

CHAPTER K46 - KWARA STATE ROADS MAINTENANCE AGENCY LAW

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SCHEDULE

KWARA STATE ROADS MAINTENANCE AGENCY LAW

A Law to provide for the establishment of Roads Maintenance Agency for Kwara State and for matters connected therewith.

[No. 7 of 2004.]

[Date of commencement: 23rd April, 2004]

PART I

Establishment, Incorporation of the Agency and the Composition of the Governing Board and its Powers

1. Establishment of the Agency
- 2.

There is hereby established an Agency to be known as the Kwara State Roads Maintenance Agency (hereinafter referred to as the "Agency.")

3. Incorporation of the Agency
- 4.

The Agency shall—

- (a) be a body corporate with perpetual succession having a common seal;
- (b) have power to sue and be sued in its corporate name; and
- (c) be capable of holding, purchasing, acquiring and disposing of property, movable and immovable for the purpose of carrying out its functions under this Law.

3. Establishment of the Governing Board of the Agency and its composition

There is hereby established for the Agency a Governing Board, (in this Law referred to as "the Board") which shall be responsible for the running of the affairs of the Agency, which shall consist of—

- (a) Chairman;
- (b) one person experienced in Civil Engineering;
- (c) the General Manager of the Agency;
- (d) a representative of each of the following—
 - (i) Ministry of Works and Transport;
 - (ii) Ministry of Finance;
 - (iii) Ministry of Lands and Housing;
 - (iv) National Association of Road Transport Owners (NARTO);
 - (v) Federal Roads Safety Commission; and
 - (vi) one member from each of the three Senatorial Districts.

4. Appointment, tenure of office and remuneration

Members of the Board referred to in Section 3 (a), (b) and (d) (vi) of this Law shall—

- (a) be appointed by the Governor;
- (b) hold office for such period and on such terms and conditions as may be stated in the instrument by which they are appointed;
- (c) be eligible for re-appointment upon the terms as contained in their instrument of appointment; and
- (d) be paid such remuneration whether by way of salary, fees or allowances as the Governor may determine or may direct from time to time.

5. Schedule

The supplementary provisions set out in the schedule to this Law shall have effect with respect to the proceedings of the Board and the other matters contained therein.

6. Removal from office etc.

(1) Notwithstanding the provisions of Section 4 of this Law a member may at any time be removed from office by the Governor of the State on the occurrence of any of the following—

- (a) he becomes bankrupt, suspends payment or compounds with his creditors;
- (b) he is convicted for a felony or any offence involving dishonesty or fraud;
- (c) he becomes of unsound mind or is incapable of carrying out his duties;
- (d) he is guilty of serious misconduct in relation to his duties; or
- (e) in the case of a person possessed of professional qualification, he is disqualified or suspended, other than at his own request, from practising his profession in any part of the world by any order of a

competent authority made in respect of that member.

(2) A member of the Board may resign his appointment by a notice in writing under his hand, addressed to the Governor and that member shall on the date of the receipt of the notice by the Governor of the State cease to be a member of the Board.

(3) Where a member of the Board cease to hold office for any reason whatsoever, before the expiration of the term for which he is appointed, another person representing the same interest as that member, shall be appointed to the Board for the unexpired term.

(4) A member of the Board may be removed by the Governor if he is satisfied that it is not in the interest of the Agency or the interest of the public that the member continues in office.

7. Direction by the Governor

The Governor may give to the Board directives of a general and specific character as to the exercise and performance of their functions and the Board shall give effect to such directives.

8. Powers of the Board

The Board shall have power to—

- (a) formulate, initiate and provide the general policies and guidelines relating to the programmes of the Agency;
- (b) manage and superintend the affairs of the Agency;
- (c) subject to the provisions of this Law, make, alter and revoke rules and regulations for carrying on the functions of the Agency;
- (d) fix terms and conditions of service including remunerations, allowances of the employees of the Agency;
- (e) purchase machinery, equipment etc for the effectiveness of the Agency; and

- (f) inspect projects etc as may be necessary for the purpose of carrying out its functions under this Law.

PART II

Functions and Powers of the Agency

9. Functions of the Agency

(1) The Agency shall—

- (a) ensure the efficient and effective maintenance of all existing roads and facilities;
- (b) demolish any structure constituting public nuisance on roads;
- (c) take custody of any vehicle or any obstructions on any road in the State;
- (d) ensure sustainable direct labour implementation in the areas of road construction and maintenance;
- (e) liaise with various ministries, departments and all relevant sectors in ensuring an effective road maintenance policy;
- (f) ensure the effective usage of direct labour in its road maintenance activities involving rehabilitation and construction etc;
- (g) increase productivity, effectiveness and skillful development of persons through its direct labour policy of road maintenance thereby eradicating dormancy and un-usefulness;
- (h) receive all monies, relief, assistance from the Federal Government for the maintenance of the roads; and
- (i) carry out such other activities that are relevant and conclusive to the discharge of its functions under this Law.

(2) Any person to whom subsection (1) (b) and (c) of this Section applies, shall pay the fees or fines as may be prescribed by the Agency.

10. Powers of the Agency

Without prejudices to the generality of the following, the Agency shall—

- (a) enter into road construction contracts for the purpose of executing relevant projects;
- (b) set guidelines for the working of construction contracts;
- (c) plan and manage the development and implementation of the road safety standard;
- (d) plan and develop strategies towards ensuring efficient and effective movement of traffic on the roads and ensure their implementation;
- (e) make policy recommendations to the State Government on matters relating to the maintenance of roads;
- (f) conceive plans and implement rules and regulations in respect of road maintenance and constructions;
- (g) prepare master plans and schemes for an effective road maintenance policy;
- (h) identify factors inhibiting effective road maintenance; and
- (i) carry out such other activities as appear to it necessary or expedient for the
full and efficient discharge of its functions under this Law.

11. Aims of the Agency

The aims of the Agency shall be to promote and ensure road maintenance in all necessary ramification in the State.

PART III

Administrative Organisation of the Agency

12. General Manager

(1) There shall be a General Manager for the Agency who shall have such qualification and experience as are appropriate for a person required to perform the functions of this office under this Law.

(2) The General Manager shall be appointed by the Governor.

(3) Hold office on such terms and conditions as to emoluments, conditions of service as may be specified in his letter of appointment.

(4) He shall be the Chief Executive and Accounting Officer of the Agency.

(5) The General Manager may resign his appointment by a notice in writing under his hand addressed to the Governor through the Board.

13. Duties of the General Manager

The General Manager shall, subject to the general direction of the Board—

- (a) be responsible for the day to day administration of the Agency;
- (b) implement the policies and decisions of the Board in accordance with the provisions of this Law; and
- (c) have control of all employees of the Agency.

14. Power of appointment and discipline

Power to appoint, exercise disciplinary control over the General Manager and to determine his terms and conditions of service as to remuneration or otherwise shall vest in the Governor and shall also be subject to the provisions of any regulations that may be made under this Law.

15. Secretary to the Agency

(1) There shall be a Secretary to the Agency who shall be appointed by the Governor from the Civil Service of the State.

(2) The Secretary shall be an officer not below the rank of Grade Level 15.

16. Duties of the Secretary

The Secretary shall—

- (i) keep the books and proper records of the proceedings of the Board;
- (ii) be in control of the administration of the Secretariat of the Agency;
- (iii) carry out all correspondence relating to the Agency; and
- (iv) perform such other duties as may be prescribed by the Board from time to time.

17. Other staff of the Agency

(1) The Board shall—

- (a) employ, engage, appoint such number of employees as may in the opinion of the Board be required to assist the Board in the proper and effective conduct of the business of the Agency upon such terms and conditions as to remunerations or otherwise as it may determine;
- (b) employ on secondment such officers in the public service of the State or in the service of any other State, Local Authority as may with the agreement of such officers, be seconded to the service of the Agency in accordance with the procedure applicable to the secondment of such officers, such seconded officers may elect to be transferred to the service of the Agency, and any previous service he may have rendered in the public service shall count as service to the Agency for the purpose of any pension subsequently payable by the Agency;
- (c) have power to dismiss such employees as it may consider necessary;

and

(d) not appoint, engage, employ or dismiss any officer or employee whose salary is equal to or in excess of the prescribed salary without the approval in writing of the Governor.

(2) The Governor may by order determine the prescribed salary for the purpose of paragraph (d) of subsection (1) of this Section.

18. Service in the Agency, to be pensionable

(1) Service in the Agency shall be approved service for the purpose of the Pension Law.

(2) The officers and other persons employed in the Agency shall be entitled to pensions, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grades as appropriate and as prescribed under the Pension Law.

(3) Nothing in subsections (1) and (2) of this section shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.

19. Power to make regulations relating to employees of the Board

The Board may, with the approval of the Governor, and subject to the provisions of this Law, make regulations with respect to the appointments, promotions, transfer, dismissal and exercise of disciplinary control over its employees and without prejudice to the generality of the foregoing provisions, make regulations for any of the following matters—

(a) the qualifications to be required for appointments;

(b) the method of appointment (including probation and confirmation);

(c) the form of any agreement to be entered into between the Agency and its employees;

(d) the terms and conditions of Service (including without prejudice to the

generality of that expression, the salaries, allowances, the grant of advances, the provisions of quarters, leave and medical treatments);

- (e) the procedures and requirements for promotions;
- (f) the maintenance of discipline (including dismissal and the determination of appointments);
- (g) the transfer of employees between the Agency and the Government of the State, any other State, Local Authority or Local Government or any Statutory Corporation; and
- (h) such other matters relating to departmental procedures, duties and responsibilities of employees as the Board considers can be best provided for by regulations.

20. Power to make rules relating to the retirement benefits for employees of the Board

Notwithstanding the provisions of section 18 of this Law, the Board may with the approval of the Governor make rules with respect to its employees for—

- (a) the pensions, gratuities and retirement allowances to be granted to pensionable employees of the Board and their dependants;
- (b) the gratuities and retirement allowances to be granted to non-pensionable employees of the Board and their dependants; and
- (c) all matters ancilliary to the matters mentioned in paragraphs (a) and (b) of this Section.

PART IV

Financial Provisions

21. Funds and resources of the Agency

The funds of the Agency shall comprise of—

- (a) the take-off grant from the State Government;
- (b) all funds which may from time to time be appropriated to the Agency

by the Governor of the State;

- (c) sums received from donations, subventions, Federal grant or any other grant, endowment, grant in aid;
- (d) interests in investments;
- (e) all such sums as may from time to time be granted to the Agency by any person;
- (f) all properties and investments acquired by or vested in the Agency and all moneys earned or arising there from;
- (g) all fares and other sums derived by the Agency from the provisions of its services under this Law; and
- (h) all sums or properties which may in any manner become payable to or vested in the Agency in respect of any matter arising out of or incidental to its functions and all other sums accruing to the Agency from other sources

22. Application of the Agency's fund

The Agency may, from time to time apply its funds—

- (a) to the cost of administration of the Agency;
- (b) to the paying of the emoluments, allowances and benefits of members of the Board and for reimbursing members of the Board or of any committee set up by the Board for such expenses as may be expressly authorised by the Board;
- (c) to the payment of the salaries, fees or other remunerations or allowances, gratuities and pensions, and other benefits payable to the officers and other employees of the Agency, so however that no payment of any kind under this paragraph (except such as may be

expressly authorised by the board) shall be made to any person who is in receipt of emoluments from the Federal or State Government;

- (d) for the development and maintenance of any property vested in or owned by the Agency; and
- (e) for and in connection with all or any of its functions under this Law.

23. Annual Estimates and Accounts

(1) The Agency shall not later than 30th September in each year, submit to the Commissioner an estimate of its expenditure and income (including payments to the Agency) for the next succeeding year.

(2) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within three months after the end of each year.

24. Audit

(1) The Auditor-General of the State shall—

- (a) inspect and audit accounts and records of the financial transactions of the Agency;
- (b) inspect records relating to assets of the Agency; and
- (c) draw the attention of the Commissioner to any irregularity, which is disclosed by the inspection and audit.

(2) The Auditor-General or an officer authorised by him is entitled at all reasonable time to a full free access to all accounts, records, documents and papers of the Agency relating directly or indirectly to the receipt or payment of money by the Agency or to the acquisition, receipt, custody or disposal of assets by the Agency.

25. Annual Reports

The Agency shall prepare and submit to the Governor through the Commissioner not later than six months after the end of each financial year, a report of the activities of the Agency during the immediate proceeding year, and shall include in such report a copy of the audited accounts of the Agency for that year and the Auditor's report on the accounts.

26. Power to accept gift etc.

The Agency may accept any gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift provided that the Agency shall not accept any gift if the conditions attached are inconsistent with the functions of the Agency and the terms of existing Laws.

27. Power to borrow

(1) The Agency may, from time to time, borrow such sums as it may require for the performance of its functions under this Law.

(2) The Agency shall not, without the approval of the Governor borrow money which exceeds, at any time, the amount set by the Governor.

(3) Notwithstanding subsection (1) of this Section, where the sum to be borrowed is in foreign currency, the Agency shall not borrow the sum without the prior approval of the Governor.

28. Investment

The Agency may, subject to the provisions of this Law and the conditions of any trust created in respect of any property, invest all or any of its funds in any security or in such other securities as may, from time to time, be approved by the Board.

29. No exemption from payment of income tax

The Agency shall not be exempted from the payment of income tax on any income accruing from investments made by the Board for the Agency or otherwise howsoever.

30. Power to acquire Land

The Agency may subject to the Land Use Act, acquire any land for discharging its functions.

PART V

Miscellaneous Provisions

31. Limitation of Suits against the Agency, etc.

Subject to the provisions of this Law, the provisions of the Public Officers Protection Law shall apply in relation to any suit instituted against an officer or employee of the Agency.

[Cap. Pi 5.]

32. Service of documents

A notice, summons or other documents required or authorised to be served upon the Agency under the provisions of this Law or any other enactment or Law may be served by delivering it to the General Manager or by sending it by registered post addressed to the General Manager or any of the principal officers of the Agency.

33. Indemnity of officers

A member of the Board, the General Manager, any officer or employee of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, if any such proceeding is brought against him in his capacity as a member of the Board, the General Manager, officer or other employee of the Agency.

34. Secrecy

(1) A member of the Board or the General Manager or any other officer or employee of the Agency shall—

- (a) not, for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty as a member of the Board or as the General Manager, officer or employee of the Agency;

- (b) treat as confidential any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his duties under this Law; and
- (c) not disclose any information referred to under paragraph (b) of this subsection, except where required to do so by a Court or in such other circumstances as may be prescribed by the Board, from time to time.

(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine of not less than twenty thousand naira (N20,000) or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

35. Regulations

The Board may, with the approval of the Commissioner make such regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Law and for the due administration of its provisions.

36. Interpretation

In this Law unless the context otherwise requires—

"Agency" means Kwara State Roads Maintenance Agency established by section 1 of this Law

"Board" means the Kwara State Roads Maintenance Agency Governing Board established by Section 3 of this Law.

"Chairman" means the Chairman appointed under section 3 (a) of this Law;

"Commissioner" means the Commissioner charged with the responsibility for Works and Transport;

"Functions" includes duties and powers;

"General Manager" means the General Manager of the Agency appointed by Section 11 of this Law;

"**Governor**" means the Governor of Kwara State;

"**Member**" means a member of the Board and includes the Chairman;

"**Ministry**" shall be construed accordingly;

"**Powers**" includes functions and duties;

"**State**" means Kwara State;

"**Roads**" includes State and Federal roads.

37. Citation

This Law may be cited as the Kwara State Roads Maintenance Agency Law, 2004.

SCHEDULE

[Section 5.]

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

Proceedings of the Board

1. Subject to this Law, the Board may make standing orders regulating its proceedings or that of any of its Committees.
2. At every meeting of the Board the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their members to preside.
3. The quorum at a meeting of the Board shall consist of the Chairman or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule, and five other members.
4. The Board shall for the purposes of this Law meet not less than three times in each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman,

and if required to do so, by notice given to the Chairman by not less than five members. The Chairman shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

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

Committees

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

(2) A Committee appointed under this paragraph shall—

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

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

(3) The quorum of any Committee set up by the Board shall be as may be determined by the Board.

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

Miscellaneous

7. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman, the General Manager or any other person generally or specifically authorised by the Board to act for that purpose.

8. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Agency by the General Manager or by any other person generally or specifically authorised by the

Board to act for that purpose.

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

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

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

(b) any defect in the appointment of a member of the Board or Committee; or

(c) reason that any person not entitled to do so took part in the proceedings of the Board or Committee.

11. (1) A member of the Board who is directly or indirectly interested in any matter being deliberated on by the Board or is interested in any contract made or proposed to be made by the Agency shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of this interest at a meeting of the Board.

(2) A disclosure under subparagraph (1) of this section shall be recorded in the Minutes of the Meeting of the Board and the member concerned shall—

(a) not, after the disclosure take part in any deliberation or decision of the Board on the issue; and

(b) be excluded for the purpose of constituting a quorum of any meeting of the Board for any deliberation or decision, with regard to the subject matter in respect of which his interest is so disclosed

12. No member of the Board shall be personally liable for any act or omission done or made in good faith while engaged in the business of the Agency.

KWARA STATE ROADS MAINTENANCE AGENCY LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
