



THE SENATE
FEDERAL REPUBLIC OF NIGERIA

FEDERAL ROADS BILL, 2021.

(HB. 362)

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
ENACT THE FEDERAL ROADS BILL FOR ESTABLISHMENT OF FEDERAL ROADS
AUTHORITY, THE FRAMEWORK FOR PRIVATE SECTOR PARTICIPATION, AND FOR
RELATED MATTERS, 2021

FIRST READING

TUESDAY, 21TH SEPTEMBER, 2021

SECOND READING

WEDNESDAY, 29TH SEPTEMBER, 2021

THIRD READING AND PASSAGE

WEDNESDAY, 29TH SEPTEMBER, 2021

FEDERAL ROADS BILL, 2021.



Arrangement of Clauses

Clauses

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A BILL

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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 ENACT THE FEDERAL ROADS BILL FOR ESTABLISHMENT OF FEDERAL ROADS AUTHORITY, THE FRAMEWORK FOR PRIVATE SECTOR PARTICIPATION, AND FOR RELATED MATTERS, 2021 (HB. 362)

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Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria—

1. (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 Bill;

(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.

(2) The provisions of this Bill shall apply to the development, funding, management and administration of Federal Roads in Nigeria.

2. (1) There is established a body to be known as the Federal Roads Authority (in this Bill referred to as the "Authority") which shall be responsible for the asset management and works (development, rehabilitation, maintenance and road safety works) on Federal Roads in Nigeria.

Establishment of the Federal Roads Authority.

(2) The Authority shall be a body corporate:

(a) with perpetual succession and a common seal;

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

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

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

3. (1) There is established for the Authority a Governing Board (in this Bill referred to as Governing Board 'the Board') which shall be responsible for policy formulation for the Authority and superintending over the affairs of the Authority.

Governing Board of
the Authority.

(2) The Board shall consist of the following members —

(a) a non-Executive Chairman;

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

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

(i) Federal Ministry responsible for Roads,

(ii) Federal Ministry of Finance,

(iii) Federal Road Safety Commission,

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

(d) the Managing Director of the Authority appointed under the provisions of section 10 of this Bill;

(e) two (2) Executive Directors appointed under the provisions of section 10 of this Bill.

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

(4) The Supplementary Provisions set out in the Schedule 1 to this Bill shall have effect with respect to the proceedings of the Board and other matters contained therein.

4. (1) The Chairman and other members of the Board, other than the Managing Director and the two (2) Executive Directors, shall be non-executive and appointed on part-time basis by the President on the recommendation of the Minister.

Appointment and
Qualification of
Board Members.

(2) The Chairman and members of the Board including the Managing Director and the two (2) Executive Directors, shall be persons of proven integrity and recognized expert knowledge.

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

(a) civil engineering or other relevant engineering disciplines;

(b) construction management;

(c) infrastructure asset management;

(d) transport management technology;

- (e) infrastructure financing;
- (f) corporate management;
- (g) law;
- (h) finance;
- (i) accountancy; or
- (j) economics.

5. A person shall not be a member of the Governing Board of the Authority if he is already a member of the Governing Board of the National Roads Fund established under the National Road Fund Act. Exemption.

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

Tenure and
removal office of a
board member.

- (a) for a term of four (4) years in the first instance and may be reappointed for a further term of four (4) years and no more; and
- (b) on such terms and conditions as may be specified in the letter of appointment.

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

- (a) he becomes bankrupt;
- (b) he is convicted of 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 a serious misconduct in relation to his duties;
- (e) he is disqualified or suspended from practicing his profession in any part of the world by an order of a competent authority;
- (f) if he resigns his appointment by a letter addressed to the President through the Minister responsible for Roads;
- (g) the President is satisfied that it is not in the interest of the Authority or of the public for the person appointed to continue in office; or
- (h) in the case of an ex-official member, he ceases to hold the office on the basis of which he became a member of the Board.

7. The Board shall have overall control of the Authority and serve the purpose of ensuring good corporate governance and achieving the objectives of the Authority including providing guidelines for the implementation of government policy, performance monitoring, develop and approve organizational processes, schemes of service and regulations and approve appointments for the effective discharge of the functions of the Authority under this Bill and ensure harmonious professional and working relationships between the management of the Authority and the Ministry or any other

Functions of the
Board.

relevant agency.

8. Where a member of the Board ceases 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. Cessation of office.

9. The Chairman and members of the Board shall be paid such allowances or incidental Emoluments, expenses as determined by the National Salaries, Incomes and Wages Commission in accordance with extant laws and regulations. Emoluments.

10. (1) There shall be for the Authority, a Managing Director to be appointed by the President on the recommendation of the Minister. Appointment of the Managing Director and Executive Directors.

(2) The Managing Director shall be:

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

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

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

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

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

(f) a person who possesses adequate professional qualifications, skills and experience with a minimum of a degree in Civil Engineering and registered by the Council for the Regulation of Engineering in Nigeria (COREN) to practice as an engineer with not less than fifteen (15) years cognate professional experience.

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

(b) An Executive Director shall be —

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

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

(c) (i) A person who possesses adequate professional qualifications, skills and experience with a minimum of a degree in Civil Engineering and registered by the Council for the Regulation of Engineering in Nigeria (COREN) to practice as an Engineer with not less than ten (10) years cognate professional experience.

(ii) The persons with Finance and Administration professional qualification shall head the Finance and Administration Departments.

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

Removal of
Managing Director
or Executive
Director.

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

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

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

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

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

(2) The Managing Director and Executive Directors shall not be removed from office except in accordance with the provisions of this Bill.

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

Secretary and
Other Staff of the
Authority.

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

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

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

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

Service in the
authority to be
pensionable.

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

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

(4) Employees who join the staff of the Authority from the Civil Service shall have all existing and outstanding Civil Service emoluments and pension entitlements transferred from their existing Service

to the Authority at the time of appointment.

14. Subject to the provisions of this Bill and the functions and powers of any Regulatory Agency on the roads sector as provided for under this Bill or in any other Act, the Authority shall —

Functions of the Authority.

- (a) own and manage Federal Road assets in accordance with the provisions of this Bill;
- (b) ensure the efficient and effective construction, rehabilitation, reconstruction and maintenance of all Federal roads;
- (c) enter into Private Sector Participation agreements including concessions and other forms of contracts as well as the issuance of permits and licences relating thereto to any person for the purpose of executing road Private Sector Participation agreements and other forms of contracts with any person authorized for the purpose of executing relevant projects provided that the grant of a Private Sector Participation agreement shall be subject to public procurement rules as approved by the Federal Government from time to time and in accordance with the relevant laws and regulations for the procurement and operation of Private Sector Participation agreements;
- (d) develop, determine and be responsible for the classification of roads and technical regulation of roads including the specifications, design, standards on road development;
- (e) make policy recommendations to the Federal Government on matters relating to the management, construction, rehabilitation, reconstruction and maintenance of Federal roads;
- (f) carry out the procurement and enter into contracts for road works of any type with local entities with the aim of developing, encouraging, and enabling the growth of the Nigerian road contracting market and building the capacity of the private contracting sector;
- (g) carry out periodic maintenance and emergency repair of roads in accordance with policy priorities, Tolling Road Maintenance and Development Plans, National Roads Fund disbursements and as the Authority may in its discretion determine;
- (h) plan and manage the development of road safety technical designs, standards and audit in collaboration with any regulatory, enforcement or other authority or agency with the responsibility for roads and road safety;
- (i) plan and develop strategies to assist the relevant agencies towards ensuring efficient and effective movement of traffic on the Federal Road Network and ensure their implementation;
- (j) liaise and consult with any regulatory, enforcement or other authority or agency with responsibility for roads and road safety and other relevant Ministries, Departments and Agencies;
- (k) work in partnership with similar agencies at the state and local government levels by providing policy advice, guidance and technical support for the efficient and effective management, rehabilitation, reconstruction and maintenance of National road networks;
- (l) prescribe measures for preventing damage however caused by any person to any road or any part thereof and for recovering, in full or in part, the cost of repairing the damage from such person or his insurers;

- (m) ensure effective monitoring of the conditions of all Federal Roads for the purposes of timely implementation of road maintenance, rehabilitation and development programmes;
- (n) develop and utilize an appropriate Road Asset Management System for the day to day and strategic planning and evidence based reporting processes of the Authority;
- (o) prepare and publish evidence based performance reports on the Authority's projects funded by the National Roads Fund and any other funding sources or other donors;
- (p) publish periodic reports of the activities, projects, contracts, plans, performance and achievements of the Authority and the condition of the Federal Road Network and make the reports available to the general public to ensure transparency and probity;
- (q) advise the Minister and any regulatory, enforcement or other authority agency with responsibility for roads and road safety:
 - (i) on the specifications, design, standards and classification of roads and the prohibition of any act that may lead to damage to roads;
 - (ii) on the types, sizes, and usage of vehicles on national roads and the laden and axle weight of vehicles for the purpose of protecting national roads from damage;
 - (iii) on appropriate and effective methods of enforcing road traffic legislation for the purposes of preventing damage to roads and promoting road safety;
 - (iv) on appropriate road signs, and other road agencies on the location of road signs on public roads;
 - (v) on matters relating to safety of persons on roads;
 - (vi) on appropriate levels of charges, fines, penalties, levies or any sum required to be collected in relation to any road; and
 - (vii) on such reviews in road user charges as are necessary for the purpose of the National Roads Fund.
- (r) advise the Minister on the development and training of human resources, research and studies necessary or required for performing its functions towards the development of the roads sector;
- (s) identify and recommend to the Minister, supplementing donor funding opportunities for the management, construction, rehabilitation, reconstruction and maintenance of Federal Roads; and
- (t) carry out other functions which in the opinion of the Board are necessary to ensure the efficient performance of the functions of the Authority.

15. The Authority shall, in order to fulfill its functions under this Bill, have the following powers —

Powers of the Authority.

(1) Power for granting Private Sector Participation:

(a) consider applications for any form of Private Sector Participation including concessions and to issue and if necessary, extend, renew or revoke any Private Sector Participation agreements in accordance with extant laws and regulations;

(b) subject to extant regulations and laws carry out -inquiries, tests, audits or investigations and take such other steps as may be necessary to monitor the activities of concessionaires or parties involved in Private Sector Participation and to secure and enforce compliance with the provisions of this Bill or any subsidiary legislation, concession terms, agreements or conditions made pursuant to this Bill;

(c) where it considers it to be in the public interest, compel a concessionaire or parties involved in Private Sector Participation to provide any information or any document concerning activities notwithstanding that such information or document may contain business secrets: provided that any such information or documents shall be restricted to those that a person can be legally compelled to produce as evidence by a court of law in Nigeria;

(d) to publish information received in the course of exercising its powers and functions under this Bill or to require concessionaires and other PPPs to publish certain information if it is satisfied that the publication is consistent with the objects of this Bill provided that the Authority shall consider the commercial interests of the parties to whom the information relates before publishing the information;

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

(f) enter into contractual agreements generally and incur obligations;

(g) to acquire, hold, mortgage, purchase and deal howsoever with property whether moveable or immoveable, real or personal;

(h) subject to section 18 of this Bill, borrow such sums as it may require for the performance of its functions under this Bill subject to the provisions in relevant-treasury and establishment circulars;

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

(j) approve the award and termination of contracts.

(2) Powers to acquire land for Federal Roads:

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

(b) except in respect of roads which are deemed to be Federal Roads, compensation shall be

paid pursuant to the Land Use Act, for land acquired under sub-section (1) (a) of this section after the commencement of this Bill;

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

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

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

(3) Powers incidental to intention to acquire land for Federal Roads (a) subject to the provisions of this section, where it appears to the Authority that land in any locality is likely to be needed for the purposes of a Federal Road, the Authority may in writing authorize any person to enter upon any land in the locality for the purpose of surveying and taking necessary levels, and for that purpose the person so authorized may:

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

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

(4) Powers:

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

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

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

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

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

(i) the Authority may in the performance of its duties under this Bill make and thereafter maintain in respect of any Federal Road, convenient decking and drainage work for the purpose of making good any interruptions caused to the use of the lands of adjoining owners or occupiers through which such Federal Road passes or is made, or of diverting storm or other water from a Federal Road;

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

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

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

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

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

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

(v) the failure to comply with the requirement of the Authority as directed or given to any person under this section shall be an offence punishable on conviction by a fine of not less than Five Hundred Thousand Naira (₦500,000.00) or by imprisonment for a term not exceeding twelve (12) months, or by both such fine and imprisonment.

(5) Powers relative to obstruction on Federal Roads:

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

(b) if the power conferred by sub-section (6) (a) of this section is exercised in respect of a tree

or other natural or man-made objects on land other than a Federal Road, compensation shall be payable to the owner only where the Federal Road was in use before the tree or other natural or man-made objects became a potential source of obstruction, and the tree or other natural or man-made objects had at the time of its felling or removal a marketable value:

provided that in default of agreement under this subsection the amount shall be fixed by a competent person appointed for this purpose by the Authority; and

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

(6) Power to enter adjacent land:

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

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

(a) power to erect tollgates.

(8) Power to make therefrom:

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

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

(iii) the Authority may provide for tolls, user fees, service charges, or any other charges that shall be paid into the National Roads Fund, to be charged for a period specified or in a manner as may be determined by the Authority;

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

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

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

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

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

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

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

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

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

(v) impose in respect of any breach of the regulations any penalty, and may make provision as to the persons who are to be treated as displaying an advertisement for the purpose of any provision of the regulations which makes it an offence to display an advertisement in breach of the regulations; and

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

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

(9) Power to collaborate with State Government and Local Governments:

The Federal Government may, subject to the provisions of this Bill, collaborate with the Government of

a State or a Local Government in respect of traffic on Federal Roads as may be expedient in the circumstances.

16. The Authority shall establish and maintain a fund which shall comprise —

Fund of the Authority.

- (a) an initial take off grant or subvention as may be appropriated to the Authority, by the National Assembly to cover one time transitioning and one-time capacity building costs;
- (b) such moneys as may be appropriated to the Authority from time to time by the National Assembly through the national budgetary process;
- (c) allocations from the National Roads Fund;
- (d) proceeds from the sale of assets that may accrue to the Authority;
- (e) public private participation fees, toll fees, rates and tariffs imposed by arrangement made by the Authority; and
- (f) lease, license, rents, advertisement revenue and other internally generated revenue from services or facilities provided by the Authority.

17. The Authority may from time to time apply its funds —

Application Fund of Authority.

- (a) to the development of the Federal Road Network and its operations for road management, construction, rehabilitation, reconstruction and maintenance of roads deemed to be Federal Roads within the meaning of this Bill;
- (b) to the development and maintenance of roads deemed to be federal roads within the meaning of this Bill;
- (c) to the administration of the Authority;
- (d) to the paying of the emolument, 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 authorized by the Board;
- (e) to the payment of the salaries fees or other remuneration or allowances and Pensions, and other benefits payable to the officers and other employees of the Authority, so however that no payment of any kind under this paragraph (except such as may be expressly authorized by the Board) shall be made to any person who is in receipt of emoluments from the Federal or State Government;
- (f) for the development and maintenance of any property vested in or owned by the Authority.

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

Borrowing powers, gifts, etc.

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

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

19. (1) The Board shall —

Reports, budgets
and audited
accounts.

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

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

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

(2) The Authority shall —

(a) consult with the Ministry in respect of long term strategic development plans and policy guidance, and Budget availability, and supplementary donor financing;

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

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

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

20. (1) The Minister shall —

Role of the
Minister.

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

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

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

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

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

Preparation of roads plan.

(2) The Plan shall —

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

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

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

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

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

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

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

22. Except as otherwise provided under any other section of this Bill, any person who willfully —

Offences and penalties.

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

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

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

(d) does any other fraudulent act or thing relating to the issue of receipts or collection of fees, levies, charges, rates and tariffs under this Bill shall be guilty of an offence and liable on conviction to a fine not less than Two Hundred Thousand Naira (N200,000.00) or to imprisonment for a term not exceeding two (2) years or to both such fine and imprisonment.

23. Subject to the provisions of this Bill, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against an officer or employee of the Authority.

Application of the Public Officers Protection Act.

24. A notice, summons or other documents required or authorized to be served upon the Authority under the provisions of this Bill or any other enacted law may be served by delivering it to the Managing Director or by sending it by registered post addressed to the Managing Director at any of the principal offices of the Authority or by electronic means through e-mail or website of the Authority.

Notices.

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

Legal proceedings.

(a) cause of action;

(b) particulars of the claim.

26. A member of the Board, the Managing Director, any officer or employee of the Authority shall be indemnified out of the assets of the Authority 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, where such proceeding is brought against him in his capacity as a member of the Board, the Managing Director, officer or an employee of the Authority.

Indemnity of officers of authority.

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

Regulations.

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

Confidentially.

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

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

(c) not disclose any information referred to under paragraph (b) of this sub-section, 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 any of the provisions of sub-section (1) of this section commits an offence and shall be liable on conviction to a fine of not less than Five Hundred Thousand Naira (₦500,000.00) or imprisonment for a term not exceeding two (2) years or both such fine and imprisonment.

29. (1) The Federal Roads Maintenance Agency (Establishment etc) Act, 2002; the Federal Roads Maintenance Agency (Amendment, etc.) Act, 2007; the Federal Highways Act, 1971 and the Control of Advertisement (Federal Highways) Act 1986 are repealed.

Repeal, savings and transitional provisions.

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

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

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

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

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

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

30. In this Bill —

Interpretation.

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

"Authority" means the Federal Roads Authority established under section 3 of this Bill;

"base camps" means the outfit or unit office established by the Authority along Federal Roads;

"Board" means the Governing Board of the Authority established under section 4 of this Bill;

"Federal Road(s)" means Federal trunk roads, roads and bridges owned by the Federal Government including:

(a) land acquired or existing as a Federal road or highway pursuant to any legislation, subsidiary legislation, bye-law, declaration or order made before the commencement of this Bill and gazetted in the Federal Gazette;

(b) land acquired under this Bill for the purpose of Federal Roads;

(c) Federal trunk roads within the context of item 63 of part 1 of the second schedule to the Constitution of the Federal Republic of Nigeria 1999;

"Federal Road Network" means Federal Roads (inclusive of Rights of Way, Road Reserve, bridges, and road furniture);

"geopolitical zones" means the six geopolitical units of the Federation;

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

"Minister" means Minister in charge of Federal Road Infrastructure;

"Ministry" shall be construed accordingly;

"Person" shall mean a natural person, body corporate, partnership, joint venture, co-operative, trust, or other entity that is recognized by the law as a distinct body with the right to enter into contracts and to own property;

"Private Sector Participation" means a business relationship procured through a contractual agreement whether by means of a concession, Public-Private Partnership, joint venture, or other agreement between a government agency and one or more private sector entities for the purpose of the provision of a project, service or facility by the private sector that will serve the public;

"President" means the President of the Federal Republic of Nigeria;

"Road"/"road(s)" means Federal Roads;

"Road Asset Management System" means a central data repository that stores, processes, displays and reports information on the assets within the road network to include road inventory and condition, bridge inventory and condition, classified traffic counts and axle loadings for road agencies to manage their road networks transparently in an efficient and effective manner;

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

31. This Bill may be cited as the Federal Roads Bill, 2021.

Short title.

SCHEDULES

SCHEDULE I

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

(Section 3 (4))

Proceedings of the Board

1. Subject to this Bill and section 27 of the Interpretation Act (which provides from decisions of a statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered to have a

second or casting vote), 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 of, 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 purpose of this Bill, 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 eight 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 sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

6. (a) 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 Authority is concerned.

(b) A committee appointed under this paragraph shall —

(i) 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

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

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

(d) 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 Authority shall be authenticated by the signature of the Chairman, the Managing Director, or any other person generally or specifically authorized 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 authority by the Managing Director or by any other person generally or specifically to authorized 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 Authority shall be received in evidence and shall, unless the contrary is proved, be presume without further proof to have been so signed.

10. 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.

SCHEDULE II

EXECUTION OF THE ROAD MANAGEMENT TASK

Form of Execution of Road Management Function

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

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

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

(2) It shall be the duty of the Authority to ensure awareness and understanding by the road agencies of these guidelines and procedures and their due implementation.

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

Preparation and Adoption of Annual Work Plans

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

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

SCHEDULE III

TRANSFER OF ASSETS

1. All Assets and funds which immediately before the commencement of this Bill were vested in the Federal Roads Maintenance Agency set up under the Federal Roads Maintenance Agency (Establishment etc.) Act, 2002 and the Federal Roads Maintenance Agency (Amendment, etc.) Act, 2007, "the Agency" and the department of the Ministry responsible for construction, rehabilitation and maintenance of Federal Roads shall by virtue of this Bill be vested in the Federal Roads Authority. Provided that nothing in this Bill shall be construed to preclude the power of the Ministry responsible for roads from engaging in the construction of roads.

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

3. All bonds, hypothecations, securities, deeds, contracts, instruments, documents, and working arrangements with respect to the assets transferred, that subsisted immediately before the commencement of this Bill and to which the Agency was a party shall be as fully effective and enforceable against or in favour of the Authority as if, instead of the Agency, the Authority had been named therein.

4. Any cause of action or proceeding which existed or was pending with respect to the assets transferred by or against the Agency immediately before commencement of this Bill, shall be enforced or continued, as the case may be, by or against or in favour of the Authority in the same way that it might have been enforced or continued by or against the

Agency had this Bill not been passed.

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

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

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

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

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

Transfer of Employees

8. (1) Upon the Commencement of this Bill, such number of persons employed by the Agency as may be required by the Authority shall be deemed to be staff of the Authority and shall be transferred to the service of the Authority on terms not less favourable than those enjoyed immediately prior to the transfer.

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

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

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

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

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

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

Directions to the Agency

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

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

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

(b) the termination of any contract entered into between the Agency and any person, provided that no such direction shall authorise the Agency to commit an unlawful breach of any such contract; and

(c) the production of any report and the provision of any information concerning the conduct of the Agency or the members of the board of the Agency or anything done by or on behalf of the Agency or the members of the Agency.

EXPLANATORY MEMORANDUM

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.

THIS BILL WAS PASSED BY THE SENATE ON WEDNESDAY, 29TH SEPTEMBER, 2021

.....
President,
Senate of the Federal Republic of Nigeria

.....
Clerk,
Senate of the Federal Republic of Nigeria