

NATIONAL ASSEMBLY
HOUSE OF REPRESENTATIVES
COMMITTEE ON WORKS

Report on

A BILL FOR AN ACT TO ESTABLISH THE
NATIONAL ROADS FUND FOR THE PURPOSE
OF FINANCING ROUTINE AND PERIODIC
MAINTENANCE OF NATIONAL ROADS AND
FOR RELATED MATTERS

April 2017

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Executive Summary

A. Background

In accordance with the Standing Orders of the House of Representatives, the House Committee on Works was mandated to conduct further legislative action on:

- i. A Bill For An Act To Establish The National Roads' Fund And Maintenance Of National Roads And Other Matters Connected Therewith (HB.49); and
- ii. A Bill For An Act To Establish A Fund Known As The Federal Road Fund For Other Matters Connected Therewith (HB.163).

The Bills are intended to coordinate and allocate funds generated for road maintenance, road planning, monitoring and supervision.

Consequently, the House Committee on Works held a Public Hearing on November 7, 2016 and received submissions and memoranda. Thereafter, the Committee resolved to constitute a Technical Committee to review the submissions and make relevant recommendations.

The Technical Committee was inaugurated by the Chairman of the House Committee on Works, The Honourable Toby Okechukwu on November 29, 2016.

B. Terms of Reference

The Terms of Reference for the Technical Committee are as follows:

- i. To review all the submissions made to Committee at the Public Hearing;
- ii. To research and analyze global best industry wide practices and their adaptation to the Nigerian environment;
- iii. To consider the provisions of the Bills and make appropriate recommendations to retain, amend or expunge, where necessary; and
- iv. To make any other recommendations that is necessary for the workability of the Bill when operational.

The Technical Committee was mandated to submit a Technical Report and draft Bill(s).

C. Methodology

The Committee held seven (7) meetings. The inaugural meeting of the Committee was held at the National Assembly while the other six (6) meetings were held in the Housing Block of the Federal Ministry of Power, Works and Housing.

However, for efficiency, effectiveness and the need to complete the task on time, the Committee devolved into three (3) sub-committees: Memoranda Review, Research & Analysis and Legal Drafting.

Each Sub-Committee submitted a Report to the Technical Committee for deliberation and resolutions. The Technical Committee's recommendations and provisions in the draft Bill were based on these resolutions which were mainly unanimous.

D. Memoranda Review

The Technical Committee reviewed twenty (20) submissions and memoranda from the following institutions: Federal Ministry of Power, Works and Housing, Federal Ministry of Finance, National Assembly Business Environment Roundtable (NASSBER), National Institute of Policy and Strategic Studies, National Union of Road Transport Workers, Infrastructure Concession Regulatory Commission, Inter-Bau Construction Limited, Federal Road Safety Corps, Nigerian Building and Road Research Institute, Nigerian Bar Association, Nigerian Economic Summit Group, Nigerian Association of Road Transport Owners, Independent Petroleum Marketers Association of Nigeria, Nigerian Society of Engineers, Council for the Regulation of Engineering in Nigeria, Arab Contractors Limited, Federal Road Maintenance Agency, Nigeria Infrastructure Advisory Facility, Nigerian Institution of Highway and Transportation Engineers, and Nigeria Association of Road Transport Owners.

The recurring themes in the submissions and memoranda are:

- i. Extent of Road Fund and Amalgamation of Bills
- ii. Board Representation
- iii. Domicile of the Road Fund Agency
- iv. Allocation of Funds
- v. Sources of Revenue
- vi. Staffing

E. Recommendations

Based on the review of all memoranda as well as research and analysis of global best practices and their adaptation to the Nigerian environment, the Technical Committee has made a number of recommendations as follows:

1. Merge the two bills into one and to be called the National Roads Fund Bill so that it has nationwide application and benefits Nigeria's national road network.
2. National Roads Fund is established with high levels of independence under the jurisdiction of the Federal Ministry of Finance who will only oversee the fund for policy direction. It is important and fundamental that a balance be achieved in the administration and development of the road infrastructure.
3. The term "Governing Board" is adopted in order to clarify the role and functions of the Board.
4. A Representative or Hybrid approach to Board membership should be adopted with a high level of stakeholder and private sector membership.
5. Board Membership should include:
 - a. Non-Executive Chairman appointed by the President
 - b. One representation from:
 - i. Federal Ministry of Finance
 - ii. Federal Ministry responsible for Roads

- iii. Nigerian Association of Chambers of Commerce and Industry
 - iv. Petroleum Products Pricing and Regulatory Agency
 - v. Federal Roads Agency
 - vi. Nigerian Association of Road Transport Owners
 - vii. Agency responsible for distribution of petroleum products in Nigeria
 - viii. Nigerian Society of Engineers and Nigerian Institution of Highway and Transportation Engineers
- c. One person from each of the six geo-political zones who would be a representative of the States Road Agency within the geopolitical zone on a rotational basis; and
 - d. The Managing Director of the National Roads Fund
6. The Legal Adviser of the Fund who shall also be the Secretary to the Board and appointed by the Board.
 7. Members of the Board shall be persons of recognized expertise, knowledge and requisite qualifications with not less than twenty years' cognate experience in one or more of the following fields:
 - i. Funds Management
 - ii. Engineering
 - iii. Transport Management Technology
 - iv. Law
 - v. Finance
 - vi. Accountancy
 - vii. Economics
 8. Members of the Board shall be appointed by the President on the recommendation of the relevant organizations represented.
 9. Board Members are non-executive and part time.
 10. The term of Board Membership shall be five (5) years
 11. A non-Executive Chairman who shall be from the private sector
 12. All Executive management and staff will be employed by the Board on market oriented remuneration schemes. Appointment will be competitive and merit based.
 13. The Managing Director shall be employed/appointed by the Board on a performance-based contract and have a term of four (4) years' renewable only once.
 14. The National Roads Fund shall set aside an amount not exceeding 3% of the total monies accruing to it in the preceding year as Administrative Fund.

15. The use of National Roads Fund is restricted to routine and periodic maintenance works on roads and the administration of the road network, which includes research and development. However,
16. Transparent and evidence based algorithms need to be developed that extend existing federal funding algorithms to link fund allocation to the three (3) tiers of government to road use, amount of revenue collected within the state, demonstrated institutional performance and capacity in road asset management and higher level socio-political and strategic connectivity needs. This will take time to develop and should be undertaken as a separate exercise that has full stakeholder contribution prior to the implementation of the Bill. At this time, the Bill only needs to outline the principles around which allocations can be made.
17. Roads Agencies that will receive disbursements from the National Roads Fund must be established by law as independent agencies with dedicated accounts to receive disbursements from the National Roads Fund.
18. Care should be taken in the drafting of the final bill to ensure the principles upon which fund allocation is made is clear and unambiguous, and that the details be contained in some regulation to prolong the Act's longevity.
19. The principles of allocation (or disbursement) should be based on a criteria of linking road use (and therefore wear and tear), revenue contribution, practicality of revenue collection as well as other socio - economic considerations that are already influencing federal resource allocation regimes.
20. It is not considered prudent to set hard allocation percentages in the body of the Bill without first having a sound basis for their calculation, otherwise they may be challenged or be found to be inappropriate. It may well take a wider stakeholder consultation on this matter alone for a level of consensus to be established.
21. The sources of revenues for the National Roads Fund:
 - i. Fuel Levy of five naira (N5) chargeable per litre on any volume of petrol and diesel products imported into Nigeria and on locally refined petroleum products;
 - ii. Axle Load Control Charges;
 - iii. Toll Fees (A percentage not exceeding 10% of any revenue paid as user charge per vehicle on any federal road designated as a toll road; this is not applicable to PPP roads);
 - iv. International Vehicle Transit Charges;
 - v. Inter-State Mass Transit User Charge of 0.5% deductible from the fare paid by passengers to commercial mass transit operators on inter-state roads.
 - vi. Roads Fund Surcharge of 0.5% chargeable on the assessed value of any vehicle imported at any time into Nigeria;
 - vii. Lease, License or other fees which shall be 10% of the revenue accruing from lease or license or other fees pertaining to non-vehicular road usages along any federal road and collected by the Federal Roads agency.

- viii. Grant and loans; and
- ix. Gifts of land, money or other property.
- 22. The National Roads Fund should be excluded from the Consolidation Revenue Fund and Treasury Single Account relying on Section 80 (1) of the 1999 Constitution (As Amended).

F. The National Roads Fund Bill, 2017

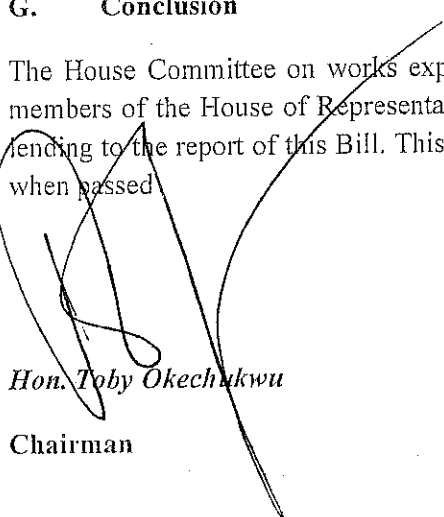
The objectives of the Bill are to establish the National Roads Fund to be a repository of revenues from road user related charges and other sources for financing which shall be managed and administered for routines and periodic maintenance works on roads in Nigeria; provide predictable and sustainable funding for road maintenance and promote the sustainable management of the road network; establish the Governing Board which shall be responsible for the management of the Fund; and create an enabling environment for private sector participation, management and financing in the road sector. The provision of the Bill shall apply to the funding, maintenance and administration of the road network in Nigeria.

The Bill is divided into sections covering objectives, Application and scope of Act; Establishment of the National Roads Fund, Sources of the Roads Fund; Application of the Roads Fund; Establishment of the Governing Board, Tenure of Office of Members, Allowance of Members, and Cessation of Membership; Function of the Board and Power of the Board; Appointment and Removal of the Executive Secretary, Appointment of Legal Secretary and other Staff, and Pension; Application of the Administrative Fund, Statement of Estimate income and expenditure, Proper Books and Records of Account, and Audit and Accounts; Litigation Matters; Roads Programme (Five Year Rolling Plan) and Exemption from Taxation; Offences and Penalties as well as miscellaneous issues as Regulation, Power of the Minister to give Directives and the Role of the National Council on privatization.

The report of the technical Committee was presented to the House Committee on Works on 2nd February, 2017 for further review and consideration. The committee on works considered the report and made recommendations.

G. Conclusion

The House Committee on works expresses its appreciation and gratitude to the leadership and members of the House of Representatives, Stakeholders and all who contributed to the outcome leading to the report of this Bill. This Bill is indeed poised to transform Nigeria's Roads Sectors. when passed


Hon. Toby Okechukwu
Chairman


Caroline Asan
Clerk to the committee

**REPORT OF THE COMMITTEE ON WORKS
ON**

**A BILL FOR AN ACT TO ESTABLISH THE NATIONAL ROADS FUND FOR THE PURPOSE
OF FINANCING ROUTINE AND PERIODIC MAINTENANCE OF NATIONAL ROADS AND
FOR RELATED MATTERS (HBs. 49 and 163)**

PROVISIONS OF THE BILL	COMMITTEE RECOMMENDATION	COMMITTEE OF THE WHOLE RECOMMENDA TION
ENACTED by the National Assembly of the Federal Republic of Nigeria-	ENACTED by the National Assembly of the Federal Republic of Nigeria-	
PART I OBJECTIVES AND APPLICATION The objectives of this Act are to- 1.- (a) establish the National Road Fund which shall be a repository for revenues accruing from road user related charges and other sources for financing the development, rehabilitation, maintenance and other activities related to the provision of national roads;	Objectives The objectives of this Act are to - 1.-(a) establish the National Roads Fund which shall be a repository of revenues accruing from road user related charges and other sources for financing <i>which shall be managed and administered for routine and periodic maintenance works on roads and related matters in Nigeria;</i>	

(b) establish the National Roads Board which shall be responsible for the management of the Roads Fund in accordance with the provisions of this Act; and (c) promote the sustainable development and operation of the road sector.	<i>(b) provide predictable and sustainable funding for road maintenance in order to promote the sustainable development and management of the road network;</i> (c) establish the Governing Board of the Roads Fund which shall be responsible for the management of the Roads Fund in accordance with the provisions of this Act; <i>(d) create an enabling environment for private sector participation, management and financing in the road sector; and;</i>	
Application 2. The provisions of this Act shall apply to the development, rehabilitation, reconstruction, maintenance and funding of the national roads network.	Application 2. The provisions of this Act shall apply to the <i>funding, maintenance and administration of the road network in Nigeria.</i>	
PART II ESTABLISHMENT OF THE NATIONAL ROADS FUND 3. (1) There is established, a fund to be known as National Roads Fund (in this Act referred to as	PART II ESTABLISHMENT OF THE NATIONAL ROADS FUND 3.- (1) There is established, a fund to be known as the National Roads Fund (in this Act referred	

"the Roads Fund") which shall be a repository for revenues accruing from roads use charge systems and other sources for the maintenance of national roads.

(2) The Roads Fund shall-

(a) be a body corporate with perpetual succession and a common seal; and

(b) have power to sue or be sued in its corporate name;

(c) be capable of holding, purchasing, acquiring and disposing of property movable or immovable, for the purpose of carrying out its functions under this Act;

(3) The Roads Fund shall, in each year, before disbursement of the amount in the Roads Fund, set aside an amount not exceeding 3 percent of the total monies accruing to the Fund in the preceding year (in this Act referred to as the Administrative Fund") for the management and administration of the Roads Fund.

to as "the Roads Fund") which shall be a repository of revenues accruing from prescribed road user related charges ***and other sources for financing which shall be managed and administered for the routine and periodic maintenance of roads in Nigeria.***

(2) The Roads Fund shall -

(a) be a body corporate with perpetual succession and a common seal;

(b) have power to sue or be sued in its corporate name; ***and,***

(c) be capable of holding, purchasing, acquiring and disposing of property movable or immovable, for the purpose of carrying out its functions under this Act.

Delete 3

Sources of the Roads Fund 4. (1) The sources of the Roads Fund shall include - (a) five percent user's charge on pump price of petrol and diesel received from petroleum products as required to meet the routine and periodic road maintenance needs; (b) grants and loans to the Roads Fund by the Federal, State or Local Government, statutory corporations in the Federation, or any agency or institutions of any government, any international organization, or private foundation or any person whatsoever; (c) all sums payable to the Roads Fund from axle load control charges; (d) all other assets which may, from time to time, accrue to the Fund; and	Sources of the Roads Fund 4.- (1) From the commencement of this Act revenue accruing from all of the following sources shall be chargeable and paid into the Roads Fund as prescribed under the Second Schedule to this Act. – (a) Fuel Levy on Imported Petroleum Products (b) Fuel Levy on Locally Refined Petroleum Products (c) Axle Load Control Charges (d) Toll Fees	
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(e) gifts of land, money or other property upon such terms and conditions, if any, as may be specified by the person or organization making the gift, provided such terms and conditions are not inconsistent with the objectives of the Board and Fund under this Act.

(e) International Vehicle Transit Charges

(f) Inter-State Mass Transit User Charge

(g) Roads Fund Surcharge

(h) Lease, License or other Fees from Non-Vehicular Road Usages

(i) grants and loans to the Roads Fund by the federal, state or local government, statutory corporations in the Federation, or any agency or institutions of any government, any international organization, or private foundation or any person whatsoever;

(j) gifts of land, money or other property upon such terms and conditions, if any, as may be specified by the person or organization making the gift, provided such terms and conditions are not inconsistent with the objectives of the Roads Fund under this Act; and,

(k) all other assets which may, from time to time, accrue to the Roads Fund.

(2) In the interests of cost effectiveness, efficiency and transparency, the Roads Fund shall:

(a) put in place cost-effective, transparent and accountable arrangements for the collection of money falling due for payment into the Fund, such arrangements may include direct payment into the Roads Fund by the government agencies, or their agents, responsible for the collection of money from which money accruing to the Roads Fund is paid into the Roads Fund designated account; and,

(b) Notwithstanding arrangements put in place, incorporate an effective and efficient independent system for verifying amounts.

(3) Any revenue accruing to the Roads Fund shall be payable into the designated Roads Fund account only and shall not be deemed to be revenue accruing or payable into the Consolidated Revenue Fund of the Federation.

Application of the Roads Fund

5. (1) The amount in the Roads Fund shall be disbursed to the Road Agencies specifically for the" development, rehabilitation, reconstruction and maintenance of national road networks.

(2) The Sharing formula for the Road Funds should be aligned with the provision of the Fiscal Allocation formula of the Federation Account.

Application of the Roads Fund

5. *-(1) The Roads Fund shall, in each year, before disbursement of the amount in the Roads Fund, set aside an amount not exceeding 3% of the total monies accruing to the Roads Fund in the preceding year (in this Act referred to as "the Administrative Fund") for the purposes as stated under section 17 of this Act.*

(2) The funds that shall accrue to the Roads Fund shall be disbursed to Statutory Federal, State and Local Government Road Agencies specifically for routine and periodic maintenance works on roads and the administration of a safe national road network in Nigeria.

(3) The basis for the allocation and any formula for the disbursement of the Roads Fund shall be as determined by the Governing Board provided that it shall consider:

(a) the quality and cost effectiveness of the road asset management maintenance proposals;

	<i>(b) the extent of the road network;</i> <i>(c) the specific maintenance or wear and tear requirements of any road;</i> <i>(d) volume of vehicular use of road use;</i> <i>(e) amount of revenue collected within and contributed by the state;</i> <i>(f) demonstrated institutional performance and capacity in the executing Road Agency's functions for oversight and works delivery in line with the Roads Funds objectives and stipulations; and</i> <i>(g) other socio-political and strategic connectivity priorities.</i>	
Establishment of the Governing Board of Directors 6. (1) There is established for the management of the Roads Fund, a Board of Directors (in this Act referred to as <i>the Board</i>) which shall be responsible to the Minister.	<i>Establishment of the Governing Board of Directors</i> <i>6.- (1) There is established for the management of the Roads Fund, a Governing Board (in this Act referred to as "the Board") which shall control and determine the collection of accruable revenue, and oversee the administration, management, allocation and disbursement of the fund in accordance with the provisions of this Act.</i>	

(3) The Board shall consist of the following members: (a) a non-Executive Chairman who shall be from the private sector; (b) the Permanent Secretary, Federal Ministry of Finance; (c) the Permanent Secretary, Federal Ministry of Works;	<i>New (2) The Governing Board shall be an independent and autonomous body with exclusive responsibility to manage the Roads Fund in a diligent and transparent manner in accordance with the provisions of this Act.</i> (3) The Board shall consist of: (a) a non-Executive Chairman who shall be appointed from the private sector; (b) one representative from each of the following Ministries – (i) Federal Ministry of Finance; (ii) Federal Ministry responsible for roads. (c) one representative from each of the following bodies – (i) the Nigerian Association of Chambers of Commerce and Industry;	
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(d) the Permanent Secretary, Federal Ministry of Transport; (e) one representative of each of the following- (i) the Nigerian Association of Chambers of Commerce; Industry, Mines and Agriculture,	(ii) <i>Nigerian Society of Engineers and the Nigerian Institution of Highway and Transportation Engineers jointly;</i> (iii) <i>Petroleum Products Pricing and Regulatory Agency;</i> (iv) <i>Federal Roads Agency;</i> (v) <i>Nigerian Association of Road Transport Owners; and,</i> (vi) <i>The Agency responsible for the marketing of petroleum products.</i> (d) <i>one (1) person from a state Road Agency to be selected from each of the six (6) geo-political zones, which shall be rotationally selected in an alphabetical order of state names within each zone, to represent the zone;</i> (e) <i>the Managing Director who shall be appointed by the Board.</i> <i>Deleted</i>	
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(ii) the Nigerian Society of Engineers, (iii) the National Union of Road Transport Workers; (f) one persons from each of the six geo-political zones; and (g) the Executive Secretary of the Fund who shall also be the Secretary to the Board. (3) Members of the Board shall be appointed by the President on the recommendation of the Minister. (4) Members of the Board shall be persons of recognized expert knowledge, qualifications and with not less than fifteen years cognate experience in one or more of the following fields- (a) engineering; (b) transport management technology; (c) law; (d) finance; (e) accountancy; or (f) economics.	" " " " <i>(4) The Chairman and members of the Board other than the Managing Director shall be appointed by the President on the recommendation of the Ministry or body they represent.</i>	
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(5) The provisions of the First Schedule to this Act shall have effect as to the proceedings of the Board and other matters contained therein.

(5) Each Member of the Board shall be **a person of recognized expertise and knowledge, with not less than ten (10) years cognate experience in one or more of the following fields –**

(a) **management;**

(b) **engineering;**

(c) **transport management technology;**

(d) **law;**

(e) **finance;**

(f) **accountancy; or**

(g) **economics.**

(6) Apart from the Managing Director who shall be the Chief Executive Officer, all other members of the Board shall be non-executive and part-time

(7) The provisions of the First Schedule to this Act shall **regulate the proceedings of the Board and other matters in the Schedule.**

Tenure of Office of Members 7. -Members of the Board other than ex-officio shall hold office- (a) for a term of 4 years in the first instance and may be re-appointed for another term of 4 years and no more; and (b) on such terms and conditions as may be specified in their letters of appointment.	Tenure of Office of Members 7. - A member of the Board other than the <i>Managing Director and</i> the ex-officio members shall hold office – (a) for a term of <i>four (4) years</i> in the first instance and may be re-appointed for another term of <i>four (4) years</i> and no more; and (b) on such terms and conditions as may be specified in their letters of appointment.	
Allowances of Members 8. Members of the Board shall be paid such allowances, expenses and benefits as may be approved by the Federal Government in accordance with extant Laws and regulations.	Allowances of Members 8. Members of the Board shall be paid such <i>part time allowances</i>, expenses and benefits <i>as</i> may be approved by the Federal Government in accordance with extant Laws and regulations.	
Cessation of Membership 9. (1) A member of the Board shall cease to hold office if: (a) he becomes bankrupt; (b) he is convicted of a felony or any offence involving dishonesty or fraud;	Cessation of Membership 9. (1) A member of the Board shall cease to hold office if <i>such person</i> – (a) becomes bankrupt; (b) 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) in the case of a person possessed of professional qualifications, he is disqualified or suspended from practicing his profession by an order of a competent authority; (f) he resigns his appointment by a letter addressed to the President through the Minister; and (g) in the case of an ex-officio member, he ceases to hold the office on the basis of which he is member of the Board. (2) The President may if satisfied that it is not in the interest of the Roads fund or the public, remove a member from office.	(c) becomes of unsound mind or is incapable of carrying out his duties; (d) is guilty of a serious misconduct in relation to his duties; (e) <i>is disqualified or suspended from practicing his profession, in the case of a person possessed of professional qualifications by a court of law or the disciplinary committee of his professional body;</i> (f) resigns his appointment by a letter addressed to the President through the <i>Chairman of the Board; or,</i> (g) <i>ceases to hold the office on the basis of which he is a member of the Board, in the case of an ex-officio member.</i> (2) The President may <i>remove a member from office if satisfied that his membership is no longer in the interest of the Roads Fund or the public.</i>
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(3) 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. (4) A vacancy on the Board shall be filled by the appointment of another person to the vacant office by the President on the recommendation of the Minister as soon as is reasonably practicable after the occurrence of such a vacancy.	(3) 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. (4) A vacancy on the Board shall be filled by the appointment of another person <i>by the President on the recommendation of the Ministry or body they represent</i> as soon as is reasonably practicable after the occurrence of such a vacancy.	
PART III FUNCTIONS AND POWERS OF THE BOARD 10. The Board shall be responsible for: (a) put in place cost-effective, transparent and accountable arrangements for the collection of money falling due for payment into the Roads Fund.	PART III FUNCTIONS AND POWERS OF THE BOARD 10. <i>The Board shall –</i> (a) put in place cost-effective, transparent and accountable arrangements for the collection of money falling due for payment into the Roads Fund <i>and request for data, records from any agency, body, organization or person in order to ensure the accuracy of any assessment or</i>	

	<i>remittance of money falling due for payments into the Roads Fund;</i>
(b) receiving monies accruing to the Roads Fund;	(b) <i>receive</i> monies accruing to the Roads Fund;
(c) administering and managing the Roads Fund;	(c) administer and manage the Roads Fund;
(d) coordinating and ensuring total and timely accountability of all monies allocated to the Roads Fund;	(d) <i>coordinate and ensure</i> total and timely accountability of all monies allocated or accruable to the Roads Fund;
(e) disbursing monies from the Roads Fund to the road agencies for financing the development, rehabilitation, maintenance and other activities related to the provision of national roads;	(e) receive information, records and data to determine quantities, volumes, frequency or any other information required from any of its sources of revenue;
(f) retaining the balance of the money in the Roads Fund after the disbursement specified in paragraph (e) above for the discharge of its functions under this Act;	(f) disburse monies from the Roads Fund to the Road Agencies for financing <i>approved road maintenance plan on road networks under their jurisdiction;</i>
(g) scrutinizing and approving applications to the Roads Fund for road maintenance projects from roads agencies and other bodies to ensure prudent management, accountability and proper utilization of the Roads Fund for the purposes set out in this Act;	(g) <i>disburse monies from the Fund to such other beneficiaries, agencies, bodies persons or authorities that may be authorized under the provision of this Act for the purpose of the maintenance and management of the national</i>

(h) establishing the allocation criteria to disburse monies to the various categories of road agencies; (i) ensuring transparency and accountability in the disbursement of the Roads Fund by, among other things, preparing and publishing an annual report and also issuing guidelines to the public on criteria for accessing the Roads Fund; (j) making such rules as Board may think necessary or expedient for securing the due and effective administration and management of the Roads Fund including setting up key performance indices for the road agencies; (k) preparing, publishing and submitting to the Minister audited annual accounts of the Fund;	<i>road network and the administration of the Fund;</i> (h) retain the balance of money in the Roads Fund <i>at the end of any given year after the disbursements specified under this Act, as the Reserve Fund;</i> (i) scrutinize and approve applications of the Roads Fund for road maintenance projects from Roads Agencies and other bodies <i>and monitor expenditure to ensure prudent management, accountability and proper utilization of the Roads Fund for the purposes set out in this Act;</i> (j) <i>establish the allocation criteria to disburse monies to the Road Agencies;</i> (k) ensure transparency and accountability in the disbursement <i>of money from the Roads Fund, prepare and publish annual reports and issue guidelines to the public on the criteria for accessing the Roads Fund;</i>
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(l) making policy recommendations to the Federal Government on matters relating to the national roads network;

(m) making recommending to the Minister on the level of road user charges required to finance the recommended road maintenance programmes;

(n) advising the Minister on the funding policy for the maintenance, rehabilitation and development of national roads;

(o) carrying out such other activities may be necessary or expedient for the full and efficient discharge of its functions under this Act either alone or in association with any other person. or body;

(p) doing all other things as are necessary for achieving the purposes for which the Roads Fund is established; and

(l) make such rules as the Board may consider necessary for the effective administration and management of the Roads Fund;

(m) prepare, publish and submit to the National Assembly through the Minister audited annual report of the Fund;

(n) make policy recommendations to the Federal Government on matters relating to the national roads network financing;

(o) advise and make recommendation to the Minister, agency or body responsible for finance on the funding policy and the level of road user charges and other forms of finance required for road maintenance programmes;

(p) in consultation with the Federal Ministry responsible for roads, Road Agencies and other user representatives assess the allocation of financial resources required by the Road Agencies for the maintenance of the different classes of roads under the responsibility of the Road Agencies; and to determine the allocation of financial resources required for the

(q) assessing the allocation of financial resources required by the road agencies for the maintenance of the different classes of roads under the responsibility of the road agencies; and further, reviewing regularly and determine the allocation of financial resources required between maintenance, rehabilitation and reconstruction.	<i>maintenance of roads as well as for road safety management;</i> <i>(q) commission and act on regular financial and management audits undertaken on all entities enjoying the resources of the funds;</i> <i>(r) liaise with the Federal Road Safety Corps or any other body charged with matters relating to the provision of safe and sustainable road infrastructure or the collection of user fees and levies;</i> <i>(s) ensure compliance with national procurement, financial management and anticorruption regulation; and</i> <i>(t) carry out such other activities as the Board may consider necessary for the discharge of its functions under this Act.</i>	
Powers of the Board 11. (1) In carrying out its functions, the Board shall have powers to-	Powers of the Board 11.-(1) <i>In carrying out its functions, the Board shall –</i>	

(a) maintain its buildings and facilities necessary for the discharge of the functions of the Board under this Act;

(b) accept, acquire and hold any security of any kind in any form whatsoever;

(c) exercise any power, right or privilege, in relation to any security held by the Board, that a private individual would be capable of exercising in like circumstances including power to invest, surrender, transfer or recovery of any security held by the Board whether upon exchange for other security or upon discharge; and

(2) The Board shall have power to take such reasonable steps it deems fit for the purpose of advancing the skills, knowledge and performance of employees of the Fund.

(a) maintain its buildings and facilities necessary for the discharge of *its* functions under this Act;

(b) *accept, acquire and hold security of any kind; and,*

(c) *invest, surrender, transfer, recover, exchange, discharge or in any manner, deal with the security held by the Board as a private individual can do.*

(2) The Board shall *train the employees of the Roads Fund for the purpose* of advancing *their* skills, knowledge and performance *for cost effective and efficient operation of the Roads Fund.*

(3) The Board may delegate any of its functions in this or any other section of this Act to any authority, or body established; to any person; or to any officer, employee or servant appointed in

	accordance with the provisions of this Act, to act as its agent for the execution, performance or supervision of such functions as may be delegated.	
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PART IV STAFF OF THE ROADS FUND Appointment of the Managing Director 12. (1) There shall be for the Roads Fund an Executive Secretary to be appointed by the President, on the recommendation of the Minister. (2) The Executive Secretary shall- (a) possess a degree or its equivalent with cognate experience of not less than twenty years in the field of engineering, transport management technology, law, finance, accountancy or economics; (b) be the chief executive and accounting officer of the Roads Fund; and	PART IV STAFF OF THE ROADS FUND Appointment of the Managing Director 12. <i>(1) There shall be for the Roads Fund a</i> <i>(2) Managing Director who shall –</i> <i>(a) be appointed by the president on the recommendation of the Board from the private sector;</i> <i>(b) possess a degree and cognate experience of not less than fifteen (15) years in at least any one of the following fields: management, engineering, transport management</i>	
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(c) hold office for a term of five years in the first instance and may be reappointed for a further term of five years and no more (2) The Executive Secretary shall, subject to the general direction of the Board, be responsible for- (a) the implementation of the decisions of the Board and the day to day administration and management of the affairs of the Board; and (b) conducting the correspondence of the Board and keeping proper records of the proceedings of the Board.	<i>technology, law, finance, accountancy or economics;</i> (c) be the Chief Executive and Accounting Officer of the Roads Fund; and, (d) hold office for a term of <i>four (4) years</i> in the first instance and may be reappointed for a further term of <i>four (4) years</i> and no more. (2) The <i>Managing Director</i> shall subject to <i>the direction of the Board</i>, be responsible for (a) the day to day administration and acilitation of the Board; excisions of the Board; (b) the administration of the secretariat of the Board; and, (c) <i>the general direction and control of all other employees of the Roads Fund.</i>	
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Removal of the Managing Director

13. (1) The Executive Secretary may be suspended or removed from office by the President if he-

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

(b) has been absent from three consecutive meetings of the Board without the consent of the Chairman unless he shows good reasons for such absence; or

(c) is guilty of serious misconduct in relation to his duties as Executive Secretary; or

(d) in the case of a person possessed of professional qualifications, is disqualified or suspended from practicing his profession by order of a competent authority.

Removal of the Managing Director

13. (1) The *Managing Director* may in *addition to the conditions prescribed in Section 9 (1) be suspended or removed from office by the Board if he has –*

(a) *demonstrated inability to effectively perform the duties of his; or*

(b) been absent from three (3) consecutive meetings of the Board without the consent of the Chairman unless he shows good reasons for such absence.

Delete

(2) Where the Executive Secretary is unable to perform the functions of his office due to temporary incapacity which is likely to be prolonged, the President may, on the recommendation of the Minister, appoint a substitute to act as the Executive Secretary.

(2) Where the *Managing Director* is unable to perform the functions of his office due to temporary incapacity, *which exceeds 3 months, the Board may appoint a substitute to act as the Managing Director.*

	14. Appointment of the Legal Adviser <i>There shall be for the Roads Fund a Legal Adviser who shall -</i> <i>(a) be appointed by the Board;</i> <i>(b) be the Secretary to the Board; and,</i> <i>(c) possess a degree in law with a minimum of ten (10) years post call experience.</i>	
Other Staff 14. (1) The Roads Fund shall employ directly, on transfer or secondment from any civil service or public service of the federation such number of employees as may in the opinion of the Board necessary to assist the Board and the Executive Secretary in the performance of their functions under this Act. (2) The terms and conditions of service of employees of the Roads Fund shall be as may	Other Staff 15. (1) The Roads Fund shall employ directly, or by transfer or secondment from any civil service or public service of the Federation such number of employees as may in the opinion of the Board be necessary to assist the Board and the Managing Director in the performance of their functions under this Act.	

be determined by the Board from time to time. (3) The Board shall have power to establish and review from time to time market-oriented criteria for establishing the remuneration of the members of staff of the Roads Fund in accordance with extant laws and regulations.	(2) The terms and conditions of service of employees of the Roads Fund shall be as may be determined by the Board from time to time. (3) The Board shall have power to establish and review from time to time market-oriented criteria for establishing the remuneration of the members of staff of the Roads Fund in accordance with extant laws and regulations.	
Pension 15. (1) The officers and other employees of the Fund shall be entitled to pensions and other retirement benefits in conformity with provisions of the Pensions Reform Act, 2004. (2) Nothing in subsection (1) of this section shall prevent the appointment of a person to any office on terms which may preclude the grant of a pension, gratuity or other retirement benefits in respect of that office.	Pension 16. (1) <i>The service in the Roads Fund shall be approved service for the purpose of the Pension Reforms Act and accordingly officers and other employees of the Roads Fund shall be entitled to pensions and other retirement benefits as prescribed under the Pensions Act in force.</i> (2) The provision of subsection (1) of this section shall not prevent the appointment of a person to any office on terms, which may preclude the grant of a pension,	

	gratuity or other retirement benefits in respect of that office.	
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PART V
FINANCIAL PROVISIONS

Application of the Administrative Fund

16. The Roads Fund shall apply the Administrative Fund specified in section 3(3) of this Act-

- (a) to the administration of the Roads Fund;
- (b) to the payment of 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;
- (c) to the payment of the salaries, fees or other remuneration, allowances and other benefits payable to the officers and other employees of the Roads Fund;

PART V
FINANCIAL PROVISIONS

Application of the Administrative Fund

17.(1) The Roads Fund shall apply the Administrative Fund specified in section 5 of this Act -

- (a) to the administration of the Roads Fund;
- (b) to the payment of 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;
- (c) to the payment of the salaries, fees or other remuneration, allowances and other benefits payable to the officers and other employees of the Roads Fund;

(d) for the development and maintenance of any property vested in or owned by the Fund;

(e) to such capital expenditure as the Board may deem necessary from time to time; and

(f) for such other payment in connection with all or any of its functions under this Act.

Statement of Estimated Income and Expenditure

17. (1) The Roads Fund shall not later than four months to the end of a financial year, prepare and present to the Minister for approval a statement of estimated income and expenditure for the following financial year.

(d) for the development and maintenance of any property vested in or owned by the Fund;

(e) to such capital expenditure as the Board may deem necessary from time to time;

(f) *to the management and administration of the Roads Fund, including audit expenses, research, data collection and data management associated with the implementation of the Roads Fund and;*

(g) for such other payment in connection with all or any of its functions as stipulated under this Act.

Statement of Estimated Income and Expenditure

18. (1) The Roads Fund shall not later than four **(4)** months to the end of a financial year, prepare and present to the National Assembly through the President for approval a statement of estimated income and expenditure for the following financial year.

(2) The Board shall ensure that in any financial year, the expenditure and commitments of the Roads Fund does not exceed the Administrative Fund.

(3) Where, in exceptional circumstances, the Road Fund and any surplus income brought forward from a previous year, is insufficient to meet the actual or estimated liabilities of the Roads Fund, the Minister may make advances to the Roads Fund in order to meet the deficiency or any part thereof and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Minister responsible for Finance may determine.

(2) The Board shall ensure that in any financial year, the expenditure and commitments of the Roads Fund does not exceed the Administrative Fund.

(3) Where, in exceptional circumstances, the Roads Fund and any surplus income brought forward from a previous year, is insufficient to meet the actual or estimated liabilities of the Roads Fund, the Minister may make advances to the Roads Fund in order to meet the deficiency or any part thereof and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Minister responsible for Finance may determine.

Books and Records of Accounts

18. (1) The Roads Fund shall keep proper books and other records of account in respect of receipt and expenditure of the Roads Fund and the Administrative Fund in accordance with acceptable principles of accounting.

(2) The accounts of the Roads Fund shall be audited by Auditors to be appointed annually by the Roads Fund from among the list of auditors and in accordance with guidelines prepared by the Auditor-General for the Federation.

(3) The Roads Fund shall submit to the Minister not later than 30th June in each financial year, a report of its activities during the preceding year, which shall include a copy of the audited accounts of the Roads Fund for that year and a copy of the auditor's report.

Books and Records of Accounts

19. (1) The Roads Fund shall keep proper records of books and other records of account in respect of its operations including receipts and expenditure of the Roads Fund and the Administrative Fund in accordance with generally acceptable principles of accounting.

(2) The accounts of the Roads Fund shall be audited by Auditors to be appointed annually by the ***Governing Board of the Roads Fund from the list of auditors and guidelines prepared by the Auditor-General for the Federation and in accordance with International Financial Reporting Standards applicable in Nigeria.***

(3) The Roads Fund shall submit to the National Assembly through the Minister not later than 30th June in each financial year, a report of its activities ***and implementation performance during the preceding year, which shall include a copy of the audited accounts of the Roads Fund*** for that year and a copy of the auditor's report.

(4) Auditors appointed pursuant to subsection (2) of this section shall have access to all accounts and other records relating to such accounts which are kept by the Road Fund or its agents and shall have the power to require from any member of the Board or employee or agent of the Road Fund such information and explanation as in the auditors opinion are necessary for the purpose of the audit.

(5) Any member of the Board, employee or agent of the Roads Fund who fails without reasonable cause to comply with a request or instruction of an auditor pursuant to subsection (4) of this section commits an offence and liable on conviction to a fine not less than N100, 000.00

(4) Auditors appointed pursuant to subsection (2) of this section shall have access to all accounts and other records relating to such accounts which are kept by the Roads Fund or its agents and shall have the power to require from any member of the Board or employee or agent of the Roads Fund such information and explanation as in the Auditors opinion are necessary for the purpose of the audit ***including records, documents and papers of the Roads Fund relating directly or indirectly to the receipt or payment of money made by the Fund or to the acquisition, receipt, custody or disposal of assets by the Roads Fund.***

(5) The Auditor shall on the completion of the audit of the accounts of each financial year prepare and submit to the Board a report setting out his observations and recommendations on all aspects of the accounts of the Board; and the Board shall forward a copy of the report to the Minister.

(6) A member of the Board, employee or agent of the Roads Fund who fails without

	<i>reasonable cause to comply with a request or instruction of an Auditor pursuant to subsection (4) of this section commits an offence and liable on conviction to a fine not less than one million naira (N1,000,000.00).</i>	
Audit and Accounts 19. (1) The Roads Fund shall, within three months after the end of each financial year, furnish the Minister with- (a) a copy of the audited accounts of the Roads Fund and the Administrative Fund, prepared by a reputable external auditing firm; (b) a copy of the general report and full report of the external auditor; and (c) an annual Report detailing- (i) the state of affairs of the Roads Fund for the financial year and including any change in the reserve fund arising from the activities of the Board during the year; and	Audit and Accounts 20. (1) <i>The Roads Fund shall, within three (3) months after the end of each financial year, furnish the Minister with -</i> (a) a copy of the audited accounts of the Roads Fund and the Administrative Fund, prepared by a reputable external auditing firm; (b) a copy of the general report and full report of the external Auditor; and (c) an Annual Report detailing - (i) the state of affairs of the Roads Fund for the financial year and including any change in the Reserve Fund arising from the activities of the Board during the year; and,	

(ii) opportunities and constraints impacting upon the Board's performance and the actions proposed for addressing them. (2) All sums received for the purpose of the Roads Fund shall be paid into one or more banking accounts at such bank or banks as the Board may determine, and no amount shall be withdrawn therefrom except under the authority of the Board and by means of cheques or other financial instruments on procedures as are authorized in that regard by the Board. (3) The signatories to the account(s) referred to in subsection (3) of this section shall be the 'Executive Secretary and the Chairman of the Board or in their absence their designated' representatives	(ii) the performance of the Road Fund, its agents and beneficiaries in the collection, allocation and utilization of the Fund and its impact on the performance and condition of the national road network, and (iii) opportunities and constraints impacting upon the Board's performance and the actions proposed for addressing them. (2) All sums received for the purpose of the Roads Fund shall be paid into one or more banking accounts at such bank or banks as the Board may determine, and no amount shall be withdrawn therefrom except under the authority of the Board and by means of cheques or other financial instruments or procedures as are authorized in that regard by the Board. (3) The signatories to the account(s) referred to in subsection (2) of this section shall be <i>the Head of Finance and Accounts, and one other officer of sufficient seniority.</i>	
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or any person duly authorized by the Board.

(4) The balance of the revenue accruing to the Roads Fund in any financial year shall be applied for the purpose of creating a general reserve or such other reserve as the Board may from time to time approve.

(5) Any part of the Roads Fund not immediately required for the purpose of the Roads Fund may be invested in such manner as the Board may, in its discretion, determine subject to the approval of the Minister.

(6) The financial year of the Roads Fund shall be a period of twelve months commencing on the 1st of January of each year and ending on the 31st of December of the same year. Provided that the first financial year may be a period shorter or

(4) The balance of the revenue accruing to the Roads Fund in any financial year shall be applied for the purpose of creating ***the Reserve Fund or such other reserve as the Board may from time to time approve to fund future planned road maintenance activities.***

(5) Any part of the Roads Fund not immediately required for the purpose of the Roads Fund may be invested in such manner as the Board may, in its discretion, determine subject to the approval of the Minister ***provided that such investment shall be strictly evaluated, bear low risk and are technically consistent with the maintenance priorities and plans developed by the Roads Fund.***

(6) The financial year of the Roads Fund shall be a period of twelve months commencing on the 1st of January of each year and ending on the 31st of December of the same year. Provided that the first financial year may be a period shorter or longer than twelve **(12)** months as the Board shall determine, but in

longer than twelve months as the Board shall determine, but in any case not longer than eighteen months. (7) The Annual Report of the Roads Fund shall be available, on demand, to the public.	any case, not longer than eighteen (18) months. <i>(7) The Annual Report and a report of the activity and implementation performance during the preceding year shall be published, and also made available to the public on demand.</i>	
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PART VI LEGAL PROCEEDINGS Limitation of Suit 20. (1) The provisions of the Public Officers Protection Act shall apply in relation to any suit Instituted against an official or employee of the Board. (2) No suit shall be commenced against a member of the Board or any official or employee of the Board before the	PART VI LEGAL PROCEEDINGS Limitation of Suit 21. (1) The provisions of the Public Officers Protection Act shall apply in relation to any suit Instituted against <i>the Roads Fund, an official or employee of the Board.</i> (2) A suit shall not be commenced against a member of the <i>Roads Fund</i>, any official or	
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expiration of a period of one (1) month after written notice of the intention to commence the suit shall have been served on the Board by the intending plaintiff or his agent.

(3) The notice referred to in subsection (2) of this section shall, clearly and explicitly, state the cause of action, the particulars of the claim, the name and address of the intending plaintiff and the relief which he claims.

(4) A notice, summons or other document required or authorized to be served on the Board under the provisions of this Act or any other law or enactment may be served by delivery of such notice, summons or other document to the Board or by sending such notice, summons or other document by registered post, addressed to the Managing Director or Secretary to the Board at the principal office of the Board or by electronic means through the E-mail or Website of the Board.

employee of the Board before the expiration of a period of one (1) month after written notice of the intention to commence the suit shall have been served on the ***Roads Fund, an official or employee of the Board by the intending plaintiff or his agent.***

(3) The notice referred to in subsection (2) of this section shall clearly ***state the cause of action***, the particulars of the claim, the name and address of the intending plaintiff and the relief which he claims.

(4) A notice, summons or other document required or authorized to be served on the ***Roads Fund, an official or employee of the Board*** under the provisions of this Act or any other law or enactment may be served by delivery of such notice, summons or other document to the ***Roads Fund, an official or employee of the Board or by sending such notice, summons or other document by registered post, addressed to the Managing Director or Secretary to the Board at the principal office of the Roads Fund.***

(5) Any member of the Board, their secretaries or any official or employee of the Board shall be indemnified out of the assets of the Board, against any liability incurred in defending any proceeding whether civil or criminal, if the proceeding is brought against the person in his capacity as a member, secretary, officer or employee of the Board. (6) In any action or suit against the Board, no execution or attachment or process in the nature thereof shall be issued against the Board but any sums of money which may, by the judgment of the Court, be awarded against the Board shall be paid from the funds of the Board.	(5) A member of the Board, <i>his secretary</i> or any official or employee of the Board shall be indemnified out of the assets of the Roads Fund, against any liability incurred in defending any proceeding whether civil or criminal, if the proceeding is brought against the person in his capacity as a member, secretary, officer or employee of the Board. (6) In any action or suit against the Roads Fund, an official or employee of the Board, no execution or attachment or process in the nature thereof shall be issued against the Roads Fund, an official or employee of the Board but any sums of money which may, by the judgment of the Court, be awarded against the Roads Fund, an official or employee of the Board shall be paid from the funds of the Roads Fund.	
PART VII ROADS PROGRAMME Five-Year Rolling Road Financing Plan	PART VII ROADS PROGRAMME Five-Year Rolling Road Financing Plan	

21. (1) The Board shall, within the first year of its establishment, prepare a five year Rolling Road Plan (hereinafter referred to as the "Plan") for the fulfillment of its responsibilities under this Act.

(2) The Plan shall be broken into yearly action programmes and shall contain information, amongst others, that would allow the determination of the Board's proposed activities over the Plan period in respect of each element of the national road network.

(3) The Plan shall constitute the basis for determining the financial needs of the Board and of its sourcing, including the needed contribution of the road user charges.

(4) Notwithstanding the provisions of subsection 6 of this section, the Board shall ensure that the process and method used in the preparation of the first plan allows for adequate contribution by the road agencies in a manner such as to

22. (1) The Board shall, within the first year of its establishment, prepare a Five-Year Rolling Road **Financing** Plan (hereinafter referred to as the "Plan") for the fulfillment of its responsibilities under this Act.

(2) The Plan shall be broken into yearly action programmes and shall contain information, amongst others, that would allow the determination of the Board's proposed activities over the Plan period in respect of each element of the national road network.

(3) The Plan shall constitute the basis for determining the financial needs of the Board and of its sourcing, including the needed contribution **from its sources of finance**.

(4) The Plan shall constitute the basis upon which Road Agencies shall develop the road maintenance component of their own programmes from funding provided by the Roads Fund and the Board shall use the Plan

make its intent and purpose consistent with the objectives of this Act.

(5) The Board shall keep the Plan under review and update it annually, with appropriate input from the road agencies, within the five-year rolling plan cycle.

(6) In preparing the Plan, the Board shall-

(a) require road agencies to submit to it four months before the start of the financial year, their five - year funding programmes and the database for the service level for the Plan period relative to the roads network for which they have

as a monitoring to check the utilization of the funds disbursed to the Roads Agencies by it.

(5) Notwithstanding the provisions of subsection (8) of this section, the Board shall ensure that the process and method used in the preparation of the first plan allows for adequate **consultation and input to the Plan by the Road Agencies** in a manner such as to make its intent and purpose consistent with the objectives of this Act.

(6) *The Board shall within the five-year rolling plan cycle keep the Plan under review and update it annually with consideration given to extant government policy including the master plan for the transportation sector, the National Integrated Infrastructure Master Plan and with appropriate input from the Road Agencies as well as any directives given by the Minister pursuant to section 27 provided that any of*

responsibility;

(b) review the funding submissions of the road agencies against set financial, economic and social criteria, for the achievement of the objects of the Roads Board; and

(c) after agreeing to amendments and satisfying itself of 'the integrity of the submissions taken singly and as a whole, consolidate the submissions for the purpose of any approval.

the fore going are not inconsistent with the provisions of this Act.

(7) The Board shall ensure that its maintenance Plans and accurate periodic updates of the status of its implementation are made available to the public.

(8) In preparing the Plan or any amendment, revision or update thereto, the Board shall -

(a) require Road Agencies to submit to it four (4) months before the commencement of the financial year, their annual roads programmes in such form and containing such details as the Board shall specify, outlining a comprehensive plan of action for the maintenance of roads under the jurisdiction of the Road Agency and the

	<i>estimated costs of every activity required to implement the</i> plan of action; (b) establish financial, road condition, economic and social criteria, for the allocation of funds to the Roads Agencies and for the general achievement of the objects of the Roads Fund; (c) review the funding submissions of the Road Agencies against set criteria; and (d) after agreeing to amendments and satisfying itself of the integrity of the submissions taken singly and as a whole, consolidate the Roads Agencies' annual roads programmes into Roads Fund's programme which shall specify details to include: (i) specifying the amounts allocated for the maintenance of each class of roads; (ii) matching the cost of implementing the annual roads programme with revenues collected or estimated to be collected by and within the Fund; and (iii) identifying roads requiring maintenance in order of priority	
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Exemption from Taxation

22. The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Roads Fund.

PART VIII

OFFENCES AND PENALTIES

Exemption from Taxation

23. The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Roads Fund, except under circumstances where they have earned profit.

PART VIII

OFFENCES AND PENALTIES

Offences

24. (1) A person who contravenes or fails to comply with any of the provisions of section 4 of this Act is guilty of an offence under this Act.

(2) If a sum is due payable under any of the provisions of section 4 of this Act and such sum is not paid as and when due and in the prescribed manner, then any person upon whom the responsibility to pay falls is guilty of an offence under this Act.

(3) Notwithstanding any other provision in this Act, a person liable to pay any charge, levy, surcharge, fee, or tax however

prescribed shall make the payment in full and in the prescribed manner.

(4) Where an offence under this Act is committed by a body corporate, firm or association of individuals, every director, manager, partner or officer concerned in the management of the affairs of such an organization or any person who was purporting to act in that capacity is severally guilty of that offence and liable to be proceeded against and punished for that offence in a like manner as if he himself had committed the offence unless he can prove that the act constituting the offence took place without his actual or constructive knowledge and consent.

25. Penalties

(1) Except as otherwise provided under this Act, a person guilty of an offence under this Act shall upon conviction, be liable to imprisonment for a term of six (6) months or to a fine not exceeding one million naira (N1,000,000.00) or both.

(2) The institution of proceedings or the imposition of any penalty under this Act,

under any Regulation made under this Act or under any other Act or Regulation shall not relieve any person from liability to pay any sum due as payable under this Act or any Regulation made under this Act.

(3) A person who fails to pay or remit any charges, surcharges, levies, fees as prescribed under this Act, is liable to pay as penalty 150% of the amount not collected, plus 5% interest above the Central Bank of Nigeria rediscount rate.

PART IX MISCELLANEOUS

Regulations

25. (1) The Board may with the approval of the Minister and make regulations to give proper effect to the provisions of this Act.

(2) Regulations made pursuant to subsection (1) of this section shall be published in the official Gazette.

PART IX MISCELLANEOUS

Regulations

26. (1) The Board may *from time to time and with the approval of the Minister, make, amend, revoke or supplement regulations, codes, internal guidelines and procedures in line with and for giving* effect to the provisions of this Act.

(2) *The regulations, codes, internal guidelines and procedures made pursuant to subsection (1) of this section may govern matters to include the manner, mode and modalities for*

the collection of any revenue accruable to the Roads Fund under this Act; Provided that only the Minister may upon the recommendation of the Board make Regulations relating to fixing the rates, sums, or percentages applicable to any charges, surcharges, levies, or fees including variations thereto to be applied to any of the sources of revenue of the Roads Fund under this Act.

(3) Regulations made pursuant to subsection (1) -(2) of this section shall be published in the official Gazette.

Power of the Minister to give Directives

26. The Minister may give directives to the Board relating to the performance by the Board of any of its functions under this Act; provided that such directives are not inconsistent with the objectives of the Roads Fund and the functions and powers of the Board under this Act.

The Role of the Minister

27. (1) The Minister *shall not later than three months after the coming into force of this Act, take such steps as are necessary to bring into being the institutional structures of the National Roads Fund.*

(2) The Minister shall perform any function or role as designated as being such under this Act including the giving of approvals where required under the Act; fixing the rates, sums,

or percentages applicable to any charges, surcharges, levies, or fees including variations thereto to be applied to any of the sources of revenue of the Roads Fund under this Act; promulgation of Regulations; providing advice on government policies related to the activities of the Roads Fund.

(3) The Minister may give directives to the Board relating to the performance by the Board of any of its functions under this Act; provided that such directives are not inconsistent with the objectives of the Roads Fund, the functions and powers of the Board and any provisions of this Act.

27. The National Council on Privatization shall, in consultation with the Minister in charge of roads, not later than three months after the coming into force of this Act, take such steps as are necessary to bring into being the institutional structures of the National Roads Fund. *Delete*

Interpretation 28. In this Act, unless the context otherwise requires; "Board" means the Board of Directors Board established by section 6 of this Act; "Financial year" means every period of twelve months terminating on 31st day of December; provided that the first financial year may be shorter or longer than eighteen months; "Gazette" means the official Gazette of the Federal Republic of Nigeria; "Minister" means the Minister responsible for Works;	Interpretation 29. In this Act, unless the context otherwise requires – "Administrative Fund" means the percentage funds to be set aside from the total revenue accruing to the Roads Fund and to be utilized only for the purposes as specified under this Act. "Board" means the Governing Board established under section 6 of this Act; "Financial year" means every period of twelve months beginning from 1st January and terminating on 31st day of December; provided that the first financial year may be shorter or longer than twelve (12) months as the Board shall determine, but in any case not longer than eighteen months; "Gazette" means the official Gazette of the Federal Republic of Nigeria;	
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"Member" in relation to the Board includes the Chairman; "National Roads" means roads and bridges owned by the Federal, State and Local Governments, including non-designated local and community roads, village tracks, network, paths and trails; "Road Agencies" refers to statutory institutions charged with the responsibilities for the development, rehabilitation, reconstruction and maintenance of national road networks; "Roads Fund" means the Roads Fund established by section 3 of this Act;	"Minister" means the Minister responsible for Finance; "Member" in relation to the Board includes the Chairman <i>and Managing Director</i>; "National Roads" means roads and bridges, <i>including their rights of way, that are owned and legally managed by federal, state and local governments</i>" "Person" shall include a natural person or body corporate where the context admits; "Reserve Fund" shall mean the balance between the revenue accruing to the Roads Fund in any financial year and the expenditure for that year "Road <i>Agency (ies)</i>" means statutory institutions <i>created at federal, state or local government level charged with the responsibilities which include the maintenance and safety management of road networks under their jurisdiction</i>;	
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"Rolling Roads Plan" means a five year roads programme prepared by the Board for the fulfillment of its responsibilities under this Act; and "Tariffs" includes road user charges such as fuel levy, supplementary heavy vehicle licenses, international transit fees, tolls and fines for overloading, etc. "Road Sector Regulator" Agency responsible for Regulating the Road Sector	"Roads Fund" means the Roads Fund established by section 3 of this Act; "Rolling Road Financing Plan" means a five year roads programme prepared by the Board <i>in the manner stipulated under this Act for the Roads Fund's fulfillment of its objectives under this Act;</i> "Tariffs" includes road user charges such as fuel levy, <i>charges, fees, surcharges as well as</i> supplementary heavy vehicle <i>permit,</i> international transit fees, tolls and fines for overloading, etc. <i>and,</i> <i>"Road Sector Regulator" Agency responsible for Regulating the Road Sector</i>	
Short Title 29. This Bill may be cited as the National Roads Fund Act, 2016.	Short Title 30. This Bill may be cited as the National Roads Fund Act, 2017.	

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FIRST SCHEDULE SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD <i>Proceedings of the Board</i> 1. Subject to the provisions of this Act, the Board may make standing orders regulating its proceedings or that of any of its Committees. 2. The Board shall hold a meeting at least once every three months and subject thereto, the Board shall meet whenever it is convened by the Chairman. 3. A notice of not less than fourteen (14) days or such other period of as may be agreed from time to time by all the	FIRST SCHEDULE SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD <i>Proceedings of the Board</i> 1. Subject to the provisions of this Act, the Board may make standing orders regulating its proceedings or that of any of its Committees. 2. The Board shall hold a meeting at least once in every three months <i>and, at such other time as may be convened by the Chairman.</i> 3. A notice of not less than fourteen (14) days or such other period as may be agreed from time to time by all the members <i>at a meeting</i> shall be given to all members and the notice	

members of each meeting shall be given to all members and the notice shall specify the date, time and place of the meeting and the business to be transacted.

4. The Chairman shall preside at meetings of the Board, and if he is absent from a meeting the members present shall elect one of their number to preside at the meeting.

5. Where not less than five members of the Board request the Chairman by notice in writing signed by them, to convene an extra-ordinary meeting of the Board for any purpose specified in the notice, the Chairman shall upon receipt of such notice convene an extra- ordinary meeting of the Board for that purpose within seven days at such place and time as he may appoint. A written notice shall be addressed and sent to the members at least three working days prior to the date of the meeting.

shall specify the date, time and place of the meeting and the business to be transacted.

4. The Chairman shall preside at meetings of the Board, **and in his absence** the members present shall elect one of their numbers to preside at the meeting.

5. Where not less than five members of the Board request the Chairman by notice in writing signed by them, to convene an extra-ordinary meeting of the Board for any purpose specified in the notice, the Chairman shall upon receipt of such notice convene an extra- ordinary meeting of the Board for that purpose within seven days at such place and time as he may appoint. A written notice shall be addressed and sent to the members at least three working days prior to the date of the meeting.

6. Notwithstanding anything in the foregoing provisions of this paragraph, the inaugural

6. Notwithstanding anything in the foregoing provisions of this paragraph, the inaugural meeting of the Board shall be summoned by the Minister responsible for Finance, who may give such directions as he thinks fit as to procedure which shall be followed at that meeting. 7. The quorum for a meeting of the Board shall five members. If, within half an hour from the time appointed for the meeting of the Board, a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place, or such other date, time or place as the chairman of the meeting shall appoint. 8. A meeting of the Board shall not be adjourned to a date which is less than two (2) Days later than the day it was to be held unless otherwise agreed by all the members and the meeting may only deal with the matters which were on the agenda of the meeting which was adjourned.	meeting of the Board shall be summoned by the Minister responsible for Finance, who may give such directions as he thinks fit as to the procedure which shall be followed at that meeting. 7. The quorum for a meeting of the Board shall be five members. If, within half an hour from the time appointed for the meeting of the Board, a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place, or such other date, time or place as the Chairman of the meeting shall appoint. 8. A meeting of the Board shall not be adjourned to a date which is less than two (2) days later than the day it was to be held unless otherwise agreed by all the members, and the meeting may only deal with the matters which were on the agenda of the meeting that was adjourned.	
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9. Where a meeting has been adjourned, notice of the adjourned meeting shall be given by the Secretary to the members. 10. The Board may co-opt non-voting observers at any of its meetings, as and when required. 11. The Board shall appoint such study groups or committees as may be necessary for the proper discharge its functions. 12. A study group or committee shall consist of some members and such other persons as the Board may determine and the objectives of such groups or committees shall be defined. 13. Members of the Board and such other persons appointed to study groups or committees shall be paid such	9. Where a meeting has been adjourned, notice of the adjourned <i>date shall be given by the Secretary of the Board to the members.</i> 10. The Board may co-opt non-voting observers at any of its meetings, as and when required. 11. The Board shall appoint such groups or committees as may be necessary for the proper discharge its functions. 12. A study group or committee shall consist of some members <i>of the Board</i> and such other persons as the Board may determine, and the objectives <i>of the groups</i> or committees shall be defined. 13. Members of the Board and other persons appointed <i>as members of the study groups</i> or committees shall be paid allowances as may be determined by the Board.	
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allowances as may be determined by the Board. 14. A member of the Board shall not appoint any proxy to represent him at any meeting of the Board. 15. All questions at a meeting of the Board shall be determined by a simple majority of votes of the members present and voting, being members who under this paragraph are entitled to vote at such meeting. All relevant Board papers for Board meetings shall be sent to all members prior to the Board meeting and the minutes of the meeting will be sent as soon as practicable after the holding of the meeting. 16. At any meeting of the Board each member shall have a vote, and if there is equality of votes the Chairman shall have a second or casting vote.	14. A member of the Board shall not appoint any proxy to represent him at any meeting of the Board. 15. All questions at a meeting of the Board shall be determined by a simple majority of votes of the members present and voting, being members who under this paragraph are entitled to vote at such meeting. All relevant Board papers for Board meetings shall be sent to all members prior to the Board meeting, and the minutes of the meeting will be sent as soon as practicable after the holding of the meeting. 16. At any meeting of the Board each member shall have a vote, and if there is equality of votes the Chairman shall have a second or casting vote.	
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17. The minutes of meetings of the Board and its committees shall be recorded in a register and kept by the Secretary of the Board or his nominee and be confirmed at the next succeeding ordinary meeting of the Board. 18. Subject to the provisions of this Act, the Board may make standing orders with respect to the holding of meetings of the Board, the notices to be given of such meetings, the proceedings of meetings, the keeping of minutes of such proceedings and custody or the production for inspection of such. 19. Without limiting the discretion of the Board to regulate its meetings, the members of the Board may, if in their view, a matter requires urgent attention— (i) confer by telephone;	17. The minutes of meetings of the Board and its committees shall be recorded in a register and kept by the Secretary of the Board or his nominee and be confirmed at the next succeeding ordinary meeting of the Board. 18. Subject to the provisions of this Act, the Board may make standing orders with respect to the - <i>(a) holding of meetings of the Board;</i> <i>(b) notices to be given of the meetings;</i> <i>(c) proceedings of the meetings;</i> <i>(d) keeping of minutes of the proceedings; and,</i> <i>(e) production of the proceedings for inspection.</i> 19. Without limiting the discretion of the Board to regulate its meetings, the members of the Board may, <i>in a matter that</i> requires urgent attention - (a) confer by telephone;	
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(ii) close circuit television; (iii) other electronic means; or (iv) audio or audiovisual communication, and a resolution passed at such a conference shall, notwithstanding that the members are not present together in one place at the time of the conference, be deemed to have been passed at a meeting of the Board duly called and constituted on the day and at the time at which the conference was so held, it being agreed that the provisions of the Act relating to meetings of members shall apply mutatis mutandis to such conferences.	(b) close circuit television; (c) other electronic means; or (d) audio or audiovisual communication.	
<i>Committees of the Board</i> 20. The Board may appoint one or more Committees to carry out, on behalf of the Board, such of its functions as the Board may determine.	<i>Committees of the Board</i> <i>20. A resolution passed at a meeting held in line with paragraph 19 above shall, notwithstanding that the members are not present together in one place at the time of the meeting, be deemed to have been passed at a meeting of the Board duly called and constituted on the day and at the time at which the meeting was held, it being agreed</i>	

21. The decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.	<i>that the provisions of the Act relating to meetings of members shall apply to the meeting.</i> 21. The Board may appoint one or more Committees to carry out, some of its functions.	
22. A member of the Board who is in any way directly or indirectly interested in any contract or proposed contract or arrangement shall disclose the nature of his interest at a meeting of the Board where the subject is first discussed by the Board, and the disclosure shall be recorded in the minute book of the Board, and the member shall not take part in any deliberation or decision of the Board with respect to that transaction or project. <i>Disclosure of Interest by Members of the Board</i> 23. A member of the Board need not attend in person a meeting of the Board in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to ensure that	<i>22. The decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.</i> <i>Disclosure of Interest by Members of the Board</i> 23. A member of the Board who is in any way directly or indirectly interested in any contract, proposed contract or arrangement shall disclose the nature of his interest at a meeting of the Board where the subject is	

the disclosure is made by a notice which is brought up and read at the meeting.	<i>first discussed, and the disclosure shall be recorded in the minute book of the Board, and the member shall not take part in any deliberation or decision of the Board with respect to that transaction or project.</i>	
24. The personal interest of a member shall not conflict with any of his duties - as a member under this Act. <i>Conflict of Interest</i> 25. A member shall not in the course of the management of affairs of the Fund or in the utilization of the Fund's property, make any secret profit or achieve other unnecessary benefits. 26. A member shall be accountable to the Fund for any secret profit made by him or any unnecessary benefit derived by him contrary to this provision.	24. A member of the Board need not attend in person a meeting of the Board in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to ensure that the disclosure is made by a notice which is brought up and read at the meeting. <i>Conflict of Interest</i> 25. The personal interest of a member shall not conflict with any of his duties -as a member of the Board under this Act. 26. A member shall not in the course of the management of affairs of the Roads Fund or in the utilisation of the Roads Fund's property,	

	make any secret profit or achieve other unnecessary benefits.	
	27. A member shall be accountable to the Roads Fund for any secret profit made by him or any unnecessary benefit derived by him contrary to this provision.	
<i>The Common Seal</i> 27. The common seal of the Board shall not be affixed to any instrument except by the authority of a resolution of the Board and the affixing of the common seal shall be authenticated by the signatures of the Chairman and the Secretary, or of some other members authorized generally or specifically by the Board to act for the purpose. Any document purporting to be a document duly executed under the common seal of the Board shall be received in any court and shall, unless contrary is proved, be deemed to be so executed.	<i>The Common Seal</i> 28. The common seal of the <i>Roads Fund</i> shall not be affixed to any instrument except by the authority of a resolution of the Board and the affixing of the common seal shall be authenticated by the signatures of the Chairman and the Secretary, or of some other members authorised generally or specifically by the Board to act for the purpose. Any document purporting to be a document duly executed under the common seal of the Roads Fund shall be received in any court and shall, unless the contrary is proved, be deemed to be so executed.	

28. The validity of any proceedings of the Board shall not be affected by vacancy in the membership of the Board or by any defect in the appointment of a member of the Board, or by reason that a person not entitled to do so took part in the proceedings.	29. The validity of any proceedings of the Board shall not be affected by vacancy in the membership of the Board, <i>any defect in the appointment of a member of the Board or by reason that a person not entitled to do so took part in the proceedings.</i>	
	SECOND SCHEDULE PROVISIONS RELATED TO CHARGING, PAYMENT AND COLLECTION OF LEVIES, FEES, CHARGES, SURCHARGES OR OTHER STIPULATED SOURCES OF FUNDING UNDER THIS ACT Levies, fees, charges and surcharges stated in Section 4 (a-g) under this Act shall be administered as prescribed under this Schedule; <i>1. Fuel Levy on Imported Petroleum Products</i> <i>(a) There shall be paid into the Roads Fund a levy of five naira (=N= 5) per litre on any</i>	

volume of petrol and diesel products imported into Nigeria;

The five naira is reviewable subject to approval of the National Assembly.

(b) The levy shall be paid in full directly into the designated accounts of the Roads Fund by the importer and the evidence of payment shall be required to be provided to the Nigerian Customs Service for the purposes of clearing and permitting the importation of such products;

(c) The Nigerian Customs Service shall at all times be responsible for assessing and ensuring the accurate remittance of the payable Fuel Levy into the designated accounts of the Roads Fund and shall render reports and accounts to the Board of the Roads Fund of the total amounts from receipts of payment of such levies to the Roads Fund account; and,

(d) The Minister shall in consultation with the Minister for Petroleum have the power to review and determine the amount to be charged as Fuel Levy every five years from the

commencement of this Act provided that any increment shall not exceed a 30% increase over the preceding amount of levy payable.

2. Fuel Levy on Locally Refined Petroleum Products.

(a) There shall be paid into the Roads Fund a levy of five naira (=N= 5) per litre on any volume of petrol and diesel products sold out from any refinery in Nigeria;

The five naira is reviewable subject to approval of the National Assembly

(b) The refinery and the agency in charge of marketing petroleum products in Nigeria shall be responsible for assessing and ensuring the accurate payment or remittance of the payable Fuel Levy into the designated accounts of the Roads Fund; and,

(c) The Fuel Levy payable on locally refined petroleum products under subsection (a) and (b) of this section shall be payable no later than thirty (30) days after the delivery of the petroleum products from the refinery.

(d) The Minister shall have the power to review and determine the amount to be charged as Fuel Levy every five years from the commencement of this Act provided that any increment shall not exceed a 30% increase over the preceding amount of levy payable and it shall be approved by the National Assembly.

3. Axle Load Control Charges.

(a) There shall be paid into the Roads Fund Axle Load Control Charges which shall be paid in a manner and rate as shall be determined and prescribed by the Minister from time to time under Regulations to be made under the provisions of this Act; and,

(b) The Federal Roads Agency shall be responsible for assessing and ensuring the accurate remittance of all Axle Load Control Charges into the designated accounts of the Roads Fund.

4. Toll Fees.

(a) There shall be paid into the Roads Fund, Toll Fees, chargeable on any road owned by

the federal government and designated as a toll road by the Minister;

(b) A percentage not less than 10% of any revenue paid as user charge per vehicle on any road designated as a toll road under subsection (a) of this subsection shall accrue and be payable to the Roads Fund;

(c) Any toll road operator, concessionaire or other authority responsible for the collection of toll fees on any road designated as a toll road under subsection (a) of this section shall be responsible for assessing and ensuring the accurate payment or remittance of the payable revenue from toll fees into the designated accounts of the Roads Fund; and,

(d) The Minister has the power to review and vary the amount of the percentage of revenue that shall accrue to the Roads Fund as provided under subsection (b) of this section

5. International Vehicle Transit Charges.

(a) There shall be paid into the Roads Fund, International Vehicle Transit Charges on any foreign registered vehicle entering into Nigeria at any time through any land border;

(b) The charge shall be paid in full directly into the designated accounts of the Roads Fund by the person bringing a vehicle into Nigeria and the evidence of the payment of which shall be provided to the Customs Service for the purposes of permitting of such vehicle entry into Nigeria;

(c) The Nigerian Customs Service shall ensure accurate remittance of the payable International Vehicle Transit Charge into the designated accounts of the Roads Fund and shall render reports and accounts to the Board of the Roads Fund and to the Minister of the total amounts from receipts of payment of charges to the Roads Fund account; and,

(d) The Minister shall have the power to review and determine the amount to be charged as International Vehicle Transit Charge from time to time.

6. Inter-State Mass Transit User Charge

(a) There shall be paid into the Roads Fund, Inter-State Mass Transit User Charge being a 0.5% charge on the fare paid by passengers to commercial mass transit operators for inter-state travel

(b) The charging and collection of the Inter-State Mass Transit User Charge shall be as determined by the Road Sector Regulator under the provisions of its Act

(c) Any funds accruing to the Roads Fund for Inter-State Mass Transit User Charges shall be paid into the designated accounts of Roads Fund

7. Roads Fund Surcharge.

(a) There shall be paid into the Roads Fund a surcharge of 0.5% on the assessed value of any vehicle imported at any time into Nigeria;

(b) The surcharge shall be paid in full into the designated accounts of the Roads Fund by the importer of any vehicle and the evidence of the payment shall be provided to the Nigeria Customs Service for the purposes of clearing and permitting the importation of a vehicle;

(c) The Nigeria Customs Service shall be responsible for assessing and ensuring the accurate remittance of the payable Roads Fund Surcharge into the designated accounts of the Roads Fund and shall render reports and accounts to the Board of the Roads Fund

of the total amounts from receipts of payment of such levies to the Roads Fund account; and,

(d) The Minister shall have the power to review and determine the amount to be charged as Roads Fund Surcharge from time to time.

8. Lease, License or Other Fees

(a) There shall be paid into the Roads Fund revenue accruing from lease or license or other fees pertaining to non-vehicular road usages to include the placement of advertising, billboard and signage, telecommunications equipment (masts, cables etc.) or other equipment along any federal road at rates as may be prescribed by the Minister under a regulation made under this Act.

(b) The Federal Roads Agency shall be responsible for the assessment, charging and collection of fees prescribed under this section as above, and shall remit an amount of not less than 10% of such revenue into the Roads Fund.

EXPLANATORY MEMORANDUM (This Memorandum does not form part of the above Bill but is intended to explain its purport) This Bill seeks to establish the Road Fund which shall be a repository for revenues accruing from road user charging systems and other sources for the purpose of financing the maintenance and upkeep of national roads and promote sustainable development of the road sector.	EXPLANATORY MEMORANDUM (This Memorandum does not form part of the above Bill but is intended to explain its purport) This Bill seeks to establish the Roads Fund which shall be a repository of revenue accruing from road user charging systems and other sources for the purpose of financing the maintenance and upkeep of national roads and promote sustainable development of the road sector.	
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