

THE UNITED REPUBLIC OF TANZANIA



NO. 11 OF 1998

I ASSENT,

Benjamin W. Mkapa

President

23rd December, 1998.

An Act to amend the Roads Tolls Act, 1985 for the purposes of making better provisions.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Roads Tolls (Amendment) No. 2 Act, 1998 and shall be read as one with the Roads Tolls Act, 1985 (in this Act referred to as the principal Act).

Short title
Act No
13 of
1985

2. The principal Act is amended in section 3 by deleting and substituting the definitions referred below or adding in the appropriate alphabetical position the definitions of the words which are not in the Act, as follows:

Amend-
ment of
section 3

"Board" means the Board established by section 5;

"Chief Executive" means the chief executive Officer of the TAN-ROADS;

"classified roads" means any public road including trunk roads, regional roads, urban roads and feeder roads;

"development" means the upgrading of a road to a new standard,

including a new road or bridge construction, widening or rehabilitation of a road that has been left in poor condition for a long time;

"emergency repair" means, works required to open roads after a natural disaster;

"Fund" means the Fund established by section 4;

"local authority" means a district, town, municipality- or city authority;

"roads Minister" meant the Minister responsible for roads -

"road" means a primary, secondary or tertiary road, commonly used by the public or to which the public has access or route and includes-

(i) any bridge, causeway, culvert, dam, ditch, drain, fence embankment, ferry, ford, pontoon or other work in line of such road;

(ii) the land of which the road or route consists or over which the road reserve in question extends;

(iii) anything on that land forming part of , or connected with or 'belonging to the road or route; and

(iv) ' land acquired, for the, construction of a connection between one road or route and another road or route;

"road agency" means any road agency other than TANROADS;

"road Maintenance" means all works to preserve riding quality, road shape, drain, culverts, structures And bridges, spot improvement of bad spots to maintain accessibility, resealing, reshaping and regravelling;"

'road, toll" means a road user charge, toll, fee or levy that is imposed and is payable under this Act;

"TANROADS" means the Tanzania National' Roads Agency to be established under the, Executive Agencies Act, 1997.

Amend,
ment of
PART 11

3. The principal Act is amended by deleting the whole of PART 11 and substituting. for it the following-

PART 11
THE ROAD FUND

4.-(I) There is hereby established a Fund to be known as the Roads Fund into which shall be paid all monies collected as roads tolls imposed on diesel: and petrol, transit fees, heavy. vehicle licences vehicle overloading fees, or from any other source at the rate or rates to be determined by Parliament from time to time.

Estab-
lishment
of the
Roads
Fund

(2) All, monies. collected roads toll shall be deposited in the account of the Fund

(3) At least ninety percent of the money deposited in the Fund shall be used for Maintenance and emergency repair of classified roads and related administrative costs in Mainland Tanzania in accordance With approved operational plans, made-

- (a) initially by the Ministry responsible for roads un, til such time as the TANROADS is established in respect of trunk and regional, roads; and
- (b) by the responsible local authorities in respect of district and urban roads,

in accordance with the budgets approved by the Parliament,

(4) Not more than ten percent of the money, deposited. in Fund shall be used for roads development and related administrative costs in Mainland Tanzania in accordance with the plans and budgets approved by the Parliament.

(5) The money deposited in the Fund shall not be, used for any other purposes than those provided, for in subsections (3) and (4).

(6) The money deposited in the Fund shall be audited by the Controller and Auditor General or any other qualified auditor appointed by the Board after the approval of the Controller and Auditor General.

PART III
THE BOARD AND THE ROAD FUND MANAGER

1. THE BOARD

Establish-
ment of
the Board

5. - (1) There is hereby established a Board to be known as the Roads Fund Board which shall consist of the following members:

- (a) a Chairman who shall be appointed by the President from amongst persons outside the civil service;
- (b) the Permanent Secretary. in the Ministry responsible for roads;
- (c) the Permanent Secretary in the Ministry responsible for financing;
- (d) the Permanent Secretary in the Ministry responsible for Local Government;
- (e) a Senior Civil Servant not below the rank of Director appointed by the roads Minister;
- (f) four road user representatives appointed by the roads Minister from among the following sectors, institution or associations:
 - (i) the road transport industry;
 - (ii) the tourism industry;
 - (iii) the Tanzania Chamber of Commerce, Industries and Agriculture;
 - (iv) the Confederation of Tanzania Industries; (v) the National Co-operatives Organisation; or
 - (vi) any other organisation of road users with no potential conflict of interest.

(2) Subject to paragraph (f) of subsection (1),. the roads Minister shall call for nominations from the sectors, institutions or associations and on receiving the nominations, he shall publish a list of nominated members in one English and one Kiswahili local newspaper for persons wishing to object or comment on the nominations, to make such objections or comments to the roads Minister.

(3) Taking into account the objections and comments in accordance with subsection (2), the roads Minister shall, by notice published in the *Gazette*, make the appointments.

(4) The functions of the Board with respect to the Fund shall be-

- (a) to advise the roads Minister on new sources of roads tolls, adjustment of rates of existing roads tolls and on regulations for collection of road tolls for the purpose of ensuring adequate and stable flow of funds to road operations;
- (b) to apply the money deposited into the Fund for the purposes approved by the Parliament;
- (c) to set out procedures for agents with respect to the collection of roads tolls for the purpose of the Fund;
- (d) to ensure full collection and transfer of collected roads tolls to the Fund's account;
- (e) to develop and review periodically the formula for allocation and disbursement from the Fund to TANROADS, local authorities and other agencies and advise the roads Minister accordingly;
- (f) to recommend to the roads Minister an allocation of funds for TANROADS, local authorities and other road agencies to undertake road management at a level that is suitable and affordable;
- (g) to disburse funds from the Fund to TANROADS, local authorities and other agencies;
- (h) to ensure that the operations of TANROADS, local authorities, other road agencies and the Fund are technically and financially sound;
- (i) to monitor the use of the funds disbursed to TANROADS, local authorities or other agencies for the purpose of the objects of the Fund;
- (j) to appoint the Road Fund Manager and the Road Fund Accountant;
- (k) to appoint, subject to approval by the Controller and Auditor General, an auditor or auditors to carry out the audit of the Fund;
- (l) to make any other recommendations to the roads Minister as it considers necessary to enable the Board to achieve its objectives.

(5) In discharging its functions, the Board shall enter into a performance agreement with the Chief Executive of TANROADS or other agency to which the Board disburses funds from the Fund.

(6) The Board shall, within three months, after the end of each financial year, submit to the Minister an annual report based upon its own activities, the activities of TANROADS, local authorities and other agencies together with the copies of their audited statements of accounts and copies of the reports made on them by the auditors.

(7) The Minister shall cause a copy of the annual report submitted to him to be laid before the National Assembly within two months of the receipt of the report.

(8) All costs with regard to the Board shall be defrayed from the Fund.

(9) The provisions of the Fourth Schedule to this Act, shall have effect in respect of the tenure of office of members, meetings of the Board and other matters in relations to Board.

2. THE ROAD FUND MANAGER AND ROAD FUND ACCOUNTANT

Appoint-
ment of the
Road Fund
Manager
and Road
Fund
Accountant

6.-(I) The Board shall, upon the terms and conditions of service to be determined by it and within three months of the coming into operation of this Act appoint not more than two Executive officers, the Road Fund Manager and the Road Fund Accountant to manage the day to day activities of the Fund.

(2) The Road Fund Manager shall be the Secretary to the Board.

(3) For the purpose of subsection (1), the Board shall invite applications for the post by publishing an advertisement in at least two newspapers circulated countrywide.

(4) A person shall not be appointed to the office of Road Fund Manager or Road Fund Accountant unless:

(a) he is a registered member of a relevant professional body;

- (b) he has as at least five years appropriate experience;
and
- (c) he is a citizen of Tanzania, unless expressly
exempted from this requirement by the roads
Minister.

(5) The Road Fund Manager shall hold office for a period of five years, whereafter the post shall be re-advertised in the manner specified in subsection (3).

(6) A serving Road Fund Manager shall be eligible for re-appointment after expiry of the period of his appointment.

4. The principal Act is amended by renumbering PARTS III and IV as PARTS V and VI respectively.

Re-
numbering
of PARTS

5. The principal Act is amended by adding a new Schedule as follows:

Additional
of Fourth
Schedule

"FOURTH SCHEDULE

Under section 5(8)

TENURE OF OFFICE OF MEMBERS OF THE BOARD, CONDITION OF SERVICE AND MEETINGS

1-(I) The members of the Board apart from ex-officio members, the Road Fund Manager and the Chief Executive shall hold office for a period of three years and shall be eligible for re-appointment for a further non renewable term of three years.

Tenure of
office of
members

(2) For the purpose of subsection (1), the roads Minister shall give due regard to the need to ensure continuity in the membership of the Board and to this end shall differentiate between the periods of office of members of the Board, provided that such periods are disclosed at the time of appointment to the Board and therefore initially one half of the members from the road user representatives shall be appointed on a lesser period than the period specified in this paragraph.

(3) A member of the Board, including the Chairman, Vice-chairman, the Chief Executive and Road Fund Manager shall vacate office-

- (a) upon expiry of the term of appointment;
- (b) on being permanently incapacitated by physical or mental illness-
- (c) on his or her estate being sequestered; (d) on being convicted for any criminal offence.

(4) The roads Minister may remove a member of the Board from office upon recommendation of the Board, if such member-

- (a) fails to perform his duties diligently or efficiently;
- (b) is unable to perform his duties because of mental illness or disability; or
- (c) has been absent without the permission of the Chairman for three consecutive meetings of the Board without good reason.

(5) A member of the Board may resign on one month's written notice to the Minister.

(6) The Minister shall fill vacancies of the Board as soon as possible in accordance with the provision of section 5.

meetings of
the Board

2.-(I) The Board shall meet as and when required, but at least four times each year.

(2) The first meeting of the Board shall be held at a time and place determined by the Minister and thereafter meetings will be held at times and places determined by the Board.

(3) The Chairman, or in his absence the Vice-Chairman, may at any time in his discretion convene a special meeting of the Board, and shall convene such a meeting within fourteen days of a request signed by not less than seven members of the Board.

(4) A quorum at the meeting of the Board shall be more than half of the voting members.

(5) Except where otherwise provided, a decision of the majority of the members of the Board present shall be the decision of the Board.

(6) The Chairman shall have a casting vote in event of an equality of votes.

(7) The Board shall determine its own procedure for the conduct of its meeting.

(8) A member of the Board shall not take part in the discussion of or the making of a decision about matters before the Board in which he or his spouse, blood relations, partner or employer, other than the state, or the partner or employer of his spouse or blood relation has direct or indirect pecuniary interest.

3. A member of the Board shall be appointed on such conditions, including fees and allowances, as the roads Minister may upon the advice of the Board, determine.

Condition
of service of
members of
the Board

Passed in the National Assembly on the 11th November, 1998.


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Clerk of the National Assembly