

GHANA HIGHWAY AUTHORITY ACT

Act No. 540 of 1997

Section 1-Continued Existence of Ghana Highway Authority.

(1) The Ghana Highway Authority established under the Ghana Highway Authority Decree, 1974 (N.R.C.D. 298) and in existence immediately before the coming into force of this Act is by this Act continued in existence as a body corporate subject to the provisions of this Act.

(2) The Ghana Highway Authority referred to in this Act as "the Authority" shall continue to have perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Authority may for the discharge of its functions acquire and hold any movable or immovable property and enter into any contract or other transaction.

(4) Where the Authority decides and the Government agrees that an acquisition of land or a right over land is necessary, the land may be acquired under the State Property and Contracts Act, 1960 (C.A.6) or the State Lands Act, 1962 (Act 125) for the purpose of this Act.

Section 2-Object of Authority.

The Authority shall subject to the policies of the Ministry be responsible for the administration, control, development and maintenance of trunk roads and related facilities.

Section 3-Functions of Authority.

Section 4-Delegation of Functions to District Assemblies and Others.

(1) The Authority may with the approval of the Minister in writing delegate to a District Assembly or any competent body of person the control, maintenance and protection of a trunk road but no delegation shall be made to a District Assembly without previous consultation with the Minister responsible for Local Government and Rural Development.

(2) The ancillary functions of the Authority may be delegated under sub-section (1) but these shall be specifically stated in the document delegating the power of the Authority.

Section 5-Governing Body of Authority.

(1) The governing body of the Authority shall be a Board of Directors referred to in this Act as "the Board".

(2) The Board shall consist of—

(a) a chairman;

(b) a representative of each of the following Ministries nominated by the Minister responsible for the Ministry not being an officer below the rank of Director or its

equivalent—

- (i) the Ministry responsible for Roads and Transport;
- (ii) the Ministry responsible for Finance;
- (iii) the Ministry responsible for Environment, Science and Technology;
- (iv) the Ministry responsible for the Interior;
- (c) the Chief Executive of the Authority appointed under section 18;
- (d) a representative of the Private Enterprise Foundation;
- (e) a civil engineer from the private sector who is a member of the Ghana Association of Consultants, nominated by the Council of that Association;
- (f) a representative of private road transport unions of Ghana, nominated by the unions;
and
- (g) one other person representing road users nominated by the Minister.

(3) The members of the Board shall be appointed by the president acting in consultation with the Council of State.

(4) The Board shall be responsible for securing the effective implementation of the functions of the Authority.

Section 6-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 re-appointment.

(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 of 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 7-Allowances for Members.

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

Section 8-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 and shall include the Chief Executive or the person acting in that capacity.

(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 that 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 advise 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 9-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 (2) of this section shall be removed from the Board.

Section 10-Committees of the Board.

The Board may for the discharge of the functions of the Authority appoint committees of the Board comprising members of the Board or non-members or both and assign to any such committee such functions of the Authority as the Board may deter. mine except that a committee composed exclusively of non-members of the Board may only advise the Board.

Section 11-Traffic Control Devices.

(1) The Authority may cause traffic control devices to be erected, placed or maintained on, over, under or near any road and related facilities for the guidance of drivers of vehicles and other users of the trunk road or related facility, and may remove or alter the devices as it considers necessary.

(2) The devices shall conform to international requirements and in the absence of any requirement shall be of such size, colour and type as may be prescribed by regulations made under section 40 of this Act.

(3) Where there is a traffic control device or object on any land which resembles a traffic control device in use by the Authority, the Authority may in writing request the owner or occupier of the land to remove the object or device.

(4) The Authority may effect the removal of the object or device with as little damage as possible if the owner or occupier fails to comply with the notice and recover as a debt any expense incurred from the defaulting owner or occupier.

Section 12-Control of Vehicular Traffic on Bridges.

The Authority may cause to be placed in a conspicuous place on or near any bridge on a trunk road a notice to the effect that—

(a) the bridge cannot carry more than a certain weight;

(b) a vehicle exceeding a certain breadth or height cannot be safely driven on, over or under the bridge;

and any person who fails to comply with the notice commits an offence and is liable on conviction to a fine not exceeding ₵500,000 or to a term of imprisonment not exceeding three months or to both.

Section 13-Closure of Road.

(1) The Authority or any person authorised by it may by notice displayed on, over or adjacent to a trunk road and related facility restrict or prohibit the use of the trunk road or related facility, if it is in the interest of the public to do so.

(2) The notice shall contain such information as may be necessary in respect of alternative route or arrangement.

(3) Any person who uses a trunk road or related facility contrary to subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding ₵500,000 or to a term of imprisonment not exceeding three months or to both.

Section 14-Construction of Bridge.

(1) No person shall construct any bridge or crossing over public water or an open sewer contiguous to a trunk road without the written permission of the Authority.

(2) The Authority may construct a bridge or other means of crossing at the request of any person upon the payment by that person in advance of the expenses estimated by the

Authority.

(3) Any person who constructs a bridge or crossing contrary to subsection (1) commits an offence and is liable on conviction to a fine not exceeding ₵2 million or a term of imprisonment not exceeding one year or to both.

(4) The Authority may remove any bridge or crossing constructed in contravention of this section; repair any damage caused in the process and shall recover the expenses for the removal or repair as a debt due from the offender to the Authority.

Section 15-Excavation in Trunk Road.

(1) No person shall without the written permission of the Authority—

- (a) make any excavation in a trunk road; or
- (b) construct access road to link a trunk road.

(2) Where a person makes any excavation in a trunk road he shall—

- (a) have it adequately fenced at his own expense;
- (b) maintain sufficient light on or near it every night from sunset to sunrise; and
- (c) fill up the excavation and restore the surface of the trunk road to the satisfaction of the Authority as soon as possible after completing the work within such time as the Authority may specify.

(3) Any person who contravenes subsections (1) or (2) of this section commits an offence and is liable on conviction to a fine not exceeding ₵500,000 or a term of imprisonment not exceeding three months or to both and the Authority shall immediately fill the excavation and recover the expenses as a debt due from the offender to the Authority.

(4) Where the Authority excavates a trunk road or delegates the excavation, the Authority or its agent shall—

- (a) have the excavation adequately fenced;
- (b) Maintain sufficient light on or near it every night from sunset to sunrise; and
- (c) fill up the excavation and restore the surface as soon as possible after completing the work for which the excavation was required.

Section 16-Collection of Tolls.

(1) The Authority shall collect the tolls on any trunk road and related facilities.

(2) Notwithstanding subsection (1) of this section the Authority may, subject to Cabinet approval, contract with any commercial body for the management of toll roads, bridges and ferries owned by it or under its control upon such terms and conditions as shall be agreed upon between the Authority and the body concerned.

(3) The Authority shall pay into the Road Fund established under the Road Fund Act, 1997 (Act 536) toll money collected from any trunk road financed by Government subvention after deduction of administrative expenses agreed between the Government and the Authority.

Section 17-Enforcement Notice.

Section 18-Appointment of Chief Executive.

(1) There shall be appointed for the Authority a Chief Executive who shall be responsible for the day-to-day business of the Authority, for the implementation of the decisions of the Board and for the effective and efficient administration and organisation of the Authority.

(2) The Chief Executive shall be appointed by the President in accordance with the advice of the Board given in consultation with the Public Services Commission and shall hold office of such terms and conditions as shall be specified in his letter of appointment.

(3) The Chief Executive shall be a civil engineer or any other person with requisite relevant experience in the road industry in Ghana.

Section 19-Functions of the Chief Executive.

Subject to the approval and directives of the Board the Chief Executive shall in the discharge of his functions—

(a) sign any contract for or on behalf of the Authority;

(b) collect any monies due to the Authority budgetary allocations and discharge the debts owed by the Authority;

(c) sign, accept, negotiate, endorse and receive any negotiable instrument on behalf of the Authority; and

(d) perform such other functions as the Board may direct.

Section 20-Delegation by Chief Executive.

The Chief Executive may delegate any of his functions to an officer of the Authority subject to any conditions that he may impose but he shall not be relieved from ultimate responsibility for the discharge of the delegated function.

Section 21-Departments and Division of the Authority.

(1) For the purposes of the effective implementation of the functions of the Authority, the Board may divide Authority into such departments and divisions as it shall determine.

(2) Each department or division shall consist of such employees as the Board shall determine.

(3) There shall be appointed for each department or division established under this section a head who shall be designated as a deputy chief executive or director respectively.

(4) The functions of the departments and divisions shall be such as shall be determined by the Board.

Section 22-Secretary.

The Authority shall have an officer to be designated as secretary to the Board who shall be the Director of Legal Services and shall perform such functions as the Board or the Chief Executive may direct.

Section 23-Internal Auditor.

(1) There shall be appointed for the Authority an internal auditor who shall be responsible to the Chief Executive in the performance of his duties.

(2) The internal Auditor shall prepare reports at such intervals as he considers necessary and submit the reports to the Chief Executive but the Internal Auditor shall submit quarterly reports through the Chief Executive to the Board.

(3) The Internal Auditor shall prepare, within three months of the end of each financial year, a report on the accounts of the Authority for that year and submit the report to the Chief Executive who shall submit the report to the Auditor-General.

Section 24-Appointment of Other Officers and Employees.

(1) The Authority shall have such other officers and employees as may be necessary for the proper and effective performance of its functions.

(2) The President shall in accordance with the advice of the Board given in consultation with the Public Services Commission and on such terms and conditions as may be specified in their letters of appointment appoint the officers and other employees of the Authority.

(3) The President may in accordance with article 195 (2) of the Constitution delegate his power of appointment of public officers under this Part.

(4) The Board may engage the services of such consultants and advisers as it may on the recommendation of the Chief Executive determine.

(5) Other public officers may be transferred or seconded to the Authority or may otherwise give assistance to it and shall be subject to the disciplinary rules of the Authority.

Section 25-Funds of the Authority.

The funds of the Authority shall include—

- (a) monies provided to the Authority by Parliament for the discharge of its functions;
- (b) any loans granted to the Authority by Government or obtained from any other source;
- (c) monies accruing to the Authority by way of revenue; and

(d) monies transferred to the Authority by the Road Fund Board.

Section 26-Loans, Bank Account and Investments.

(1) Subject to article 181 of the Constitution and the Loans Act, 1970 (Act 335), there may be obtained for the Authority such loans and credit facilities as the Authority may require for the implementation of its functions.

(2) The Authority may borrow temporarily by way of overdraft or otherwise such sums as it may require to meet its current obligations or discharge its functions under this Act.

(3) The Minister for Finance in consultation with the Minister may prescribe the maximum sums that the Authority may borrow.

(4) The Board may with the approval of the Minister and the Minister for Finance open such bank accounts as the Board considers necessary; except that a bank account opened outside the country shall be subject to article 183 (2)(b) of the Constitution.

(5) The Authority may make such investments as the Board considers necessary.

Section 27-Execution of Contracts.

(1) The use of the seal of the Authority shall be authenticated by two signatures being that of—

(a) the Chief Executive or another member of the Board authorised by the Board to authenticate the use of the seal; and

(b) the Secretary or another officer of the Authority authorised by the Board to act in place of the Secretary for that purpose.

(2) The Authority may under its common seal empower any person to act as its attorney to execute deeds on its behalf in any place outside Ghana and every deed signed by the attorney on behalf of the Authority and under his seal shall be binding on the Authority and have the same effect as if it were under the common seal of the Authority.

(3) Any instrument or contract which if executed or entered into by a person other than a body corporate would not require to be under seal, may be executed or entered into on behalf of the Authority by the Chief Executive or any member of the Board if the person has previously been authorised by a resolution of the Board to execute or enter into that particular agreement or contract.

(4) The provisions of this section shall be subject to section 12 of the Contracts Act, 1960 (Act 25).

Section 28-Annual Budget of Authority.

(1) The Authority shall, not later than three months before the end of each financial year, cause to be prepared and submitted to the Minister for the approval of Parliament, an annual budget in respect of the ensuing financial year comprising estimates of expected

recurrent, maintenance, development and capital expenditure of the Authority in that financial year.

(2) The budget plan shall be in such form as the Minister for Finance may direct.

(3) After the budget has been approved the Government shall release the monies to the Authority as follows—

(a) monies approved in respect of recurrent expenditure shall be released quarterly, in advance;

(b) monies approved in respect of development expenditure shall be released on presentation by the Authority of valid certificates; and

(c) monies approved in respect of capital expenditure shall be released on presentation by the Authority of evidence of commitments for purchases.

Section 29-Expenditure Outside Budget to be Funded by Requesting Agency.

Where the Authority is requested to carry out any development or expenditure outside the budget of the Authority by any person, body or agency the money for the development or expenditure shall be provided by that person, body or agency.

Section 30-Use of Government Revolving Fund.

The Authority may use the Government revolving fund facilities to grant advances on contracts and to indent unallocated stores.

Section 31-Accounts and Audit.

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

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

Section 32-Financial Year.

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

Section 33-Exemption from Taxes and Duties.

The Authority may be exempted from such taxes and duties as the Minister responsible for the Finance may, with the approval of Parliament determine.

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Section 34-Annual Report.

Section 35-Road Inspector.

- (1) The President shall in accordance with the advice of the Board given in consultation with the Public Services Commission and on such terms and conditions as may be determined appoint road inspectors referred to in this Act as "inspectors".
- (2) The President may in accordance with article 195(2) of the Constitution delegate his power of appointment of the inspectors.
- (3) An inspector or any person authorised by the Minister may at any reasonable time by himself or with the assistance of the police enter a public road to ensure compliance with this Act and the inspector or authorised person shall produce identification on demand.
- (4) Inspectors in conjunction with law enforcement agencies may from time to time undertake exercises to apprehend persons not complying with this Act and the regulations made under it.

Section 36-Powers of Entry and Performance of Other Works.

An authorised person in the discharge of any of his functions under this Act may, after reasonable notice—

- (a) enter, inspect and survey any land or premises;
- (b) excavate the subsoil and open, construct or repair any road, tunnel, sewer, drain or other works relating to a trunk road;
- (c) specify levels, boundaries and lines by placing marks and digging trenches;
- (d) remove or cut branches of any tree or underwood;
- (e) with the prior approval of the Minister alter the course of any river, stream or watercourse for the purpose of constructing and maintaining any trunk road;
- (f) stop, divert, widen or narrow temporarily or permanently, the course of any river, stream or watercourse or any road, street, way, bridge or ferry or raise sink their level;
- (g) take, haul and use any earth, stone, gravel, sand or timber or any other material or thing out of any land contiguous to any road camp which may be necessary for making, maintaining, altering, repairing or for the use of the road, bridge, ferry or road camp;
- (h) exercise any right of way or entry already acquired or paid for and demolish any encroachments on such land, without payment of any further compensation except as provided by the Lands (Statutory Wayleaves) Act, 1963 (Act 186);

Section 37-Compensation.

- (1) Subject to section 36 (h) the Authority shall pay compensation for any other damage done to any property by an authorised person under section 36.

(2) Where there is any dispute as to the amount of compensation to be paid it may be settled by arbitration in accordance with the Arbitration Act, 1961 (Act 38).

Section 38-Stay of Arrest in Certain Cases.

A person connected directly with the work of the Authority shall not be arrested and removed if his immediate removal might result in danger to life or property, until the head of the department in which he is employed or the officer immediately in charge of the work in which the person is engaged has been given an opportunity to provide a substitute.

Section 39-Protection of Officers.

Subject to the Constitution, no matter or thing done by an officer or employee of the Authority shall, where the matter or thing is done bona fide for the purpose of executing any provisions of this Act render the officer or employee or any person acting by his directions personally liable to any civil liability.

Section 40-Regulations.

(1) The Minister may on the recommendation of the Board by legislative instrument, make regulations relating to trunk roads generally and for giving effect to this Act.

(2) Without prejudice to subsection (1) of this section regulations may provide for—

- (a) the use, safety or maintenance of trunk roads;
- (b) the erection of structures on near, over, or under trunk roads;
- (c) the drainage of streets, land, compounds and new buildings adjacent to trunk roads;
- (d) the level, width and construction of trunk roads;
- (e) the details to be included in the Annual Road Programme mentioned in section 12 of the Road Fund Act;
- (f) the removal, demolition or alteration of any projection, structure or thing obstructing a trunk road or likely to cause danger or inconvenience to users of the trunk road or related facility;
- (g) the towing or removal of any vehicle obstructing a trunk road;
- (h) the control of axle loads and axle load configurations and vehicles;
- (i) fees to be charged for any service performed by the Authority; and
- (j) traffic control devices.

(3) There may be imposed for the contravention of any provisions in regulations made under subsection (1) or (2) of this section a fine not exceeding ₵2 million or imprisonment for a term not exceeding one year or to both and in the case of a continuing offence, an

additional penalty not exceeding ₵200,000 in respect of each day on which the offence continues.

Section 41-Liability of Owner and Drive for Damage.

(1) Where any bridge is damaged—

(a) due to any vehicle passing over it in contravention of the provisions of section 12 of this Act; or

(b) due to any vehicle passing over the bridge coming into contact with any portion of the bridge other than the surface of the roadway, the owner of the vehicle and any person driving or propelling it shall jointly and severally be liable to the Authority for any damage caused to the bridge.

(2) A certificate under the hand of any person authorised by the Authority stating the amount of the cost of making good the damage shall, be prima facie evidence of the cost.

Section 42-Offences.

Any person who—

(a) assaults or obstructs an inspector or authorised person acting in the execution of his duty under section 36; or

(b) wilfully damages or otherwise interferes with any vehicle, machine, implement, instrument, equipment, material or other property being used under this Act; or

(c) otherwise than in execution of duty removes or interferes with any beacon, peg, mark or other sign placed on any land or at any other place for the purposes of a survey or any other work under this Act; or

(d) obstructs any member or officer of the Ministry or other person in the exercise or performance of a power, function or duty conferred on or entrusted to him under this Act commits an offence and is liable on conviction to a fine not exceeding ₵5,000,000 or to imprisonment for a term not exceeding two years or to both.

Section 43-Interpretation.

In this Act unless the context otherwise requires—

"Authority" means the Ghana Highway Authority—,

"authorised person" means an inspector appointed under this Act or a person authorised by the Minister;

"Board" means the governing body of the Ghana Highway Authority;

"District Assembly" includes Municipal and Metropolitan Assembly;

"feeder road" means a public track or an engineered way for vehicular use connecting a

rural community to another or a rural community to a road classified as a trunk road;

"maintenance" in the case of a trunk road means preservation of the entire highway, including surface, shoulders, roadsides, structures and such traffic control devices as are necessary for the safe and efficient utilisation of the trunk road;

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

"Ministry" means the Ministry of Roads and Highways; "offending activity" includes—

(a) depositing or leaving a disused vehicle or machine or disused part of a vehicle or machine, or any logs, firewood, rubbish or other refuse on a public road;

(b) disposal of storm water on a trunk road or diversion of storm water onto a trunk road;

(c) wilfully, negligently or illegally damaging, cutting or excavating any trunk road;

"related facilities" includes bridges and ferries;

"road" means a way or strip of land open to the public for the purposes of travel as a matter of right and over which abutting property owners have the right of light, air and access, and includes roads, streets, rights-of way, bridges, railway-highway crossings, tunnels, drainage structures, traffic control devices, guardrails and protective structures connected with public ways;

"toll" includes charge levied on a road, bridge or ferry;

"trunk road" includes a public highway, ferry, road camp and traffic device.

"urban road" means a road which falls within the extended urban area of a selected District Assembly;

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"maintenance" in the case of a trunk road means preservation of the entire highway, including surface, shoulders, roadsides, structures and such traffic control devices as are necessary for the safe and efficient utilisation of the trunk road;

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

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"toll" includes charge levied on a road, bridge or ferry;

"trunk road" includes a public highway, ferry, road camp and traffic device.

"urban road" means a road which falls within the ex-tended urban area of a selected District Assembly;

Section 44-Repeal and Savings.

(1) The following enactments are repealed—

Ghana Highway Authority Decree, 1974 (N.R.C.D. 298)

Ghana Highway Authority Decree, 1974 (Commencement) Instrument (L.I. 990).

(2) Notwithstanding the repeals, any instrument made, any agreement executed and any appointment made under the repealed Decree and in force immediately before the commencement of this Act shall continue in force under this Act until revoked, amended or cancelled under this Act.