions of the Authority under this
23 Act.

24 **17.** The Board shall:

Reports, budgets
and audited accounts

25 (a) receive and review annual reports from the management of the
26 Authority and submit same to the President and the National Assembly,
27 through the Minister in the first quarter of every year and the report shall be
28 on the activities of the Authority during the immediately preceding calendar
29 year, and shall include a copy of the audited accounts of the Authority for
30 that calendar year.

1 (b) submit not later than four months to the end of each year to the
2 Minister an estimate of the expenditure and income of the Authority for the
3 next succeeding year; and

4 (c) keep proper accounts of the Authority in respect of each year and
5 proper records in relation thereto and shall cause the accounts to be audited not
6 later than 3 months after the end of each year by professionally qualified and
7 licensed auditors appointed by the Board with the approval of the Auditor-
8 General of the Federation.

9 PART VI - REGULATION OF ROAD SECTOR

Role of the
Minister

10 **18.**-(1) The Minister shall:

11 (a) formulate, determine and monitor the general policy for the road
12 sector in Nigeria to ensure, amongst others, the utilization of the sector as a
13 platform for the economic and social development of Nigeria;

14 (b) provide general policy guidelines, specifications and standards
15 for the construction, reconstruction, rehabilitation and maintenance of Federal
16 Roads in Nigeria; and

17 (2) The Minister may give directives to the Authority relating to the
18 performance by the Authority of any of its functions under this Act provided
19 that such directives are not inconsistent with the objectives and functions of the
20 Authority under this Act.

21 (3) The Minister shall prior to the formulation or review of policies
22 for the roads sector, consult with and have due regard to the representations of
23 relevant stakeholders in the sector, including, but not limited to, the Authority,
24 industry participants and the general public.

25 PART VII - ROADS PLAN

Preparation of
Roads Plan

26 **19.**-(1) The Authority shall, within the first year of its establishment,
27 prepare a five year Rolling Roads Plan (hereinafter referred to as the "Plan") for
28 the fulfillment of its responsibilities under this Act.

29 (2) The Plan made pursuant to the provisions of subsection (1) of this
30 section shall be broken into yearly Action Programmes and shall contain such

1 the commencement of this Act.

2 7. Any guarantee or surety-ship given or made by the Federal
3 Government or any other person in respect of any debt or obligation of the
4 Agency, and which was effective immediately before the transfer of the
5 principal debt or obligation, shall remain fully effective against the
6 guarantor or surety on and after the transfer date in relation to the payment of
7 the debt or the performance of the obligation, as the case may be, by the
8 Authority to which the principal debt or obligation was transferred.

9 *Transfer of Employees*

10 8.-(1) Upon the Commencement of this Act, such number of
11 persons employed by the Agency as may be required by the Authority shall
12 be deemed to be staff of the Authority and shall be transferred to the service
13 of the Authority on terms not less favourable than those enjoyed
14 immediately prior to the transfer.

15 (2) The service rendered by an employee transferred pursuant to
16 sub-paragraph (1) of this paragraph to the Agency shall be deemed to be
17 service with the Authority for the purpose of determining employment
18 related entitlements as specified in the relevant laws of employment in
19 Nigeria.

20 (3) Until such time as conditions of service are drawn up by the
21 Authority:

22 (a) the terms and conditions of service applicable to employees of
23 the Agency shall continue to apply to every person transferred to the
24 Authority as if every such person were still in the service of the Agency; and

25 (b) the Authority shall continue to contribute towards any pension
26 scheme to which the Agency was contributing in respect of persons in the
27 employ of the Agency prior to the transfer date.

28 (4) Nothing in this paragraph shall operate so as to prevent any
29 employee of the Agency from resigning or being dismissed from service.

30 (5) Nothing in this paragraph shall operate so as to create an

1 entitlement for any employee of the Agency to become an employee of the
2 Authority.

3 *Directions to the Agency*

4 9.-(1) The Minister may give the members of the Board of the Agency
5 directions in writing in order to ensure the proper transfer of the assets of the
6 Agency to the Authority and the Agency shall without delay, comply with
7 every such direction.

8 (2) Without derogating from sub-paragraph (1) of this paragraph,
9 directions given under that sub-paragraph may provide for:

10 (a) the cessation of all or any of the functions of the Agency;

11 (b) the termination of any contract entered into between the Agency
12 and any person, provided that no such direction shall authorise the Agency to
13 commit an unlawful breach of any such contract; and

14 (c) the production of any report and the provision of any information
15 concerning the conduct of the Agency or the members of the board of the
16 Agency or anything done by or on behalf of the Agency or the members of the
17 Agency.

EXPLANATORY MEMORANDUM

*(This Memorandum does not form part of the above Bill but is intended
to explain its purport)*

This Bill seeks to repeal the Federal Roads Maintenance Agency (Establishment etc.) Act 2002 (as amended) and establish the Federal Roads Authority for the safe and efficient management of the Federal Roads Network to meet the socio-economic demands of the country; promote the sustainable development and operation of the road sector; and facilitate the development of competitive markets and the promotion of enabling environment for private sector participation in the financing, maintenance and improvement of roads in Nigeria.