

Passed in Parliament this 30th day of March, in the year of our Lord two thousand and ten.

VICTOR A. KAMARA,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

VICTOR A. KAMARA,
Clerk of Parliament.

ACT

Supplement to the Sierra Leone Gazette Vol. CXLI, No. 25
dated 15th April, 2010

SIGNED this 9th day of April, 2010.

DR. ERNEST BAIKOROMA,
President.



No. 3



2010

Sierra Leone

The Road Maintenance Fund Administration Act, 2010.

Short title.

Being an Act to establish a Road Maintenance Fund and an administration for financing the maintenance of the core road network and to provide for other related matters.

[] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I—PRELIMINARY

Interpretation.

1. In this Act unless the context otherwise requires—

“activity” means the supply of goods, services or works in relation to the construction or maintenance of roads;

“Administration” means the Road Maintenance Fund Administration established by section 2;

Act No. 2 of 1992.

“Authority” means the Sierra Leone Roads Authority established by the Sierra Leone Roads Authority Act, 1992;

“Board” means the Board of Directors appointed under section 3;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 10;

“civil society” means a group of members of the public identified as relevant to the functions of the Administration;

“core road network” means the primary and secondary roads forming part of the national road network;

“core road programme” means a programme approved under section 19;

“financial year” means the financial year of the Administration;

“Fund” means the Road Maintenance Fund established by section 16;

Act No. 1 of 2004.

“local council” means a local council established under the Local Government Act, 2004.

“Minister” means the Minister responsible for finance;

“national road network” means all roads and ferries in Sierra Leone.

PART II—ESTABLISHMENT OF ROAD MAINTENANCE FUND ADMINISTRATION

2. (1) There is hereby established a body to be known as the Sierra Leone Road Maintenance Fund Administration. Establishment of Sierra Leone Road Maintenance Fund Administration.

(2) The Administration shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of any property whether movable or immovable, and suing and being sued in its own name and, subject to this Act, of performing all acts as bodies corporate may by law perform.

(3) The Administration shall have a common seal the use of which shall be authenticated by the signatures of—

(a) the Chairman or other member of the Board generally or specifically authorized by the Board for that purpose; and

(b) the Chief Executive Officer or other officer of the Administration authorized by the Board for that purpose.

(4) Every document purporting to be an instrument executed or issued by or on behalf of the Administration and to be sealed with the common seal authenticated in the manner stated in subsection (3) shall be deemed to be so executed or issued without other proof unless the contrary is proved.

(5) In appropriate cases the common seal may be affixed to documents outside Sierra Leone.

3. (1) The governing body of the Administration shall be a Board of Directors consisting of— Board of Directors.

(a) the Chairman who has knowledge and experience in matters relating to the functions of the Administration;

(b) a representative of the Sierra Leone Institution of Engineers with knowledge and experience in road development, construction or maintenance;

- (c) a representative of the Sierra Leone Institute of Chartered Accountants;
- (d) the professional head of the Ministry responsible for works or his representative;
- (e) a member of civil society;
- (f) two other persons with knowledge and experience in human resource management and administration at least one of whom shall be a woman; and
- (g) the Chief Executive Officer .

(2) Members of the Board other than the person referred to in paragraph (d) of subsection (1) shall be appointed by the President subject to the approval of Parliament.

(3) In electing their representatives, the bodies referred to in paragraphs (b) and (c) of subsection (1) shall ensure that the persons elected are of the highest technical, professional and personal reputation.

Tenure of office of Board members.

4. (1) The Chairman and other members of the Board except the Chief Executive Officer and the member referred to in paragraph (d) of subsection (1) of section 3 shall hold office for a term of three years and shall be eligible for re-appointment for another term only.

(2) A member of the Board may resign from office by written notice addressed to the President.

(3) The President may by letter addressed to a member revoke the appointment of that member.

(4) On the death or vacation of office of the Chairman or any other member of the Board referred to in paragraph (b), (c), (d), (e) or (f) of subsection (1) before the expiry of the term of office, the President or as the case may be the body represented by the member, may appoint or elect the Chairman or the member for the remainder of the term of that member.

(5) A person shall cease to be a member of the Board on any of the following grounds:—

- (a) if the person is absent from three consecutive meetings of the Board without reasonable excuse;
- (b) if the person becomes bankrupt or insolvent;
- (c) if the person is convicted of an offence involving fraud or dishonesty;
- (d) for proven misconduct; or
- (e) for inability to perform the functions of the office as a result of infirmity of mind or body.

5. The Chairman and other members of the Board shall be paid fees or allowances as may be fixed by the Board with the approval of the Minister. Remuneration of members of Board.

6. (1) The Board shall hold its first meeting on a date and at a time to be determined by the Minister, after consultation with the Board; and after that, the Board shall meet for the dispatch of business at least once every three months. Meetings of Board.

(2) The Chairman shall preside at meetings of the Board and in his absence the members present shall elect one of their number to preside.

(3) The quorum for a meeting of the Board shall be five.

(4) The Chairman shall, at the request of three other members of the Board convene an extraordinary meeting of the Board at the place and time determined by the Chairman.

(5) Decisions of the Board shall be made by a majority of the votes of the members present and where the votes are equal, the Chairman or other member presiding shall have a casting vote.

(6) Any proposal circulated among all members of the Board and agreed to in writing by a two-thirds majority of all the members shall be of the same force and effect as a decision made at a duly constituted meeting of the Board and be incorporated in the minutes of the next meeting of the Board: but if a member of the Board

requires that the proposal be placed before a meeting of the Board, this subsection shall not apply to the proposal.

(7) Subject to this Act, the Board shall regulate the procedure at its meetings.

Disclosure of interest.

7. (1) A member of the Board who has any interest whether direct or indirect, in any matter being considered by the Board, shall disclose the nature of that interest to the Board and the disclosure shall be recorded in the minutes of the Board.

(2) The member of the Board referred to in subsection (1) shall not take part in the deliberation or decision of the Board relating to the matter.

(3) Any member who fails to comply with subsection (1) or (2) shall be guilty of misconduct and liable to be removed from the Board.

Committees of Board.

8. (1) The Board may, for the discharge of its Functions, appoint committees.

(2) A committee shall consist of members of the Board or non-members or both.

(3) A committee shall submit a report of its proceedings to the Board at a time to be determined by the Board.

PART III—FUNCTIONS OF ADMINISTRATION

Functions of Administration.

9. (1) The object for which the Administration is established is the proper, efficient, economic and sustainable management and administration of the Fund.

(2) Without prejudice to the generality of subsection (1), it shall be the function of the Administration to—

- (a) manage and administer the Fund;
- (b) subject to this Act, approve the amount of funding to be made available to the Authority from the Fund for the performance of the Authority's functions;
- (c) effectively monitor the use of monies allocated from the Fund;

(d) approve any application from any local council or body for funding from the Fund, of any road-related activity;

(e) do all other things as will contribute to the attainment of the object stated in subsection (1).

PART IV—STAFF OF ADMINISTRATION

10. (1) The Administration shall have a Chief Executive Officer who shall be appointed by the President on the recommendation of the Minister and subject to the approval of Parliament. Chief Executive Officer.

(2) The Chief Executive Officer shall be a person having qualification in any profession relevant or appropriate to the functions of the Administration and shall be appointed on the terms and conditions as may be determined by the President.

(3) The Chief Executive Officer shall be responsible to the Board for—

- (a) the day-to-day administration and management of the Administration;
- (b) the formulation and implementation of operational policies, programmes and plans relating to the functions of the Administration as may be approved by the Board;
- (c) supervising and disciplining the other employees of the Administration; and
- (d) performing other duties specified in this Act or as the Board may determine.

11. (1) The Board shall, on the recommendation of the Chief Executive Officer and on terms and conditions it may determine, appoint other staff to discharge the functions of the Administration. Other staff of Administration.

(2) Public officers may be seconded or otherwise give assistance to the Administration.

(3) The Board may engage the services of consultants or advisers as it considers necessary for the performance of the functions of the Administration.

(4) The Administration shall have departments which shall be created by the Board on the recommendation of the Chief Executive Officer.

PART V—FINANCIAL PROVISIONS

Funds of Administration. of— **12.** The Administration shall be financed by a fund consisting

- (a) monies appropriated by Parliament for the purposes of the Administration; and
- (b) grants, gifts or donations from any person or organization for the purposes of the Administration.

Financial year of Administration. **13.** The financial year of the Administration shall be the same as the financial year of Government.

Accounts and audit. **14.** (1) The Administration shall keep proper books of accounts and proper records in relation to the accounts and shall prepare within a period of three months after the end of each financial year a statement of its accounts in the form the Auditor-General may direct.

(2) The books and accounts of the Administration shall each year be audited by the Auditor-General or an auditor appointed by the Auditor-General.

(3) A report of the audit shall be submitted to the Board and shall include a copy of the audited accounts together with the Auditor-General's report on the accounts.

Annual report of Administration. **15.** (1) The Chief Executive Officer shall, within three months after the end of each financial year, submit for the approval of the Board, an annual report of the activities, undertakings, property and finances of the Administration for that year.

(2) An annual report shall include a copy of the audited accounts of the Administration together with the audit report on the accounts.

(3) A copy of the annual report approved by the Board shall be submitted to the Minister not later than three months after the year to which the report relates and the Minister shall, as soon as possible but not later than three months after receiving the report lay it before Parliament.

PART VI—ROAD MAINTENANCE FUND

16. (1) There is hereby established the Road Maintenance Fund into which shall be paid—

- (a) road user charges levied on fuel;
- (b) vehicle licence fees;
- (c) vehicle registration fees;
- (d) other licence fees collected under the Road Traffic Act, 2007;
- (e) any capital gains or profits made from investments; and
- (f) donations or grants made in respect of any road-related project or activity of the Administration; and
- (g) any other road user charges that may be allocated to the Fund under any other enactment.

17. (1) The Fund shall be used to defray the cost of maintenance of the core road network.

(2) Without prejudice to the generality of subsection (1) the Fund shall be used—

- (a) for road maintenance activities of the Authority;
- (b) to defray the cost of any insurance premium; and
- (c) for any other expenditure related to the achievement respectively of the objects for which the Administration and the Authority are established.

(3) In approving the amount of funding for the Authority's activities, the Administration shall take into consideration—

- (a) the need for the creation of an economically efficient core road network by the Authority;
- (b) any monies appropriated by Parliament for the purposes of the Authority; and
- (c) any grants, loans or donations from any person or organization for the purposes of the Authority.

Mode of request for funding by Authority.

18. (1) Not later than three months before the commencement of each financial year, the Authority shall submit to the Administration in a form determined by the Administration, a core road programme and a request for its funding for the ensuing financial year.

(2) The request shall set out in respect of the financial year—

- (a) particulars of each new activity or project to be undertaken;
- (b) each activity or project to be continued from the previous financial year;
- (c) the estimated amount to be expended on each activity or project;
- (d) any monies appropriated or to be appropriated by Parliament to the Authority or any grants, loans or donations made by a person or body in respect of any activity or project;
- (e) any other monies that will accrue to the Authority from any other source and which will be applied for the activity or project;
- (f) the estimated value of any assets, equipment, human and other resources which will be available for the activity or project and which

may have the effect of reducing the funding required.

19. (1) Not later than two months before the commencement of a financial year, the Administration shall approve a core road programme relating to that financial year. Approval of core road programme.

(2) An approved core road programme shall contain particulars prescribed by the Board.

(3) Before approving a core road programme, the Administration shall ensure that it contributes to the achievement of the object for which the Administration is established.

(4) The Administration may, at the request of the Authority amend the approved core road programme where a change in circumstances affecting the programme so requires; but an amendment shall not affect any allocation made under section 17 or make a new allocation of funds in respect of the programme.

(5) The Administration may make an approved core road programme and every amendment made to it available for inspection at its offices and shall publish them in the Gazette and in a newspaper.

PART VII—MISCELLANEOUS

20. (1) Subject to section 19, the Board shall review the expenditure needs of the Fund and the revenue received from road user charges and shall, after consultation with the Ministers responsible for trade, transport and the Minister, determine and impose the following road user charges:— Imposition of road user charges.

- (a) a charge on any motor vehicle, whether registered in Sierra Leone or not, in respect of the traveling distance in the course of on-road use, and which may be based on the mass, length, width or height of the motor vehicle or its loading or the number of axles of the vehicle, or any combination of such factors;

- (b) an entry fee in respect of motor vehicles not registered in Sierra Leone that temporarily enter Sierra Leone;

Act No. 5 of 2007. (c) fees to be charged under the Road Traffic Act, 2007;

- (d) a charge on every gallon of petrol and diesel imported into Sierra Leone to be included in the selling price of petrol and diesel.

(2) A road user charge, levied under subsection (1) shall be published in the Gazette and in a newspaper.

Performance agreement.

21. (1) The Administration shall, within such time as the Minister shall determine after the coming into operation of this Act, after consulting parties that the Minister may direct, submit to the Minister for the Minister's approval a performance agreement containing particulars necessary for the strategies which the Administration intends to use to achieve the object for which it is established including—

- (a) the projected funding requirements of the Authority and that of the Administration which it intends to raise by road user charges;
- (b) the types and rates of road user charges to be implemented in the future;
- (c) the manner in which effect will be given to section 17.
- (d) the policies to be followed by it in making investments;
- (e) the measures to be implemented by it to enhance the liquidity of the Fund;
- (f) the management and financial systems to be implemented by it; and

- (g) any other matter related to the Administration's functions that the Minister may require.

22. The Minister or, as the case may be, the Board may delegate to the Chief Executive Officer any powers conferred on the Minister or the Board by this Act and the Minister may likewise delegate his powers to the Board Delegation of powers.

23. (1) Subject to this section, the Minister shall by statutory instrument and on such conditions as the Minister may determine, transfer to the Administration with effect from a date determined by him, the assets, liabilities, rights or obligations, which relate to or are connected with the funding of roads forming part of the core road network as may, in the opinion of the Minister, be required by the Administration. Assignment of assets and liabilities.

(2) The Minister may, after consultation with the Administration—

- (a) subject to the consent of the creditor concerned and such conditions as the Minister, after consultation with the Administration, and the creditor may agree on, assign to the Administration, any obligation of the Government or the Authority arising out of an existing agreement between the Government or the Authority and the creditor in connection with any loan obtained by the Government or the Authority before the coming into operation of this Act for any purpose related to the management of the core road network;
- (b) subject to the consent of the donor concerned and such conditions as the Minister after consultation with the Administration and the creditor may agree on, assign to the Administration, any obligation of the Government or the

Authority arising out of any existing conditions stipulated by the donor in connection with any donation or grant made to the Government or the Authority before the coming into operation of this Act for any purpose related to the management of the core road network.

(3) Notwithstanding any enactment to the contrary, the Administration shall, with effect from the transfer date, be vested with the ownership of the assets and rights and be charged with the liabilities and obligations transferred or assigned to it under subsections (1) and (2) .

(4) A certificate issued by the Minister in which it is stated that any public land or lease or any other asset or right described in the certificate has been transferred to the Administration in terms of subsection (1) shall be sufficient proof that the asset or lease so described vests in the Administration.

(5) Upon the submission of the certificate to the Registrar of Deeds or to any other person in charge of any other office where a register or a record is being kept, of the ownership of or entitlement to an asset or right described in the certificate, the Registrar or the person shall make entries in or on any relevant register, title deed or other document in his office or submitted to him as may be necessary to effect the transfer in the name of the Administration.

(6) The Administration shall be substituted for the Government or the Authority as a contracting party in respect of any agreement transferred to the Administration in terms of subsection

(1), without that substitution bringing about a novation of that agreement.

(7) The value of assets and liabilities transferred to the Administration in terms of subsection (1) shall be determined by the Minister.

(8) Notwithstanding any enactment to the contrary, no stamp duties, transfer duties or registration fees, or any other duty, fee, tax or levy payable in terms of any enactment for acquisition or transfer of assets or rights shall be payable in respect of the transfer of assets or rights by the Government or the Authority to the Administration in terms of subsection (1)

24. The Administration shall be exempt from stamp duty payable under the Stamp Duty Act and shall not be liable to pay any tax or duty for the acquisition or transfer of any asset or property. Exemption from stamp duty. Cap. 274.

25. (1) The Board may, by statutory instrument, make rules and regulations to give effect to this Act. Regulations.

(2) Rules and regulations made under subsection (1) may establish codes of conduct and discipline and regulate the appointment, promotion and dismissal of employees.