

...NO, BONE STREET, KINGSTON, JAMAICA.

JAMAICA

No. 39 – 2002

I assent,

[L.S.]

H. F. COOKE,
Governor-General.
23rd day of September, 2002.

AN ACT to make provision for the establishment of a special fund for the purpose of road maintenance and for matters incidental thereto and connected therewith.

[24th September, 2002]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Road Maintenance Fund Act, Short title. 2002.

2. In this Act—

Interpretation.

“Board” means the Board of Management established under section 5;

“Fund” means the Road Maintenance Fund established under section 3;

“main road” means a road specified in the Schedule of Main Roads pursuant to section 4 of the Main Roads Act;

“maintenance” includes the routine and periodic upkeep and rehabilitation of main roads and structures of main roads and “road maintenance” shall be construed accordingly.

Establishment of Road Maintenance Fund.

3.—(1) There is hereby established for the purposes of this Act, a fund to be known as the Road Maintenance Fund.

(2) There shall be paid into the Fund—

- (a) an amount equivalent to thirty-three and one third per cent of the amount paid pursuant to the Road Traffic Act or Regulations made thereunder as licence duties on motor vehicles;
- (b) such amount as may, from time to time, be loaned to the Fund from lending agencies;
- (c) such amount as may from time to time, be donated to the Fund from donor agencies;
- (d) such other amount as the Minister responsible for finance may, from time to time, specify by order subject to affirmative resolution of the House of Representatives; and
- (e) investment or other income derived from the assets of the Fund.

(3) The Board shall be responsible for the control and management of the Fund.

How Fund to be held.

4.—(1) The Board shall open a bank account in the name of the Fund and such bank account shall be separate from any other bank account operated by the Ministry responsible for main roads.

(2) The Board shall designate at least three signatories to the Fund from amongst the Board members.

(3) The signatories to the Fund shall—

- (a) subject to subsection (4), consist of at least one *ex officio* member of the Board; and

- (b) consist of at least one appointed member of the Board who has expertise in matters of finance.

(4) The Chief Executive Officer of the National Works Agency shall not be designated a signatory to the Fund.

(5) Moneys of the Fund shall be used exclusively for the purposes of road maintenance and matters incidental thereto.

5.—(1) There shall be established for the purposes of this Act a body to be called the Board of Management which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

Establishment of Board.

(2) The provisions of the Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

Schedule

6.—(1) The Board shall perform the following functions—

Functions of Board.

- (a) pay into the Fund monies received pursuant to section 3(2);
- (b) disburse funds for road maintenance projects;
- (c) invest moneys of the Fund with the approval of the Minister responsible for finance;
- (d) ensure that regular financial and technical audit in respect to road maintenance are carried out;
- (e) review and monitor the annual road maintenance programme submitted by the National Works Agency;
- (f) submit to the Minister quarterly reports on expenditure from the Fund and on completed road maintenance works;
- (g) prepare estimates and budgets and make forecasts as to the availability of funds;
- (h) advise the Minister on the adequacy of the Fund to meet projected needs; and
- (i) do such other things as may be expedient or necessary for the proper and efficient performance of its functions under this Act.

(2) In performing the functions specified in subsection (1), the Board may—

- (a) carry on all activities which appear to the Board to be requisite, advantageous or convenient for or in connection with the discharge of its duties;

- (b) do anything and enter into any transaction which in its opinion is calculated to facilitate the proper discharge of its functions under this Act or is incidental or conducive thereto.

Borrowing powers.

7.—(1) Subject to the provisions of subsection (2), the Board may borrow such sums as may be required by it for meeting any of its obligations or discharging any of its functions under this Act.

(2) The power of the Board to borrow shall, as to amount, the source of borrowing, and the terms on which the borrowing may be effected, be exercisable only with the approval of the Minister after consultation with the Minister responsible for finance and any approval given in any respects for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

Minister to guarantee borrowings.

8.—(1) With the approval of the House of Representatives, the Minister responsible for finance may guarantee in such manner and on such conditions as he may think fit, the payment of the principal and of the interest on any authorized borrowings of the Board under this Act.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under the provisions of this section, he shall direct repayment out of the Consolidated Fund of the amount in respect of which there has been such default.

Accounts and audit.

9.—(1) The Board shall keep proper accounts of the Fund and shall prepare annually a statement of accounts in a form satisfactory to the Minister and conforming to established accounting principles.

(2) The accounts of the Board shall be audited annually by an auditor appointed in each year by the Board with the approval of the Minister.

(3) The Auditor-General shall be entitled at all times to examine the accounts of the Board.

(4) The Board shall provide such other accounts, reports and information on the Fund to the Minister as he may from time to time request.

(5) Within six months of the end of each financial year, the Board shall cause to be made and shall transmit to the Minister—

- (a) an audited statement of its accounts; and
- (b) an annual report on the accounts of the Fund.

(6) The Minister shall cause the statement of account and the annual report on the accounts of the Fund to be laid in the House of Representatives and in the Senate.

10. The Minister may, after consultation with the chairman, give to the Board such directions of a general character as to the policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary in the public interest and the Board shall give effect thereto. Power of Minister to give directions.

11. The Board may, with the approval of the Minister, make regulations for the carrying out of the provisions of this Act. Regulations.

SCHEDULE

(Section 5)

The Board of Management

1.—(1) The Board shall consist of not less than nine nor more than eleven members appointed by the Minister as specified hereunder— Appointment and constitution of Board.

- (a) four *ex officio* members as follows—
 - (i) the Financial Secretary or his nominee;
 - (ii) the Permanent Secretary in the Ministry responsible for main roads or his nominee;
 - (iii) the Permanent Secretary in the Ministry responsible for local government or his nominee; and
 - (iv) the Chief Executive Officer of the National Works Agency;
- (b) not less than five nor more than seven members (hereinafter referred to as “appointed members”) from among persons possessing training and expertise in technical and financial matters.

(2) The appointed members shall be appointed by instrument in writing by the Minister.

2.—(1) The Minister shall appoint one of the appointed members to be chairman thereof. Appointment of chairman.

- (2) The Minister may at any time revoke the appointment of the chairman if he thinks it expedient so to do.
- Tenure of office. 3. The appointment of every appointed member shall be for a period not exceeding three years.
- Reappointment. 4. Every appointed member shall be eligible for reappointment.
- Revocation of appointment. 5. The Minister may at any time revoke the appointment of an appointed member if he thinks it expedient so to do.
- Publication of composition of Board. 6. The names of all members of the Board as first constituted and every change in the composition thereof shall be published in the *Gazette*.
- Temporary appointment. 7. If the chairman or other member of the Board is absent or otherwise unable to act, the Minister may appoint another person to act temporarily as chairman or such other member.
- Resignation. 8.—(1) Any member of the Board other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of such instrument such member shall cease to be a member of the Board.
- (2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt of such instrument by the Minister.
- Appointment of Secretary. 9. The Minister shall by instrument in writing appoint a Secretary to the Board to carry out various functions of the Board.
- Procedure, quorum and meetings. 10.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Board shall determine.
- (2) The chairman may at any time call a special meeting of the Board to be held within seven days of a written request for that purpose addressed to him by two members of the Board.
- (3) The chairman shall preside at all meetings of the Board and in the absence of the chairman from any meeting, the members of the Board present shall elect one of their number to preside at that meeting.
- (4) The decision of the Board shall be by majority of votes and, in addition to an original vote, the chairman or any other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.
- (5) Minutes in proper form of each meeting of the Board shall be kept.
- (6) The quorum of the Board shall be five members, not more than two of whom shall be *ex officio* members.

(7) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

11. The seal of the Board shall be authenticated by the signatures of the Chairman and the Secretary of the Board and such seal shall be officially and judicially noticed. Authentica-
tion of seal.

12. There shall be paid to the chairman and other members of the Board, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine. Remuneration
of members.

13. No action, suit, prosecution or other proceedings shall be brought against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of the provisions of this Act. Protection
of members.

14. The office of chairman or other member of the Board shall not be a public office for the purposes of Chapter V of the constitution of Jamaica. Office of
chairman
or member
of Board
not public
office.