

FEDERAL ROADS AUTHORITY BILL, 2016

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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 EFFICIENT AND COST EFFECTIVE MANAGEMENT OF THE FEDERAL ROADS NETWORK AND FOR OTHER MATTERS CONNECTED THEREWITH

Sponsored by Senator Kabiru Gaya

[] Commencement

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

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PART I - OBJECTIVES

1. The objectives of this Act are to:

Objectives

(a) establish the Federal Roads Authority to perform the functions set out in accordance with the provisions of this Act;

(b) manage the Federal Roads Network so that it is safe and efficient, with a view to meeting the socio-economic demands of the country;

(c) promote the sustainable development and operation of the road sector; and

(d) 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.

PART II - ESTABLISHMENT OF FEDERAL ROADS AUTHORITY

2. -(1) There is established a body to be known as the Federal Roads Authority (in this Act referred to as the "Authority").

Establishment of the Federal Roads Authority

(2) The Authority shall be a body corporate:

(a) with perpetual succession and a common seal;

(a) may sue or be sued in its corporate name; and

(b) may own, hold or dispose of property whether movable or

1 immovable.

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

Governing Board
of the Authority

6 3. -(1) There is established for the Authority a Governing Board (in
7 this Act referred to as 'the Board') which shall be responsible for policy
8 formulation for the Authority and superintending over the affairs of the
9 Authority.

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

11 (a) a non - Executive Chairman;

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

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

16 (i) Federal Ministry responsible for Roads;

17 (ii) Federal Ministry of Transport;

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

19 (iv) Federal Ministry of Environment;

20 (v) Federal Ministry of Finance;

21 (vi) Federal Road Safety Corps;

22 (vii) Nigerian Society of Engineers; and

23 (viii) National Planning Commission; and

24 (d) the Managing Director of the Authority

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

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

Appointment and
qualification of a
Board Members

29 4.-(1) The Chairman and other members of the Board, other than the
30 Managing Director, shall be appointed on part time basis by the President on

1 the recommendation of the Minister.

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

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

7 (b) construction management;

8 (c) law;

9 (d) finance;

10 (e) accounts; and

11 (f) economics

12 5. -(1) A member of the Board, other than the Managing Director,
13 shall hold office:

Tenure and
removal from
office of a Board
Member

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

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

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

20 (a) he becomes bankrupt;

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

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

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

26 (e) he possesses professional qualification and is disqualified or
27 suspended from practicing his profession in any part of the world by an order
28 of a competent authority;

29 (f) he resigns his appointment by a letter addressed to the President
30 through the Minister responsible for Roads;

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

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

Functions of
the Board

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

Cessation of
office

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

Emoluments

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

17 PART III - STAFF OF THE AUTHORITY

Appointment
and removal
of the Managing
Director

18 9. -(1) The Managing Director shall be appointed by the President, on
19 the recommendation of the Minister.

20 (2) The Managing Director shall be:

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

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

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

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

28 (a) The Managing Director may be suspended or removed from office
29 by the President if he has demonstrated inability to effectively perform the
30 duties of his office;

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

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

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

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

11 (3) The Managing Director shall not be removed from office
12 except in accordance with the provisions of this Act

13 10.- (1) The Board shall appoint a Secretary to keep the corporate
14 records of the Authority and undertake such other functions as the Board
15 may from time to time direct.

Secretary and
other staff of the
Authority

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

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

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

27 11. -(1) Service in the Authority is pensionable under the Pension
28 Reform Act and accordingly, officers and other persons employed in the
29 authority shall be entitled to pension and other retirement benefits in respect
30 of their service in the Authority as prescribed in that Act.

Service in the
Authority to be
Pensionable

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

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

10 PART IV - FUNCTIONS AND POWERS OF THE AUTHORITY

Functions of
the Authority

11 **12. The Authority shall:**

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

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

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

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

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

28 (f) work in partnership with similar agencies at the State and Local
29 Government levels by providing policy advice, guidance and technical support
30 for the efficient and effective rehabilitation, reconstruction and maintenance of

1 road networks;

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

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

9 (I) ensure effective monitoring of the conditions of all roads for the
10 purposes of timely implementation of road maintenance, rehabilitation and
11 development programmes;

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

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

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

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

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

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

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

29 (q) recommend to the National Roads Fund Board from time to
30 time, such reviews in road user charges as are necessary for the purpose of

1 the Road Fund;

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

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

7 (t) identify and recommend to the Minister, donor funding for the
8 construction, maintenance, rehabilitation and reconstruction of federal roads;

9 (u) develop an appropriate Road Management System;

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

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

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

Powers of the
Authority

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

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

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

27 (c) where it considers it to be in the public interest, to compel a
28 concessionaire or other PPPs to provide any information or any document
29 concerning activities notwithstanding that such information or document may
30 contain business secrets; provided that any such information or documents

1 shall be restricted to those that a person can be legally compelled to produce
2 as evidence by a court of law in Nigeria;

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

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

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

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

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

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

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

28 (k) to work in partnership with similar agencies at the States and
29 Local Government levels by providing policy advice, guidance and
30 technical support for the efficient and effective rehabilitation,

1 reconstruction and maintenance of road networks; and

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

5 **PART V - FINANCIAL PROVISIONS**

Fund of the
Authority

6 **14. The Authority shall establish and maintain a fund which shall**
7 **comprise:**

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

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

12 (c) allocations from the National Roads Fund;

13 (d) concession fees, levies and other charges imposed by the
14 Authority;

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

17 (f) gifts, loans and grants from national, bilateral and multilateral
18 agencies;

19 (g) proceeds from the sale of assets that may accrue to the Authority;

20 and

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

Application of
Fund of the
Authority

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

24 (a) to road construction, rehabilitation, reconstruction and
25 maintenance expenditure;

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

28 (c) to the administration of the Authority;

29 (d) to the paying of the emolument, allowances and benefits of
30 members of the Board and for reimbursing members of the Board or of any

1 Committee set up by the Board for such expenses as may be expressly
2 authorized by the Board;

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

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

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

13 16.-(1) The Authority may, with the consent of the Minister
14 responsible for Finance, borrow such money as the Board may require in the
15 exercise of its functions under this Act.

Borrowing
powers, gifts, etc.

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

22 17. The Board shall:

Reports, budgets
and audited
accounts

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

29 (b) submit not later than four months to the end of each year to the
30 Minister an estimate of the expenditure and income of the Authority for the

1 next succeeding year; and

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

7 PART VI - REGULATION OF ROAD SECTOR

Role of the
Minister

8 18. -(1) The Minister shall:

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

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

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

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

23 PART VII - ROADS PLAN

Preparation of
Roads Plan

24 19.-(1) The Authority shall, within the first year of its establishment,
25 prepare a five year Rolling Roads Plan (hereinafter referred to as the "Plan")
26 for the fulfillment of its responsibilities under this Act.

27 (2) The Plan made pursuant to the provisions of subsection (1) of this
28 section shall be broken into yearly Action Programmes and shall contain such
29 information, amongst others, that would allow determination of the Authority's
30 proposed activities over the Plan period in respect of each element of the

1 Federal Roads network.

2 (3) The Authority shall submit the Plan to the National Roads Fund
3 Board within six months of its establishment in the case of the first Plan and
4 within four months before the start of the Authority's financial year for the
5 year of submission in the case of subsequent Plans, together with its five-
6 year funding programmes and the database for the service level for the Plan
7 period relative to the road network for which the Authority has
8 responsibility.

9 (4) The National Roads Fund Board shall review the Plan and the
10 funding submissions of the Authority against set financial, economic and
11 social criteria for the achievement of the objects of the National Roads Fund
12 Board; and shall upon satisfying itself of the integrity of the Plan and the
13 submissions of the Authority, approve the programme contained in the Plan
14 for funding from the Roads Fund.

15 (5) The Authority shall keep the Plan under review and update it
16 annually, with appropriate input and approval of the National Roads Fund
17 Board, within the five year rolling plan cycle.

18 PART VIII - MISCELLANEOUS

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

Application of
the Public Officers
Protection Act

22 21. A notice, summons or other documents required or authorized
23 to be served upon the Authority under the provisions of this Act or any other
24 enacted law may be served by delivering it to the Managing Director or by
25 sending it by registered post addressed to the Managing Director at any of
26 the principal offices of the Authority or by electronic means through e-mail
27 or website of the Authority.

Notices

28 22. No civil action shall be commenced against the Authority or its
29 authorised officers before the expiration of a period of 30 days after written
30 notice of intention to commence the suit shall have been served on the

Legal
Proceedings

1 Authority by the intending plaintiff or his agent, and the notice shall clearly and
2 explicitly state the:

3 (a) cause of action;

4 (b) particulars of the claim;

5 (c) name and place of abode of the intending plaintiff; and

6 (d) relief sought.

Indemnity of
officers of the
Authority

7 23. A member of the Board, the Managing Director, any officer or
8 employee of the Authority shall be indemnified out of the assets of the
9 Authority against any liability incurred by him in defending any proceeding,
10 whether civil or criminal, in which judgment is given in his favour or in which
11 he is acquitted, where such proceeding is brought against him in his capacity as
12 a member of the Board, the Managing Director, officer or an employee of the
13 Authority.

Confidentiality

14 24. -(1) A member of the Board, or the Board or the Managing
15 Director or any other officer or employee of the Authority shall:

16 (a) not, for his personal gain, make use of any information which has
17 come to his knowledge in the exercise of his power or is obtained by him in the
18 ordinary course of his duty as a member of the Board or as a Managing
19 Director, officer or employee of the Authority;

20 (b) treat as confidential any information which has come to his
21 knowledge in the exercise of his power or is obtained by him in the
22 performance of his duties under this Act;

23 (c) not disclose any information referred to under paragraph (b) of this
24 sub-section, except where required to do so by a Court or in such other
25 circumstances as may be prescribed by the Board from time to time.

26 (2) Any person who contravenes any of the provisions of sub-section
27 (1) of this section commits an offence and shall be liable on conviction to a fine
28 of not less than N200,000.00 or imprisonment for a term not exceeding two
29 years or both such fine and imprisonment.

1 **25.** The Board may, with the approval of the Minister make such Regulations
2 regulations as in its opinion, are necessary or expedient for giving full effect
3 to the provisions of the Act and for the due administration of its provisions.

4 **26.** -(1) The Federal Roads Maintenance Agency (Establishment Repeal, savings
5 etc.) Act, 2002 and the Federal Roads Maintenance Agency (Amendment, and transitional
6 etc) Act, 2007 are hereby repealed. Provisions

7 (2) Any provision of the Federal Highways Act Cap F13 Laws of
8 the Federation of Nigeria, 2004 which is inconsistent with the provisions of
9 this Act shall to the extent of the inconsistency, be void and the provisions of
10 this Act shall prevail.

11 (3) Without prejudice to section 6 of the Interpretation Act, the
12 repeal of the Act specified in subsection (1) of this section, shall not affect
13 anything done under or pursuant to the Act.

14 (4) Every regulation, order, requirement, certificate, appointment
15 with tenure, notice, direction, decision, authorization, consent, application,
16 request or thing made, issued, given or done under the repealed Acts shall, if
17 in force at the commencement of this Act, continue to be in force and have
18 effect as if made, issued, given or done under the corresponding provisions
19 of this Act.

20 (5). All assets, funds, resources and other movable and immovable
21 property which, immediately before the commencement of this Act, vested
22 in Agencies established under the repealed Acts shall by virtue of this Act
23 and without further assurance be vested in the Authority established under
24 this Act.

25 (6) The Statutory functions, rights, interest, obligations and
26 liabilities of the Federal Roads Maintenance Agency and the Department of
27 the Ministry responsible for construction, rehabilitation and maintenance of
28 Federal Roads before the commencement of this Act under any contract,
29 rights of way, concessions or instrument shall by virtue of this Act be
30 deemed to have been assigned to, transferred or vested in the Authority.

1 (7) Nothing in subsection (1) of this section shall be construed to
2 preclude the power of the Ministry to engage in the construction of roads.

The Role of the
National Council
on Privatization

3 27. The National Council on Privatization shall, in consultation with
4 the Minister in charge of roads, not later than three months after the coming into
5 force of this Act, take such steps as are necessary to bring into being the
6 institutional structures of the Authority.

Interpretation

7 28. In this Act except the context otherwise requires:
8 “Authority” means the Federal Roads Authority established under section 2 of
9 this Act;
10 “base camps” means the outfit or unit office established by the Authority along
11 Federal Roads;
12 “Board” means the Governing Board of the Authority established under
13 section 3 of this Act;
14 “COREN” means Council for the Registration of Engineers;
15 “Federal Roads” means roads and bridges owned by the Federal Government
16 and as gazette;
17 “function” includes power and duty;
18 “geo-political zones” means the six geo-political units of the Federation;
19 “member” means a member of the Board and includes the Chairman;
20 “Minister” means Minister in charge of Federal Road Infrastructure;
21 “Ministry” shall be construed accordingly;
22 “PPP” means Public Private Partnership;
23 “President” means the President of the Federal Republic of Nigeria;
24 “Power” includes functions and duty.

Short title

25 29. This Act may be cited as the Federal Roads Authority Bill, 2016.

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SCHEDULE I

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

PROCEEDINGS OF THE BOARD

[Section 3(4)]

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of any of its Committees.

2. At every meeting of the Board, the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their members to preside.

3. The quorum at a meeting of the Board shall consist of the Chairman or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule, and five other members.

4. The Board shall for the purpose of this Act, meet not less than three times in each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman, and if required to do so, by notice given to the Chairman by not less than eight members, the Chairman shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

5. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

6. (a) Subject to its standing orders, the Board may appoint such number of standing and ad hoc Committees as it thinks fit to consider and report on any matter with which the Authority is concerned.

(b) A committee appointed under this paragraph shall:

1 (i) consist of such number of persons (not necessarily members of the
2 Board as may be determined by the Board), and a person other than a member
3 of the Board shall hold office on the Committee in accordance with the terms of
4 his appointment; and

5 (ii) be presided over by a member of the Board.

6 (b) The quorum of any Committee set up by the Board shall be as
7 determined by the Board.

8 (c) A decision of a Committee of the Board shall be of no effect until it
9 is confirmed by the Board.

10 *Miscellaneous*

11 7. The fixing of the seal of the Authority shall be authenticated by the
12 signature of the Chairman, the Managing Director, or any other person
13 generally or specifically authorized by the Board to act for that purpose.

14 8. Any contract or instrument which, if made by a Person not being a
15 body corporate, would not be required to be under seal may be made or
16 executed on behalf of the authority by the Managing Director or by any other
17 person generally or specifically authorized by the Board to act for that purpose.

18 9. Any document purporting to be a contract, instrument or other
19 document duly signed or sealed on behalf of the Authority shall be received in
20 evidence and shall, unless the contrary is proved, be presume without further
21 proof to have been so signed.

22 10. -(1) The validity of any proceedings of the Board or of any of its
23 Committees shall not be affected by:

24 (a) any vacancy in the membership of the Board, or Committee; or

25 (b) any defect in the appointment of a member of the Board or
26 Committee.

- 1 SCHEDULE II
- 2 EXECUTION OF ROAD MANAGEMENT TASK
- 3 *Form of Execution of Road Management Function*
- 4 1.-(1) The Board shall carry out its road management function
- 5 through executing agencies which may be either of road management
- 6 consultants, road agencies or agents of local government authorities.
- 7 (2) It shall be the duty of the Board to prepare and publish
- 8 guidelines and procedures as to the manner of the discharge of these
- 9 functions by these executing agencies and the Authority shall ensure that
- 10 these guidelines and procedures are such as to ensure transparent,
- 11 accountable and cost-effective performance of their duties by these
- 12 agencies.
- 13 2. -(1) Without prejudice to the foregoing, the guidelines and
- 14 procedures shall address issues relating to preparation and approval of plans
- 15 and programmes, procurement of works, financial management of works,
- 16 disbursement of funds.
- 17 (2) It shall be the duty of the Authority to ensure awareness and
- 18 understanding by the road agencies of these guidelines and procedures and
- 19 their due implementation.
- 20 3. Any of the above executing agencies may be engaged by the
- 21 Authority to prepare and submit to the Authority annual work plans covering
- 22 the road network under its responsibility, not later than four months before
- 23 the beginning of the next fiscal year.
- 24 Preparation and Adoption of Annual Work Plans
- 25 4.-(1)The Board will prepare and adopt manuals of procedures
- 26 defining its way of collaboration with the different types of executing
- 27 agencies, including financial management systems, maintenance
- 28 management systems, management information systems, procurement and
- 29 disbursement procedures, etc. to be adopted by the executing agencies.
- 30 (2) The Authority shall execute its duty with due regard to

1 environmental issues.

2 SCHEDULE III

3 Transfer of Assets

4 1. All Assets and funds which immediately before the
5 commencement of this Act were vested in the Federal Roads Maintenance
6 Agency “the Agency” and the department of the Ministry responsible for
7 construction, rehabilitation and maintenance of Federal Roads shall by virtue
8 of this Act be vested in the Federal Roads Authority. Provided that nothing in
9 this Act shall be construed to preclude the power of the Ministry responsible for
10 roads from engaging in the construction of roads.

11 2. All references in this schedule to the Agency shall mean and
12 include the department of the Ministry of Works responsible for construction,
13 rehabilitation and maintenance of Federal Roads.

14 3. All bonds, hypothecations, securities, deeds, contracts,
15 instruments, documents, and working arrangements with respect to the assets
16 transferred, that subsisted immediately before the commencement of this Act
17 and to which the Agency was a party shall be as fully effective and enforceable
18 against or in favour of the Authority as if, instead of the Agency, the Authority
19 had been named therein.

20 4. Any cause of action or proceeding which existed or was
21 pending with respect to the assets transferred by or against the Agency
22 immediately before commencement of this Act, shall be enforced or continued,
23 as the case may be, by or against or in favour of the Authority in the same way
24 that it might have been enforced or continued by or against the Agency had this
25 Act not been passed.

26 5. No action or other proceeding shall be commenced against the
27 Authority in respect of an employee or asset that has been transferred to the
28 Authority, where, if there had been no transfer, the time for commencing the
29 action or other proceeding would have expired.

30 6. Nothing in this Act and nothing done as a result of a transfer

1 under sub-paragraph (1) of this paragraph shall create any new cause of
2 action in favour of:

3 (a) a holder of a debt instrument that was issued by the Agency
4 before the commencement of this Act; and

5 (b) a party to a contract with the Agency that was entered into
6 before the commencement of this Act.

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

14 Transfer of Employees

15 8. -(1) Upon the Commencement of this Act, such number of
16 persons employed by the Agency as may be required by the Authority shall
17 be deemed to be staff of the Authority and shall be transferred to the service
18 of the Authority on terms not less favourable than those enjoyed
19 immediately prior to the transfer.

20 (2) The service rendered by an employee transferred pursuant
21 to sub-paragraph (1) of this paragraph to the Agency shall be deemed to be
22 service with the Authority for the purpose of determining employment
23 related entitlements as specified in the relevant laws of employment in
24 Nigeria.

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

27 (a) the terms and conditions of service applicable to
28 employees of the Agency shall continue to apply to every person transferred
29 to the Authority as if every such person were still in the service of the
30 Agency; and

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

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

6 (5) Nothing in this paragraph shall operate so as to create an
7 entitlement for any employee of the Agency to become an employee of the
8 Authority.

9 *Directions to the Agency*

10 9. -(1) The Minister may give the members of the Board of the
11 Agency directions in writing in order to ensure the proper transfer of the assets
12 of the Agency to the Authority and the Agency shall without delay, comply with
13 every such direction.

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

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

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

20 (c) the production of any report and the provision of any
21 information concerning the conduct of the Agency or the members of the board
22 of the Agency or anything done by or on behalf of the Agency or the members
23 of the 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.

