

ROAD FUND ACT, 1997 (ACT 536)

As Amended by

ROAD FUND (AMENDMENT) ACT, 2016 (ACT 909)1

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REPUBLIC OF GHANA

**THE FIVE HUNDRED AND THIRTY-SIXTH
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE ROAD FUND ACT, 1997**

AN ACT to establish a Fund to be known as the Road Fund to finance routine and periodic maintenance and rehabilitation of public roads; to provide for the management of the Fund and to provide for related matters.

DATE OF ASSENT: 29TH AUGUST, 1997.

BE IT ENACTED by Parliament as follows ³/₄

PART I—ESTABLISHMENT OF THE ROAD FUND

Section 1—Establishment of Road Fund.

- (1) There is established by this Act a fund to be known as the Road Fund.
- (2) The Fund is a body corporate with perpetual succession and a common seal, may sue and be sued and shall have in all respects the powers of a body corporate. [As substituted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 1]

Section 2—Object of the Road Fund.

- (1) The object of the Fund is to finance routine, periodic maintenance and rehabilitation of public roads in the country.
- (2) The Fund shall also be used to assist the Metropolitan, Municipal and District Assemblies in the exercise of their functions relevant to public roads under any enactment.

Section 3—Financial Resources of the Fund.

The monies for the Fund shall be derived from³/₄

- (a) such proportion of government levy on petrol, diesel and refined fuel oil as may be determined by the Cabinet with the approval of Parliament;

- (b) bridge, ferry and road tolls collected by the Authority;
- (c) vehicle licence and inspection fees;
- (d) international transit fees, collected from foreign vehicles entering the country; [As deleted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 2 (a)]
- (da) moneys borrowed and raised on its own from banks and any other financial institution, determined by the Fund in consultation with the Minister responsible for Finance, and; [As inserted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 2 (b)]
- (e) such monies as the Minister responsible for Finance in consultation with the Minister may determine with the approval of Parliament.

Section 4—Bank Account for the Fund.

Moneys for the Fund shall be paid into bank accounts opened for the purpose by the Road Fund Management Board established under section 5 of this Act.

PART II—MANAGEMENT OF THE FUND

Section 5—Establishment of the Fund Management Board.

(1) There is hereby established a management board for the Fund which shall be known as the Road Fund Management Board referred to in this Act as "the Board".

(2) The Board shall be composed of the following persons appointed by the President^{3/4}

- (a) [As deleted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 3 (1) (a)]
- (b) one representative of the Ministry of Finance not below the rank of a Director; [As substituted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 3 (1)(b) (i)]
- (c) one representative of the Ministry of Power not below the rank of a Director; [As substituted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 3 (1) (b) (ii)]
- (d) the Accountant-General or his representative;
- (e) one representative of the Ministry of Local Government and Rural Development not below the rank of a Director,"; and [As substituted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 3 (1)(b)(iii)]
- (f) two persons nominated from outside the Ministry of Roads and Transport by the Minister; and
- (g) one representative from each of the following organisations nominated by the organisation concerned—
 - (i) the Association of Road Contractors;
 - (ii) one representative of the Co-ordinating Council of the Ghana Road Transport Association; [As substituted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 3 (1) (b) (iv)]
 - (iii) the Ghana Private Enterprise Foundation;
 - (iv) [As deleted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 3(1)(c)]

(v) the Ghana Institute of Engineers; and

(vi) the Ghana National Association of Farmers and Fishermen (Crops).

(h) one independent person with expertise in road and transport nominated by the President.".
[As inserted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 3(1)(d)]

(3) The President shall appoint a chairperson for the Board. [As inserted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 3(2)]

Section 6—Management of the Fund.

(1) The Fund shall be managed by the Board [As substituted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 4]

(2) For the purposes of subsection (1) of this section the Board shall^¾

(a) arrange for the collection of monies assigned to the Fund;

(b) identify other sources of funding;

(c) co-ordinate and ensure total and timely accountability of the Fund;

(d) recommend to the Cabinet after consultation with the Minister for Finance the level of the road levy and other road user charges that shall be paid into the Fund;

(e) improve arrangements for the collection of road user charges by the Minister or agents assigned for the purpose;

(f) prepare and publish procedures for the disbursement of the Fund;

(g) determine the certification necessary to ensure that work is completed according to specification;

(h) review the annual expenditure programmes of the road implementing departments and bodies;

(i) determine how much of the financing of the expenditure programmes of the road agencies should come from the Fund, taking into consideration any cost-sharing formula there may be; and

(j) perform such other functions as may be incidental to its functions under this Act.

Section 7—Tenure of Office of Members.

(1) A member of the Board other than an ex-officio member shall hold office for a period not exceeding three years and is on the expiration of that period eligible for reappointment.

(2) A member of the Board other than an ex-officio member may at any time by letter addressed to the President through the Minister, resign his office.

(3) A member who is absent from three consecutive meetings of the Board without sufficient cause shall cease to be a member.

(4) The Chairman or a member of the Board may be removed from office by the President for inability to perform the functions of his office, for stated misbehaviour or for any other just cause.

(5) The Chairman of the Board shall through the Minister notify the President of vacancies that occur in the membership of the Board within one month of the occurrence of the vacancy.

Section 8—Allowances for Members.

The Chairman and other members of the Board shall be paid such allowances as the Minister, in consultation with the Minister responsible for Finance, may determine.

Section 9—Meetings of the Board.

(1) The Board shall meet for the despatch of business at such times and in such places as the Chairman may determine but shall meet at least once every three months.

(2) The Chairman shall upon the request of not less than one-third of the membership of the Board convene a special meeting of the Board.

(3) The quorum at a meeting of the Board shall be five members of whom at least two shall be from the public sector and two from the private sector.

(4) Every meeting of the Board shall be presided over by the Chairman and in his absence by a member of the Board elected by the members present from among their number.

(5) Questions before the Board shall be decided by a majority of the members present and voting.

(6) The Chairman or the person presiding at a meeting of the Board shall in the event of equality of votes have a second or casting vote.

(7) The Board may co-opt any person to act as an adviser at its meetings but no co-opted person is entitled to vote at the meeting.

(8) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by a defect in the appointment or qualification of a member.

(9) Except as otherwise expressly provided for under this section, the Board shall determine and regulate the procedure for its meetings.

Section 10—Disclosure of Interest.

(1) A member of the Board who is directly interested in any matter being considered or dealt with by the Board shall disclose the nature of his interest at a meeting of the Board and shall not take part in any deliberation or decision of the Board with respect to the matter.

(2) A member who fails to disclose his interest under subsection (1) of this section shall be removed from the Board.

Section 11—Charges on the Fund.

Subject to section 2 of this Act the charges on the Fund shall be for³/₄

(a) routine and periodic maintenance of road and related facilities;

- (b) upgrading and rehabilitation of roads;
- (c) road safety activities;
- (d) selected road safety projects; and
- (e) such other relevant matters as may be determined by the Board.

Section 12—Annual Road Programme and Annual Expenditure Programme.

(1) There shall be prepared annually at least three months before the end of each financial year for the consideration and approval of the Board, an Annual Road Programme and Annual Expenditure Programme in respect of the next financial year by the departments and bodies charged with the implementation of the road policies of the Ministry.

(2) The Annual Road Programme shall be in such form and contain such particulars as the Board shall determine but shall include—

- (a) the relevant Annual Expenditure Programme of the departments and bodies for the next financial year;
- (b) grounds for the expenditure in respect of each road; and
- (c) the revenue projections for the financial year of the department and bodies for the Fund.

(3) Allocation from the Fund to the implementing departments and bodies shall be based among others on the conditions of the road network, maintenance requirements, the length of the road network and the relevant volume of the traffic.

(4) The Board shall prepare the total Annual Expenditure Programme to be financed from the Fund in consultation with the Ministry of Finance and shall consider—

- (a) the affordability of the overall programme; and
- (b) the appropriateness of the amount allocated for each class of road.

(5) The Board shall submit a report of the prepared total Annual Expenditure Programme to the Minister for Roads and Transport.

Section 13—Disbursement of the Fund.

Money from the Fund shall only be disbursed for goods and services that form part of the approved Annual Expenditure Programme.

Section 14—Withdrawal Procedure.

Money may be withdrawn from the Fund upon presentation to the bank of a cheque signed by^{3/4}

- (a) the Chairman of the Board and the representative of the Accountant-General on the Board; or
- (b) the Chairman of the Board and one other member representing a private sector organisation on the Board.

PART III—FINANCIAL PROVISIONS AND ADMINISTRATION

Section 15—Accounts and Audit.

(1) The Board shall keep books of account and proper records in relation to them and the books of account and records shall be in such form as the Auditor-General may approve.

(2) The books of account of the Fund shall be audited by the Auditor-General or by an auditor appointed by him within 3 months after the end of each financial year.

(3) Without prejudice to subsection (2) of this section, an audit report on the Fund shall specify whether in the opinion of the Auditor-General—

(a) proper books of accounts have been kept in respect of the Fund;

(b) the financial statement on the Fund is accurate;

(c) payments made from the Fund were in conformity with the authorised expenditure properly approved;

(d) the disbursements made were in accordance with disbursement procedures; and

(e) the accounting procedures and internal control procedures were accurate.

(4) In addition to the annual audit, technical audits shall be conducted on a selective basis by the Auditor-General or by an auditor appointed by the Auditor-General on the recommendation of the Board.

Section 16—Secretarial Services for the Fund.

(1) The Chief Director of the Ministry shall act as secretary to the Fund and shall be responsible for the day-to-day administration of the Fund. [As substituted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 5]

(2) There shall also be provided by the Ministry for the management of the Fund such other staff as shall be necessary.

Section 17—Financial Year.

The financial year of the Fund shall be the same as the financial year of the Government.

Section 18—Annual Report.

(1) The Board shall submit to the Minister as soon as practicable and in any event not more than six months after the end of each financial year a report dealing generally with the activities and operation of the Fund during the year to which the report relates and shall include $\frac{3}{4}$

(a) the audited accounts of the Fund and the Auditor-General's report on the accounts of the Fund;

(b) such other information as the Board may consider necessary.

(2) The Minister shall within two months after the receipt of the annual report submit the report to Parliament with such statement as he considers necessary.

Section 18A—Regulations

The Minister may, by legislative instrument, make Regulations for the effective implementation of this Act. [As inserted by the Road Fund (Amendment) Act, 2016 (Act 909), s. 6]

Section 19—Interpretation.

In the Act unless the context otherwise requires—

"Annual Road Programme" means the programme relating to routine and periodic road maintenance;

"Annual Expenditure" means the expenditure relating to routine and periodic road maintenance;

"Authority" means the Ghana Highway Authority;

"department" means any public department charged with the implementation of road policies;

"Minister" means the Minister responsible for Roads and Highways.

Date of Gazette Notification: 5th September, 1997.