

A BILL

FOR

AN ACT TO REPEAL THE FEDERAL ROADS MAINTENANCE AGENCY (ESTABLISHMENT, ETC.) ACT, 2002 (AS AMENDED), THE FEDERAL HIGHWAYS ACT 1971 AND THE CONTROL OF ADVERTISEMENT (FEDERAL HIGHWAYS) ACT 1986 AND TO ESTABLISH THE FEDERAL ROADS AUTHORITY TO PROVIDE FOR THE OWNERSHIP, REGULATION, MANAGEMENT AND DEVELOPMENT OF THE FEDERAL ROADS NETWORK AND FOR OTHER MATTERS CONNECTED THEREWITH, 2019

Sponsored by Senator Bassey, Gershom Henry

[] Commencement

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

PART I - OBJECTIVES AND APPLICATION

1. The objectives of this Bill 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;

(d) facilitate the development of competitive markets and the promotion of enabling environment for private sector participation in the development, financing, maintenance and improvement of roads in Nigeria; and

(e) provide for the regulation of the road sector by an independent regulator.

Application 1 2. The provisions of this Act shall apply to the development, funding,
2 management and administration of Federal Roads in Nigeria.

3 PART II - ESTABLISHMENT OF FEDERAL ROADS AUTHORITY

Establishment
of the Federal
Roads Authority 4 3.-(1) There is hereby established a body to be known as the Federal
5 Roads Authority (in this Act referred to as the "Authority") which shall be
6 responsible for the asset management and works (development, rehabilitation,
7 maintenance and road safety works) on Federal Roads in Nigeria.

8 (2) The Authority shall be a body corporate:

9 (a) with perpetual succession and a common seal;

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

11 (c) may own, hold or dispose of property whether movable or
12 immovable.

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

Governing Board
of the Authority 17 4.-(1) There is established for the Authority a Governing Board (in
18 this Act referred to as 'the Board') which shall be responsible for policy
19 formulation for the Authority and superintending over the affairs of the
20 Authority.

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

22 (a) a non - Executive Chairman;

23 (b) six (6) non-executive members from the private sector who shall
24 possess professional experience relevant to the sector, with one person to be
25 appointed from each of the six geo-political zones;

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

28 (i) Federal Ministry responsible for Roads;

29 (ii) Federal Ministry of Finance;

30 (iii) Federal Road Safety Commission;

1 (iv) Nigerian Society of Engineers and the Nigerian Institution of
2 Highway and Transportation Engineers jointly; and

3 (d) the Managing Director of the Authority appointed under the
4 provisions of section 10 of this Act;

5 (e) two (2) Executive Directors of this Act.

6 (3) The Authority's Board shall be responsible to the Minister
7 responsible for roads.

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

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

12 5.-(1) The Chairman and other members of the Board, the
13 Managing Director and the two Executive Directors, shall be non-executive
14 and appointed on part-time basis by the President on the recommendation of
15 the Minister.

Appointment
and Qualification
of a Board Member

16 (2) The Chairman and members of the Board, other than the
17 Managing Director and the two Executive Directors, shall be persons of
18 proven integrity, recognized expert knowledge,

19 (3) The Chairman and other members of the Board shall have
20 requisite qualification and with not less than ten (10) years cognate
21 professional experience in one or more of the following fields-

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

23 (b) construction management;

24 (c) infrastructure asset management;

25 (d) transport management technology;

26 (e) infrastructure financing;

27 (f) corporate management;

28 (g) law;

29 (h) finance;

30 (i) accountancy; or

1 (j) economics.

2 A person shall not be a member of the Governing Board of the Authority if he is
3 already a member of the Governing Board of the National Roads Fund
4 established under the National Roads Fund Act.

Tenure and
Removal from
Office of a
Board Member

5 6.-(1) A Non-Executive Member of the Board shall hold office-

6 (a) for a term of four (4) years in the first instance and may be
7 reappointed for a further term of four (4) years and no more; and

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

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

12 (a) he becomes bankrupt;

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

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

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

18 (e) he is disqualified or suspended from practicing his profession in
19 any part of the world by an order of a competent authority;

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

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

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

Functions of
the Board

26 7. The Board shall have overall control of the Authority and serve the
27 purpose of ensuring good corporate governance and achieving the objectives
28 of the Authority, including providing guidelines for the implementation of
29 government policy, performance monitoring, develop and approve
30 organizational processes, schemes of service and regulations and approve

1 appointments for the effective discharge of the functions of the Authority
2 under this Bill and ensure harmonious professional and working
3 relationships between the management of the Authority and the Ministry or
4 any other relevant agency.

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

Cessation of
Office

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

Emoluments

12 PART III - STAFF OF THE AUTHORITY

13 10.-(1) There shall be for the Authority, a Managing Director to be
14 appointed by the President on the recommendation of the Minister subject to
15 the confirmation by the Senate.

Appointment
of the Managing
Director and
Executive Directors

16 (2) The Managing Director shall be:

17 (a) the Chief Executive and accounting officer of the Authority;

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

19 (c) responsible for the supervision of all other employees of the
20 Authority and subject to such restrictions as the Board may impose, for
21 disposing all questions relating to the service of the employees, their pay,
22 allowances and privileges;

23 (d) responsible for matters concerning the accounts and records of
24 the Authority;

25 (e) appointed for a term of five (5) years in the first instance and
26 may be re-appointed for a further term of five (5) years and no more; and

27 (f) a person who possesses adequate professional qualifications,
28 skills and experience with a minimum of a degree in Civil Engineering and
29 registered by COREN to practice as an engineer with not less than ten (10)
30 years cognate professional experience.

1 (3) (a) There shall be appointed for the Authority, two (2) Executive
2 Directors to assist the Managing Director in the performance of his functions to
3 be appointed by the President on the recommendation of the Minister under
4 this Bill;

5 (b) An Executive Director shall be-

6 (i) appointed on such terms and conditions, as may be specified in his
7 letter of appointment for a term of five (5) years in the first instance and may be
8 re-appointed for a further term of five (5) years and no more;

9 (ii) in charge of Engineering and Operations; and in charge of Finance
10 and Administration who shall be responsible to the Managing Director and the
11 Board;

12 (c) a person who possesses adequate professional qualifications,
13 skills and experience with a minimum of a degree in Civil Engineering and
14 registered by COREN, to practice as an Engineer with not less than ten (10)
15 years cognate professional experience.

16 **11.-(1)** The Managing Director or an Executive Director may be
17 suspended or removed from office by the President if he-

18 (a) has demonstrated inability to effectively perform the duties of his
19 office;

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

23 (c) is guilty of serious misconduct in relation to his duties;

24 (d) is disqualified or suspended from practicing his profession in any
25 part of the world by an order of a competent authority; or

26 (e) is incapable of carrying out the functions of his office either
27 arising from infirmity of mind or body.

28 (2) The Managing Director or Executive Director shall not be
29 removed from office under the provision of sub-section (1) of this section,
30 unless the Minister has duly served on the Managing Director or an Executive

1 Director a prior written notification of the intention to suspend or remove
2 him from office and the reasons for such suspension or removal.

3 (3) The Managing Director or Executive Director shall, upon
4 receipt of the notice referred to in sub-section (2) of this section, be given an
5 opportunity to make written submissions to the Minister within fourteen
6 days from the date of the receipt of the notice.

7 (4) The Minister shall upon the receipt of the submission referred
8 to in sub-section (3) of this section, if any such submission is made, provide
9 the Board the opportunity to make a recommendation on the matter of the
10 suspension or removal of the Managing Director or Executive Director
11 which the Minister shall take into consideration before taking a decision on
12 whether or not to recommend the suspension or removal from office to the
13 President.

14 (5) The Managing Director and Executive Directors shall not be
15 removed from office except in accordance with the provisions of this Act,
16 subject to the approval of the Senate.

17 12.-(1) The Board shall appoint a Secretary who shall be the Head
18 of the Legal Department of the Authority, to keep the corporate records of
19 the Authority and undertake such other functions as the Board may from
20 time to time direct.

Secretary and
other Staff of
the Authority

21 (2) The Secretary shall possess adequate professional
22 qualifications, skills and experience as a legal practitioner with not less than
23 10 years cognate experience.

24 (3) Subject to section 31 (2) of this Act the Authority shall employ
25 such other number of persons as it considers necessary for the exercise of its
26 powers and performance of its functions under this Act.

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

1 from time to time.

Service in the
Authority to be
Pensionable

2 **13.**-(1) Service in the Authority is pensionable under the Pension
3 Reform Act and accordingly, officers and other persons employed in the
4 authority shall be entitled to pension and other retirement benefits in respect of
5 their service in the Authority as prescribed in that Act.

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

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

15 (4) Employees who join the staff of the Authority from the Civil
16 Service shall have all existing and outstanding Civil Service emoluments and
17 pension entitlements transferred from their existing Service to the Authority at
18 the time of appointment.

19 PART IV - FUNCTIONS AND POWERS OF THE AUTHORITY

Functions of
the Authority

20 **14.**-(1) Subject to the provisions of this Act and the functions and
21 powers of any regulatory agency for the roads sector as provided for under this
22 Act or in any other Act, the Authority shall -

23 (a) own and manage Federal Road assets in accordance with the
24 provisions of this Act;

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

27 (c) enter into Private Sector Participation agreements including
28 concessions and other forms of contracts as well as the issuance of permits and
29 licences relating thereto to any person for the purpose of executing road Private
30 Sector Participation agreements and other forms of contracts with any person

1 authorised for the purpose of executing relevant projects provided that the
2 grant of a Private Sector Participation agreement shall be subject to public
3 procurement rules as approved by the Federal Government from time to
4 time and in accordance with the relevant laws and regulations for the
5 procurement and operation of Private Sector Participation agreements;

6 (d) develop, determine and be responsible for the classification of
7 roads and technical regulation of roads including the specifications, design,
8 standards on road development;

9 (e) make policy recommendations to the Federal Government on
10 matters relating to the management, construction, rehabilitation,
11 reconstruction and maintenance of Federal roads;

12 (f) carry out the procurement and enter into contracts for road
13 works of any type with local entities with the aim of developing,
14 encouraging, and enabling the growth of the Nigerian road contracting
15 market and building the capacity of the private contracting sector;

16 (g) carry out periodic maintenance and emergency repair of roads
17 in accordance with policy priorities, rolling Road Maintenance and
18 Development Plans, National Roads Fund disbursements and as the
19 Authority may in its discretion determine;

20 (h) plan and manage the development of road safety technical
21 designs, standards and audit in collaboration with any regulatory,
22 enforcement or other authority or agency with the responsibility for roads
23 and road safety;

24 (i) plan and develop strategies to assist the relevant agencies
25 towards ensuring efficient and effective movement of traffic on the Federal
26 Road Network and ensure their implementation::

27 (j) liaise and consult with any regulatory, enforcement or other
28 authority or agency with responsibility for roads and road safety and other
29 relevant Ministries, Departments and Agencies;

30 (k) work in partnership with similar agencies at the state and local

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

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

7 (m) ensure effective monitoring of the conditions of all Federal Roads
8 for the purposes of timely implementation of road maintenance, rehabilitation
9 and development programmes;

10 (n) develop and utilize an appropriate Road Asset Management
11 System for the day to day and strategic planning and evidence based reporting
12 processes of the Authority;

13 (o) prepare and publish evidence based performance reports on the
14 Authority's projects funded by the National Roads Fund and any other funding
15 sources or other donors;

16 (p) publish periodic reports of the activities, projects, contracts, plans,
17 performance and achievements of the Authority and the condition of the
18 Federal Road Network and make the reports available to the general public to
19 ensure transparency and probity;

20 (q) advise the Minister and any regulatory, enforcement or other
21 authority or agency with responsibility for roads and road safety;

22 (i) on the specifications, design, standards and classification of roads
23 and the prohibition of any act that may lead to damage to roads;

24 (ii) on the types, sizes, and usage of vehicles on national roads and the
25 laden and axle weight of vehicles for the purpose of protecting national roads
26 from damage;

27 (iii) on appropriate and effective methods of enforcing road traffic
28 legislation for the purposes of preventing damage to roads and promoting road
29 safety;

30 (iv) on appropriate road signs, and other road agencies on the location

- 1 of road signs on public roads;
- 2 (v) on matters relating to safety of persons on roads;
- 3 (vi) on appropriate levels of charges, fines, penalties, levies or any
- 4 sum required to be collected in relation to any road; and
- 5 (vii) on such reviews in road user charges as are necessary for the
- 6 purpose of the National Roads Fund;
- 7 (r) advise the Minister on the development and training of human
- 8 resources, research and studies necessary or required for performing its
- 9 functions towards the development of the roads sector;
- 10 (s) identify and recommend to the Minister, supplementing donor
- 11 funding opportunities for the management, construction, rehabilitation,
- 12 reconstruction and maintenance of Federal Roads; and
- 13 (t) carry out other functions which in the opinion of the Board are
- 14 necessary to ensure the efficient performance of the functions of the
- 15 Authority.

16 **15.** The Authority shall, in order to fulfill its functions under this
17 Bill, have the following powers:

Powers of the
Authority

- 18 (1) Power for granting Private Sector Participation:
- 19 (a) consider applications for any form of Private Sector
- 20 Participation including ?concessions and to issue and if necessary, extend,
- 21 renew or revoke any Private Sector Participation agreements in accordance
- 22 with extant laws and regulations;
- 23 (b) 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 or parties involved in Private
- 26 Sector Participation and to secure and enforce compliance with the
- 27 provisions of this Act or any subsidiary legislation, concession terms,
- 28 agreements or conditions made pursuant to this Act;
- 29 (c) where it considers it to be in the public interest, compel a
- 30 concessionaire or parties involved in Private Sector Participation to provide

1 any information or any document concerning activities notwithstanding that
2 such information or document may contain business secrets; provided that any
3 such information or documents shall be restricted to those that a person can be
4 legally compelled 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 consider
9 the commercial interests of the parties to whom the information relates before
10 publishing the information;

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

14 (f) enter into contractual agreements generally 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 18 of this Act, borrow such sums as it may
18 require for the performance of its functions under this Act subject to the
19 provisions in relevant treasury and establishment circulars,

20 (i) to determine or agree with any relevant party involved in a
21 concession or other Private Sector Participation agreement on any fees, levies,
22 charges, rates and tariffs in relation to any concession or other Private Sector
23 Participation arrangement, subject to the powers of the Road Sector Regulator;
24 and

25 (j) approve the award and termination of contracts.

26 (2) Powers to acquire land for Federal Roads:

27 (a) the Federal Government may, in accordance with the provisions of
28 the Lands Use Act acquire land for the purposes of this Act and when so
29 acquired such land shall be deemed to be a Federal Road within the meaning of
30 this Act; in this subsection, the reference to land includes reference to a road,

1 other than a Federal Road;

2 (b) except in respect of roads which are deemed to be Federal
3 Roads, compensation shall be paid pursuant to the Land Use Act, for land
4 acquired under sub-section (1) (a) of this section after the commencement of
5 this Act;

6 (c) where land at the commencement of this Act or at any time
7 thereafter is part of a Federal Road, the ownership shall include not only the
8 surface but also the subsoil to an indeterminable depth, and user adverse to
9 that as a Federal Road shall operate in favour of level crossings constructed
10 by the Nigerian Railway Corporation and then only where a train or engine
11 is approaching and within half a kilometre of a level crossing;

12 (d) it is declared for the avoidance of doubt that in the application
13 of this section, an acquisition of land for the purposes of this Act shall be for
14 a public purpose of the Federation within the meaning of the Land Use Act;
15 and

16 (e) The acquisition of land for the purposes of this Act includes the
17 right to obtain control over the land and to use the land for the erection of
18 buildings and for the supervision of the user by the public.

19 (3) Power to acquire land under special enactments Where land is
20 acquired for the purposes of this Act pursuant to sub-section (2) of this
21 section-

22 (a) under the Land Use Act; and

23 (b) if the land is customary land within the meaning of the Land
24 Use Act and a requisition in respect of such land declares it to be required by
25 the Federal Government for the public purposes of the Federation, the
26 provisions of the enactment pertaining to such acquisition shall have effect
27 accordingly, and the land shall vest in the Authority without any further
28 assurance.

29 (4) Powers incidental to intention to acquire land for Federal
30 Roads:

1 (a) subject to the provisions of this section, where it appears to the
2 Authority that land in any locality is likely to be needed for the purposes of a
3 Federal Road, the Authority may in writing authorise any person to enter upon
4 any land in the locality for the purpose of surveying and taking necessary
5 levels, and for that purpose the person so authorised may:

6 (i) dig into or bore under the subsoil and do all other acts necessary to
7 ascertain whether the land is suitable for use as a Federal Road; and

8 (ii) clear and demarcate the boundaries of any such land.

9 (5) Powers:

10 (i) in the case of a customary land in the manner provided by the Land
11 Use Act where a right of occupancy is revoked; and

12 (ii) in any other case by a court having jurisdiction in respect of the
13 place where the land is situated in respect of drainage and other works;

14 (b) notwithstanding the provisions of sub-section (4)(a) of this
15 section, the Authority may for purposes of and incidental to this Act survey or
16 otherwise demarcate in any State and thereafter lay off on a plan the middle line
17 of a Federal Road, and notice of such survey or demarcation and laying off shall
18 be published in the Federal Gazette, and in the Gazette of any State affected or
19 likely to be affected; if the middle line is so laid off, the Authority may not later
20 than twelve (12) months thereafter, exercise his power under this section
21 within a distance of one hundred (100) metres on either side of such middle line
22 which shall include the Road Reserve;

23 (c) nothing in this section shall authorise the Authority or any person
24 authorised by him to enter into any building or upon any enclosed court or
25 garden attached to a dwelling house (except with the consent of the occupier
26 thereof) unless at least seven (7) days' notice in writing of the intended entry
27 has been given to such occupier;

28 (d) compensation for damage done under this section shall in case of
29 dispute as to amount be determined-

30 (i) the Authority may in the performance of its duties under this Act

1 make and thereafter maintain in respect of any Federal Road, convenient
2 decking and drainage work for the purpose of making good any
3 interruptions caused to the use of the lands of adjoining owners or occupiers
4 through which such Federal Road passes or is made, or of diverting storm or
5 other water from a Federal Road;

6 (ii) for all or any of the purposes in sub-section (5)(a) of this
7 section, the Authority may enter upon land adjoining the Federal Road
8 subject to the giving of reasonable notice to owners or occupiers and doing
9 as little damage as possible through such entry or exit after entry; and in the
10 course thereof the Authority may block up, divert or alter the level or course
11 of water flowing in defined channels, natural or artificial, or otherwise
12 contained by any means;

13 (iii) nothing in this section shall require the Authority to provide
14 convenient decking or drainage work;

15 (i) where the owners or occupiers have failed to make
16 representation during the time that the section of the Federal Road affected,
17 adjoining or passing through their land was in course of construction;

18 (ii) where owners or, as the case may be, occupiers of the adjoining
19 land have agreed to receive and have been paid compensation;

20 (iii) where decking and drainage work provided by the Authority is
21 thereafter diverted or altered otherwise than by the Authority;

22 (iv) in the exercise of its power under this section, the Authority
23 may require any person having apparent control over the location of any
24 pipe, electric wire or post to alter the level or position thereof as the case may
25 require after reasonable notice of the requirement has been duly given; and
26 the Authority shall in the course of road works generally cause as little
27 inconvenience as possible to persons affected; or

28 (v) the failure to comply with the requirement of the Authority as
29 directed or given to any person under this section shall be an offence
30 punishable on conviction by a fine of not less than Five Hundred Thousand

1 Naira (N500,000.00) or by imprisonment for a term not exceeding twelve (12)
2 months, or by both such fine and imprisonment.

3 (6) Powers relative to obstruction on Federal Roads:

4 (a) in the performance of any of its functions in relation to the
5 development, rehabilitation or maintenance of a Federal Road under this Act if
6 trees or other natural or man-made objects are standing in a position likely in
7 the opinion of the Authority to obstruct the course of a Federal Road in the
8 event of falling or being found on or near a Federal Road or likely to obstruct
9 the use the Federal Road, any person duly authorised in writing in that behalf
10 by the Authority may enter an adjoining land to any necessary extent in order to
11 fell or otherwise remove such obstruction as circumstances may require;

12 (b) if the power conferred by sub-section (6)(a) of this section is
13 exercised in respect of a tree or other natural or man-made objects on land other
14 than a Federal Road, compensation shall be payable to the owner only where
15 the Federal Road was in use before the tree or other natural or man-made
16 objects became a potential source of obstruction, and the tree or other natural or
17 man-made objects had at the time of its felling or removal a marketable value,
18 provided that in default of agreement under this subsection the amount shall be
19 fixed by a competent person appointed for this purpose by the Authority; and

20 (c) an award of compensation fixed by agreement under sub-section
21 (6)(b) of this section shall be final and a court shall only entertain a suit to
22 recover compensation for any tree or other natural or man-made objects felled,
23 removed or otherwise dealt with under this section where the amount is fixed
24 by agreement is not paid.

25 (7) Power to enter adjacent land.

26 The Authority or any person authorised by him in writing, may in case of any
27 slip or other accident happening or being apprehended in any cutting,
28 embankment or other work under the Authority's control, enter on any land
29 adjoining a Federal Road and do all work necessary to repair damage thereby
30 occasioned and for the purpose of prevention or control of slips likely to occur

1 from adjoining land on to a Federal Road.

2 (8) Power to establish Pay-for-Service arrangements, collect
3 revenues and set fees, levies, charges, rates and tariffs related thereto subject
4 to the powers of the Road Sector Regulator in this regard under the
5 provisions of this Act or any other Act.

6 (a) power to Erect Tollgates-

7 (9) Power to make therefrom:

8 (i) the Authority shall have power to erect, equip and maintain
9 tollgates on any Federal Road as and when required, upon approval of the
10 President, without prejudice to the generality of sub-section (8)(a)(i) of this
11 section, and notwithstanding the provisions of any other Act, the Authority
12 may authorise any person, in return for undertaking such obligations as may
13 be specified in a Private Sector Participation agreement or project
14 agreement with respect to the design, construction, maintenance, operation,
15 improvement or financing of Federal Roads to enjoy specific rights as may
16 be stated in the Private Sector Participation agreement or project agreement
17 including the right to levy, collect and retain tolls, user fees, service charges,
18 or any other fees, levies, charges, rates and tariffs in respect of the use of
19 Federal Roads;

20 (ii) the Authority may, by regulation, specify the conditions under
21 which a member of the public will access the use of a Federal Road. A party
22 involved in a Private Sector Participation with the Authority shall propose
23 for the approval of the Authority, any tolls, user fees, service charges, or any
24 other fees, levies, charges, rates and tariffs or any review of same in relation
25 to the use of Federal Roads by reference to such circumstances or
26 combination of circumstances or classification as the Authority may specify,
27 after consultation with the party involved in a Private Sector Participation
28 and any other relevant authority or party;

29 (iii) the Authority may provide for tolls, user fees, service charges,
30 or any other charges that shall be paid into the National Roads Fund, to be

1 charged for a period specified or in a manner as may be determined by the
2 Authority;

3 (iv) regulations with respect to advertisements and the collection of
4 revenue-

5 (a) subject to the provisions of this section, the Authority may make
6 with the approval of the Minister regulations:

7 (i) for the control by means of permits or otherwise, of the display of
8 advertisements on Federal Roads so far as it appears to the Authority to be
9 expedient in the interest of amenity or public safety; and

10 (ii) for the imposition and collection of prescribed charges in respect
11 of the display on Federal Roads of advertisements of such classes or
12 description as may be prescribed.

13 (b) without prejudice to the generality of sub-section (9)(a) of this
14 section, regulations made under this section may-

15 (i) provide for regulating the dimensions, appearance and position of
16 advertisements which may be displayed on Federal Roads and sites on which
17 advertisements may be so displayed;

18 (ii) provide for prohibiting the display on Federal Roads of
19 advertisements of any prescribed class or description;

20 (iii) provide for enabling the authorised officials or persons to require
21 the removal of an advertisement which is being displayed in contravention of
22 the regulations, or the discontinuance of the use of the display of
23 advertisements on any site which is being so used in contravention of the
24 regulations;

25 (iv) specify different provisions, and prescribe different charges, in
26 respect of advertisements of different classes or descriptions and with respect
27 to advertisements in different situations and generally with respect to different
28 circumstances;

29 (v) impose in respect of any breach of the regulations any penalty, and
30 may make provision as to the persons who are to be treated as displaying an

1 advertisement for the purpose of any provision of the regulations which
2 makes it an offence to display an advertisement in breach of the regulations;
3 and

4 (vi) include such incidental or supplementary provisions as it
5 appears to the Authority necessary or expedient for giving effect to the
6 purposes mentioned in sub-section (9)(a) of this section.

7 (d) the Federal Government may, subject to the provisions of this
8 Act, collaborate with the Government of a State or a Local Government in
9 respect of traffic on Federal Roads as may be expedient in the circumstances
10 with regard to the prohibition of erection of hoardings and other forms of
11 advertising within a distance of one hundred meters from the middle line of
12 any road formation in the vicinity of a Federal Road or within the distance
13 aforesaid from the middle line of the Federal Road.

14 (10) Power to Collaborate with State Government and Local
15 Governments:

16 The Federal Government may, subject to the provisions of this Act,
17 collaborate with the Government of a State or a Local Government in
18 respect of traffic on Federal Roads as may be expedient in the
19 circumstances.

20 PART V - FINANCIAL PROVISIONS

21 16. The Authority shall establish and maintain a fund which shall
22 comprise:

Fund of the
Authority

23 (a) an initial take off grant or subvention as may be appropriated to
24 the Authority by the National Assembly to cover one time transitioning and
25 one time capacity building costs;

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

28 (c) allocations from the National Roads Fund;

29 (d) concession fees, levies and other charges imposed by the
30 Authority;

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

3 (f) Public Private Participation fees, toll fees, levies and other fees,
4 levies, charges, rates and tariffs imposed on any person by the Authority or
5 payable under any arrangement made by the Authority; and

6 (g) lease, license, rents, advertisement revenue and other internally
7 generated revenue from services or facilities provided by the Authority.

Application of
Fund of the
Authority

8 **17.** The Authority may from time to time apply its funds:

9 (a) to the development of the Federal Road Network and its
10 operations for road management, construction, rehabilitation, reconstruction
11 and maintenance of roads deemed to be Federal Roads within the meaning of
12 this Act;

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

15 (c) to the administration of the Authority;

16 (d) to the paying of the emolument, allowances and benefits of
17 members of the Board and for reimbursing members of the Board or of any
18 Committee set up by the Board for such expenses as may be expressly
19 authorized by the Board;

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

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

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

1 **18.-(1)** The Authority may, with the consent of the Minister
2 responsible for Finance, borrow such money as the Board may require in the
3 exercise of its functions under this Act.

Borrowing Powers,
Gifts, etc.

4 (2) The Authority may with the consent of the Minister and in
5 consonance with any relevant agency of government and any laws,
6 guidelines or rules relating thereto raise and issue infrastructure bonds for
7 the purpose of its objectives under this Act.

8 (3) The Authority may accept gifts, grants of money, aid or other
9 property from national, bilateral or multilateral organizations and upon such
10 terms and conditions as may be agreed upon between the donor and the
11 Authority provided that any conditions attached to such gifts are not
12 inconsistent with the objectives and functions of the Authority under this
13 Act.

14 **19.** The Board shall:

Reports, Budgets
and Audited
Accounts

15 (a) receive and review annual reports from the management of the
16 Authority and submit same to the President and the National Assembly,
17 through the Minister in the first quarter of every year and the report shall be
18 on the activities and performance of the Authority during the immediately
19 preceding calendar year, and shall include a copy of the audited accounts of
20 the Authority for that calendar year;

21 (b) submit not later than four (4) months to the end of each year to
22 the Minister an estimate of the expenditure and income of the Authority for
23 the next succeeding year; and

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

29 (2) The Authority shall-

30 (a) consult with the Ministry in respect of long term strategic

1 development plans and policy guidance, and Budget availability, and
2 supplementary donor financing;

3 (b) consult with the National Roads Fund in respect of finance and
4 funding availability for routine and preventative maintenance and road safety
5 improvement works;

6 (c) using its Road Asset Management System, prepare, maintain and
7 monitor national development objectives, prioritization criteria and
8 performance expectations in accordance with the provisions set out in the
9 Schedule II of this Act; and

10 (d) develop, maintain and deliver reporting regimes that are outcome
11 oriented, and evidence based and that meets the needs of its funding
12 agencies.

13 PART VI - ROLE OF THE MINISTER

Role of the
Minister

14 20.-(1) The Minister shall:

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

18 (b) provide general policy guidelines, specifications and standards for
19 the construction, reconstruction, rehabilitation and maintenance of Federal
20 Roads in Nigeria; and

21 (2) The Minister may give directives to the Authority relating to the
22 performance by the Authority of any of its functions under this Act provided
23 that such directives are not inconsistent with the objectives and functions of
24 the Authority under this Act.

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

PART VII - REGULATION OF ROAD SECTOR

1
2 **21.**-(1) There shall be established by an Act of the National
3 Assembly a regulator for the road sector to be the Road Sector Regulator.

Establishment
of the Road Sector
Regulator

4 (2) The Road Sector Regulator shall be responsible for matters
5 relating to the economic and safety regulation and supervision of the road
6 sector in Nigeria and shall have the functions, powers and duties as may be
7 conferred under this Act or any other Act any of which it shall exercise
8 particularly where it determines that there is a failure in the operation or
9 provision of services or facilities in the road sector; or where and when for
10 any other reason it deems it necessary or relevant, and to such extent that it
11 shall so determine.

12 (3) Where upon the commencement of this Act or at any time
13 thereafter, a road sector or transport sector regulator is established by an Act
14 of the National Assembly to exercise the powers and perform the functions
15 of the Road Sector Regulator stipulated under this Act or any other Act, then
16 that road sector regulator shall have the functions, powers and duties of the
17 Road Sector Regulator except insofar as the Act of the National Assembly
18 establishing the road or transport sector regulator adopts, preserves,
19 transfers or transitions to such a body or to any other body.

20 **22.**-(1) The Road Sector Regulator shall have the following
21 functions with respect to the regulation and supervision of the road sector:

Functions of the
Road Sector
Regulator

22 (a) create a regime for the organisational supervision of the
23 operations of the Authority or any agency within the road sector in their
24 function as bodies managing public assets and delivering public services for
25 which it must be accountable;

26 (b) create a regime for the economic regulation of the road sector;

27 (c) supervise regulatory activities within the road sector with
28 regards to safety in relation to the activities of the Authority, or any agency
29 responsible for road safety;

30 (d) liaise with the agency responsible for road safety to make

1 regulations to ensure that the road operators, road service providers, licensees,
2 road users, concessionaires and parties involved in Private Sector Participation
3 or any other person utilise the roads in the safest possible manner;

4 (e) protecting and promoting the interests of customers and road users
5 against unfair practices by the Authority, road operators and road service
6 providers including but not limited to matters relating to charges and tariffs and
7 for the availability and access to quality road services in accordance with the
8 provisions of this Act;

9 (f) promoting equitable and fair competition in the road sector and
10 protection of road operators and road service providers from abuse of market
11 power or anti- competitive and unfair practices by other road operators and
12 road service providers;

13 (g) monitoring and reporting on the degree to which favourable
14 conditions for competition are present in the market for road services.

15 (h) encouraging and promoting cooperation amongst road operators,
16 road service providers, parties involved in Private Sector Participation,
17 concessionaires, licensees, road users, or any other person utilising the roads
18 and providing regulatory guidelines thereon;

19 (i) examining and resolving complaints objections and disputes filed
20 by or existing between or amongst the Authority, road operators, road service
21 providers, parties involved in Private Sector Participation, concessionaires,
22 licensees, road users or any other person involved in the road sector using such
23 dispute-resolution methods as the Road Sector Regulator may determine from
24 time to time;

25 (j) advising the Authority and the Minister on the formulation of
26 general policies for the road sector and generally on matters relating to the road
27 sector in the exercise of the Authority's and the Minister's functions and
28 responsibilities under this Act;

29 (k) implementing the regulatory policies issued by the federal
30 government in respect of the road sector and executing all such other functions

1 and responsibilities as are given to the Road Sector Regulator under this Act
2 or are incidental or related thereto;

3 (l) facilitating the financial viability of the road sector and related
4 services and facilitating the incentive for efficient long-term investment in
5 Nigeria for the provision of road services and road infrastructure;

6 (m) supervising and monitoring of performance standards and
7 indices relating to the quality of road services having regard to the best
8 international practices and standards;

9 (n) generally advising and assisting stakeholders in the road sector
10 with a view to the development of the industry and attaining the objectives
11 of this Act;

12 (o) ensuring the harmonization of road standards and practices
13 across the country; and

14 (p) facilitating liaison between road operators, road service
15 providers, concessionaires, licensees and other persons and agencies
16 charged with responsibility for regulating the transport sector in order to
17 promote intermodalism.

18 (2) The Road Sector Regulator shall have and perform such other
19 functions as may be conferred upon it under any other Act.

20 23.-(1) The Road Sector Regulator shall, in order to fulfill its
21 functions under this Act have the power-

Powers of the
Road Sector
Regulator

22 (a) to supervise and ensure that any agency responsible for road
23 safety carry out their responsibilities and adhere to the relevant laws and
24 regulations guiding their activities;

25 (b) to regulate passenger and haulage fares, tariffs and charges in
26 accordance with the provisions of this Act;

27 (c) to carry out inquiries, tests, audits or investigations, including
28 technical and management audits and take such other steps as may be
29 necessary to monitor the activities of the Authority, road operators, road
30 service providers, parties involved in Private Sector Participation,

1 concessionaires, licensees and other persons and agencies and to secure and
2 enforce compliance with this Act;

3 (d) to establish customer protection measures in accordance with the
4 provisions of this Act;

5 (e) where it considers it to be in the public interest, to compel a road
6 operator, road service provider, parties involved in Private Sector Participation
7 concessionaires, licensees and other persons and agencies to provide any
8 information or any document concerning its activities notwithstanding that
9 such information or document may contain business secrets; provided that any
10 such information or documents shall be restricted to those which a person can
11 be legally compelled to produce as evidence by a court of law in Nigeria;

12 (f) to publish information received in the course of exercising its
13 powers and functions under this Act or to require a road operator or road service
14 provider, parties involved in Private Sector Participation, concessionaires,
15 licensees and other persons and agencies to publish certain information if it is
16 satisfied that the publication is consistent with the objects of this Act provided
17 that the Road Sector Regulator shall consider the commercial interests of the
18 parties to whom the information relates before publishing the information; ?

19 (g) to undertake consultations with the public, road operators, road
20 service providers, parties involved in Private Sector Participation,
21 concessionaires, licensees, road users, other persons and agencies and industry
22 stakeholders within the road sector affected by or with an interest in its
23 directions and to consider any responses to the consultations;

24 (h) provide for the licensing of road operators and road service
25 providers, parties involved in Private Sector Participation, concessionaires,
26 licensees and other persons and agencies carrying out commercial activities on
27 Federal Roads; and

28 (i) to do all such things as are necessary for or incidental to the
29 carrying out of its functions and duties under this Act.

30 (2) Subject to the provisions of this Act, the Road Sector Regulator

1 has the power to do all things necessary or convenient to be done for or in
2 connection with the performance of its functions and to enable it to achieve
3 its objectives under this Act and under any relevant legislation.

4 (3) In furtherance of its functions and powers, the Road Sector
5 Regulator shall make such orders, regulations or subsidiary legislation as it
6 shall deem necessary for the performance of its functions and exercise of its
7 powers and to enable it to achieve its objectives and to give full force and
8 effect to the provisions of this Act and the enforcement of such regulations
9 under this Act and under any relevant legislation.

10 PART VIII - ROADS PLAN

11 24.-(1) In consultation with the Ministry, the National Roads Fund
12 and any relevant agency, the Authority shall prepare, maintain and monitor a
13 Five-Year Rolling Road Maintenance and Development Plan (hereinafter
14 referred to as the "Plan") for the fulfillment of its responsibilities under this
15 Act; and to meet national development objectives, prioritisation criteria and
16 performance expectations in accordance with the provisions set out herein.

Preparation of
Roads Plan

17 (2) The Plan shall-

18 (a) be broken into yearly action programmes and shall contain such
19 information, amongst others, that would allow a determination of the
20 Authorities proposed activities over the Plan period in respect of each
21 element of the Federal Road Network;

22 (b) constitute the basis for determining the financial and physical
23 resource needs and proposed modes of its sourcing; the likely outcome from
24 the implementation of the Plan and key performance indicators by which its
25 implementation performance can be measured and monitored;

26 (c) identify year by year, road sections that become no longer
27 maintainable and due for rehabilitation and upgrading.

28 (d) form the basis of annual budgetary proposals in the National
29 Budgetary process.

30 (3) The Authority shall submit the Plan to the National Roads Fund

1 Board within four (4) months before the start of the Authority's financial year
2 for the year of submission, in such form and containing such details as the
3 National Roads Fund Board shall specify, outlining a comprehensive plan of
4 action for the roads under the jurisdiction of the Authority and the estimated
5 costs of every activity required to implement the plan of action.

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

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

15 PART IX - OFFENCES AND PENALTIES

Offences and
Penalties

16 25. Except as otherwise provided under any other section of this Act,
17 any person who willfully-

18 (a) prevents or obstructs any authorised officer, agent or person in the
19 performance of his function under this Act;

20 (b) fails to pay to any officer, agent or person empowered to collect
21 any fees, levies, charges, rates and tariffs payable under this Act;

22 (c) withholds any fees, levies, charges, rates and tariffs paid under this
23 Act;

24 (d) does any other fraudulent act or thing relating to the issue of
25 receipts or collection of fees, levies, charges, rates and tariffs under this Act.

26 shall be guilty of an offence and liable on conviction to a fine not less than Two
27 Hundred Thousand Naira (N200,000.00) or to imprisonment for a term not
28 exceeding two (2) years or to both such fine and imprisonment.

1 PART X - MISCELLANEOUS

2 26. Subject to the provisions of this Act, the provisions of the Application of
3 Public Officers Protection Act shall apply in relation to any suit instituted the Public
4 against an officer or employee of the Authority. Protection Act

5 27. A notice, summons or other documents required or authorized Notices
6 to be served upon the Authority under the provisions of this Act or any other
7 enacted law may be served by delivering it to the Managing Director or by
8 sending it by registered post addressed to the Managing Director at any of
9 the principal offices of the Authority or by electronic means through e-mail
10 or website of the Authority.

11 28. No civil action shall be commenced against the Authority or its Legal Proceedings
12 authorised officers before the expiration of a period of 30 days after written
13 notice of intention to commence the suit shall have been served on the
14 Authority by the intending plaintiff or his agent, and the notice shall clearly
15 and explicitly state the:

- 16 (a) cause of action;
17 (b) particulars of the claim;
18 (c) name and place of abode of the intending plaintiff; and
19 (d) relief sought.

20 29. A member of the Board, the Managing Director, any officer or Indemnity of
21 employee of the Authority shall be indemnified out of the assets of the Officers of the
22 Authority against any liability incurred by him in defending any proceeding, Authority
23 whether civil or criminal, in which judgment is given in his favour or in
24 which he is acquitted, where such proceeding is brought against him in his
25 capacity as a member of the Board, the Managing Director, officer or an
26 employee of the Authority.

27 30. The Board may, with the approval of the Minister make such Regulations
28 regulations as in its opinion, are necessary or expedient for giving full effect
29 to the provisions of the Act and for the due administration of its
30 provisions.

Confidentiality

1 31.-(1) A member of the Board, or the Board or the Managing
2 Director or any other officer or employee of the Authority shall:

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

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

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

13 (2) Any person who contravenes any of the provisions of sub-section
14 (1) of this section commits an offence and shall be liable on conviction to a fine
15 of not less than Five Hundred Thousand Naira (N500,000.00) or imprisonment
16 for a term not exceeding two (2) years or both such fine and imprisonment.

Repeal, Savings
and Transitional
Provisions

17 32.-(1) The Federal Roads Maintenance Agency (Establishment etc.)
18 Act, 2002; the Federal Roads Maintenance Agency (Amendment, etc.) Act,
19 2007; the Federal Highways Act 1971 and the Control of Advertisement
20 (Federal Highways) Act 1986 are hereby repealed.

21 (2) Without prejudice to section 6 of the Interpretation Act, the repeal
22 of the Act specified in subsection (1) of this section, shall not affect anything
23 done under or pursuant to the Act.

24 (3) Any subsidiary legislation, bye-law, regulation, order, made,
25 issued, given or done under the repealed Acts and which are in force at the
26 commencement of this Act, shall to the extent that their provisions are not
27 inconsistent with any object or provision in this Act, continue to be in force and
28 have effect as if made, issued, given or done under this Act until such a time that
29 anything done under this Act amends, overrides, revokes or replaces it in any
30 manner.

1 (4) Every instrument, contract, requirement, certificate,
2 appointment with tenure, notice, direction, decision, authorization, consent,
3 application, request or thing made, issued, given or done under the repealed
4 Acts shall, if in force at the commencement of this Act, continue to be in
5 force and have effect as if made, issued, given or done under this Act until
6 such a time that anything done under this Act amends, overrides, revokes or
7 replaces it in any manner.

8 (5) The Statutory functions, rights, interest, obligations and
9 liabilities of the Federal Roads Maintenance Agency and the Department of
10 the Ministry responsible for construction, rehabilitation and maintenance of
11 Federal Roads before the commencement of this Act under any contract,
12 rights of way, concessions or instrument shall by virtue of this Act be
13 deemed to have been assigned to, transferred or vested in the Authority.

14 (6) Upon the Commencement of this Act, such number of persons
15 employed by the Agency as may be required by the Authority shall be
16 deemed to be staff of the Authority and shall be transferred to the service of
17 the Authority in line with the provisions contained in section 8 of Schedule
18 III to this Act

19 (7) The Minister may within the twenty-four (24) months after the
20 commencement of this Act, by order published in the Gazette, make
21 additional saving or transitional provisions in order to give better effect to
22 the objectives of this section.

23 33. In this Act except the context otherwise requires--

24 "Advertisement" means any word, letter, model, sign, placard, board,
25 notice, device or representation, whether illuminated or not, which is
26 employed wholly or partly for the purposes of advertisement,
27 announcement or direction, including any hoarding or similar structure
28 used, or adapted for use, for the display of an advertisement or a message
29 that is not solely serving a function that is traffic and road use related;

30 "Authority" means the Federal Roads Authority established under section 3

Interpretation

- 1 of this Act;
- 2 "base camps" means the outfit or unit office established by the Authority along
3 Federal Roads;
- 4 "Board" means the Governing Board of the Authority established under section
5 4 of this Act;
- 6 "Federal Road(s)" means Federal trunk roads, roads and bridges owned by the
7 Federal Government including:
- 8 (a) land acquired or existing as a Federal road or highway pursuant to
9 any legislation, subsidiary legislation, by-law, declaration or order made
10 before the commencement of this Act and gazetted in the Federal Gazette;
- 11 (b) land acquired under this Act for the purpose of Federal Roads;
- 12 (c) Federal trunk roads within the context of item 63 of part 1 of the
13 second schedule to the Constitution of the Federal Republic of Nigeria 1999.
- 14 "Federal Road Network" means Federal Roads (inclusive of Rights of Way,
15 Road Reserve, bridges, and road furniture);
- 16 "geo-political zones" means the six geo-political units of the Federation;
- 17 "member" means a member of the Board and includes the Chairman;
- 18 "Minister" means Minister in charge of Federal Road Infrastructure;
- 19 "Ministry" shall be construed accordingly;
- 20 "Person" shall mean a natural person, body corporate, partnership, joint
21 venture, co-operative, trust, or other entity that is recognized by the law as a
22 distinct body with the right to enter into contracts and to own property;
- 23 "Private Sector Participation" means a business relationship procured through
24 a contractual agreement whether by means of a concession, Public-Private
25 Partnership, joint venture, or other agreement between a government agency
26 and one or more private sector entities for the purpose of the provision of a
27 project, service or facility by the private sector that will serve the public;
- 28 "President" means the President of the Federal Republic of Nigeria;
- 29 "Road"/"road(s)" means Federal Roads;
- 30 "Road Asset Management System" means a central data repository that stores,

1 processes, displays and reports information on the assets within the road
2 network to include road inventory and condition, bridge inventory and
3 condition, classified traffic counts and axle loadings for road agencies to
4 manage their road networks transparently in an efficient and effective
5 manner;

6 "Road Reserve" means the land means the land adjacent to the road
7 carriageway, to a width of 60meters as specified in road regulations and
8 belonging to the Federal Government of Nigeria and deemed part of the
9 Federal Road;

10 "Road Sector Regulator" shall mean any person, body, agency, organization
11 specifically designated by an Act of the National Assembly with the
12 functions and powers of being a multi- sector transport regulator responsible
13 for the regulation of matters which includes the economic and safety
14 regulation of the road sector to such extent as determined under this Act or
15 any other Act.

16 34. This Bill may be cited as the Federal Roads Bill, 2019.

Short title

17 SCHEDULE I

18 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

19 *Proceedings of the Board*

20 [Section 3(4)]

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

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

29 3. The quorum at a meeting of the Board shall consist of the
30 Chairman or, in an appropriate case, the person presiding at the meeting

1 pursuant to paragraph 2 of this Schedule, and five other members.

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

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

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

16 (b) A committee appointed under this paragraph shall:

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

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

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

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

26 *Miscellaneous*

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

30 8. Any contract or instrument which, if made by a Person not being a

1 body corporate, would not be required to be under seal may be made or
2 executed on behalf of the authority by the Managing Director or by any other
3 person generally or specifically authorized by the Board to act for that
4 purpose.

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

9 10.-(1) The validity of any proceedings of the Board or of any of its
10 Committees shall not be affected by:

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

12 (b) any defect in the appointment of a member of the Board or
13 Committee.

14 SCHEDULE II

15 EXECUTION OF THE ROAD MANAGEMENT TASK

16 *Form of Execution of Road Management Function*

17 (1) The Board shall carry out its road management function
18 through executing Agencies which may be either of road management
19 consultants, road agencies or agents of local government authorities.

20 (2) It shall be the duty of the Board to prepare and publish
21 guidelines and procedures as to the manner of the discharge of these
22 functions by these executing agencies and the Authority shall ensure that
23 these guidelines and procedures are such as to ensure transparent,
24 accountable and cost-effective performance of their duties by these
25 agencies.

26 2.-(1) Without prejudice to the foregoing, the guidelines and
27 procedures shall address issues relating to preparation and approval of plans
28 and programmes, procurement of works, financial management of works,
29 disbursement of funds.

30 (2) It shall be the duty of the Authority to ensure awareness and

1 understanding by the road agencies of these guidelines and procedures and
2 their due implementation.

3 3. Any of the above executing agencies may be engaged by the
4 Authority to prepare and submit to the Authority annual work plans covering
5 the road network under its responsibility, not later than four months before the
6 beginning of the next fiscal year.

7 *Preparation and Adoption of Annual Work Plans*

8 4.-(1) The Board will prepare and adopt manuals of procedures
9 defining its way of collaboration with the different types of executing agencies,
10 including financial management systems, maintenance management systems,
11 management information systems, procurement and disbursement procedures,
12 etc. to be adopted by the executing agencies.

13 (2) The Authority shall execute its duty with due regard to
14 environmental issues.

15 *SCHEDULE III - TRANSFER OF ASSETS*

16 1. All Assets and funds which immediately before the
17 commencement of this Act were vested in the Federal Roads Maintenance
18 Agency set up under the Federal Roads Maintenance Agency (Establishment
19 etc.) Act, 2002 and the Federal Roads Maintenance Agency (Amendment, etc.)
20 Act, 2007

21 "the Agency" and the department of the Ministry responsible for construction,
22 rehabilitation and maintenance of Federal Roads shall by virtue of this Act be
23 vested in the Federal Roads Authority. Provided that nothing in this Act shall
24 be construed to preclude the power of the Ministry responsible for roads from
25 engaging in the construction of roads.

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

29 3. All bonds, hypothecations, securities, deeds, contracts,
30 instruments, documents, and working arrangements with respect to the assets

1 transferred, that subsisted immediately before the commencement of this
2 Act and to which the Agency was a party shall be as fully effective and
3 enforceable against or in favour of the Authority as if, instead of the Agency,
4 the Authority had been named therein.

5 4. Any cause of action or proceeding which existed or was pending
6 with respect to the assets transferred by or against the Agency immediately
7 before commencement of this Act, shall be enforced or continued, as the
8 case may be, by or against or in favour of the Authority in the same way that
9 it might have been enforced or continued by or against the Agency had this
10 Act not been passed.

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

15 6. Nothing in this Act and nothing done as a result of a transfer
16 under sub-paragraph (1) of this paragraph shall create any new cause of
17 action in favour of:

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

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

22 7. Any guarantee or surety-ship given or made by the Federal
23 Government or any other person in respect of any debt or obligation of the
24 Agency, and which was effective immediately before the transfer of the
25 principal debt or obligation, shall remain fully effective against the
26 guarantor or surety on and after the transfer date in relation to the payment of
27 the debt or the performance of the obligation, as the case may be, by the
28 Authority to which the principal debt or obligation was transferred.

29 *Transfer of Employees*

30 8.-(1) Upon the Commencement of this Act, such number of

1 persons employed by the Agency as may be required by the Authority shall be
2 deemed to be staff of the Authority and shall be transferred to the service of the
3 Authority on terms not less favourable than those enjoyed immediately prior to
4 the transfer.

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

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

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

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

17 (4) Nothing in this paragraph shall operate so as to prevent any em-
18 ployee of the Agency from resigning or being dismissed from service.

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

22 *Directions to the Agency*

23 9.-(1) The Minister may give the members of the Board of the Agency
24 directions in writing in order to ensure the proper transfer of the assets of the
25 Agency to the Authority and the Agency shall without delay, comply with
26 every such direction.

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

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

30 (b) the termination of any contract entered into between the Agency

1 - and any person, provided that no such direction shall authorise the Agency
2 to commit an unlawful breach of any such contract; and

3 (c) the production of any report and the provision of any
4 information concerning the conduct of the Agency or the members of the
5 board of the Agency or anything done by or on behalf of the Agency or the
6 members 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) the Federal Highways Act 1971 and the Control of Advertisement (Federal Highways) Act 1986 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, management, operation and regulation 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.

