

CAYMAN ISLANDS



Supplement No. 1 published with Extraordinary
Gazette No. 23 dated 30 June, 2004.

THE NATIONAL ROADS AUTHORITY LAW, 2004

(LAW 10 OF 2004)

**THE NATIONAL ROADS AUTHORITY LAW,
2004**

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CAYMAN ISLANDS

Law 10 of 2004.

I Assent

B. H. Dinwiddy

Governor.

28 June, 2004

**A LAW TO ESTABLISH THE NATIONAL ROADS AUTHORITY WITH
RESPONSIBILITY FOR ENSURING THE EFFECTIVE AND
EFFICIENT MANAGEMENT OF PUBLIC ROADS; TO ENSURE A
STABLE AND ADEQUATE SOURCE OF FUNDING FOR THE
MANAGEMENT OF PUBLIC ROADS; TO ESTABLISH CLEAR
CHANNELS TO SECURE THE FLOW OF FUNDS TO THE NATIONAL
ROADS AUTHORITY; AND FOR INCIDENTAL AND CONNECTED
PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

PART I - PRELIMINARY

1. (1) This Law may be cited as the National Roads Authority Law, 2004.

Short title and
commencement

(2) This Law shall come into force on 1st July, 2004.

2. In this Law -

Interpretation

“Authority” means the National Roads Authority established under section 3;

“Board” means the board of directors of the Authority established under section 7;

“chairman” means the chairman of the Board;

“core government”, “equity investments”, “executive assets” and “executive revenue” have the respective meanings assigned to those expressions by section 3 of the Public Management and Finance Law;

“deputy chairman” means the deputy chairman of the Board;

“Deputy Managing Director” means the person appointed as such under section 11(2);

“director” means a member of the Board appointed under section 7(4);

“Executive Secretary” means the executive secretary of the Authority appointed under section 7(6);

“financial year” means a year ending on 30 June;

“funds” includes monies, stocks, shares and other securities;

“Governor” means the Governor in Cabinet;

“Managing Director” means the person appointed as such under section 11(1);

“Minister” means the Member of Cabinet for the time being charged with responsibility for roads in accordance with section 9 of the Constitution;

“property” includes -

- (a) money, goods, things in action, land and every description of property, whether real or personal; and
- (b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a);

“Public Management and Finance Law” means the Public Management and Finance Law (2003 Revision);

“public officer” has the meaning assigned to that expression in the Constitution;

“public road” means a road which -

- (a) is maintained at public expense; or
- (b) is dedicated in that capacity to the use of the public as of right,

and which, in either event, is declared by the Governor to be a public road pursuant to the Roads Law (2000 Revision); and, for the purposes of section 21, “public road” includes the land on which the road is built; (2000 Revision)

“road” includes the carriageway, waterways, bridges, culverts and fordings on the edge of the road, and the land on each side of the carriageway and waterways up to the boundary of the road; but does not include a mosquito control trail other than to the extent to which any such trail is declared to be a public road under the Roads Law (2000 Revision); (2000 Revision)

“Road Fund” means the road fund established under section 18;

“road user charge” means a charge imposed in relation to the use of a public road; and

“Roads Development Fund” means the fund established for the purpose of developing roads, pursuant to a motion of the Legislative Assembly passed on 11th March, 1998.

PART II – ESTABLISHMENT AND ADMINISTRATION OF NATIONAL ROADS AUTHORITY

3. (1) There is established the National Roads Authority having the responsibilities, functions, powers and duties conferred or imposed upon it by this Law and any other Law. Establishment of the National Roads Authority and vesting of property

(2) The Authority shall be a body corporate having perpetual succession and a common seal and, subject to the provisions of this Law, shall have power to buy, sell, hold, deal and otherwise acquire and dispose of land and other property of any kind and to enter into contracts and to do all things necessary or desirable for the purposes of its responsibilities, functions, powers and duties.

(3) The Authority may sue and be sued in its corporate name and it shall have exclusive right to use the name “the National Roads Authority”.

(4) The Authority shall establish and maintain its head office and principal place of business within the Islands, and shall cause details thereof to be gazetted, and service of all documents on the Authority shall be deemed to be effective if delivered at the head office.

(5) The property belonging to the Government specified in the Schedule shall, on the date this section comes into force, vest in the Authority without further assurance. Schedule

Use of seal and authentication of documents

4. (1) The seal of the Authority shall be authenticated by the chairman or deputy chairman and one other director of the Board authorised to act in that behalf and shall be judicially noticed.

(2) The Authority may, by resolution, appoint an officer of the Authority or any other agent either generally or in a particular case to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to any matter coming within the powers of the Authority.

Responsibilities, functions and duties of the Authority

5. (1) The Authority shall be responsible for the administration, management, control, development and maintenance of public roads and related facilities.

(2) For the purposes of subsection (1), the Authority shall -

- (a) plan, design, construct, develop, maintain, protect and administer public roads and related road works;
- (b) subject to the provisions of the Electricity Law (2003 Revision), be responsible for ensuring the installation, repair, maintenance and operation of works for the supply, transmission and distribution of electricity in relation to public roads (including street lighting) in accordance with standards required by the Authority;
- (c) be responsible for ensuring the repair or restoration of public roads that have been opened or broken up pursuant to the provisions of the Electricity Law (2003 Revision) or any other Law, and the repair or restoration of such public roads shall be in accordance with standards required by the Authority;
- (d) maintain and preserve such records relating to its functions as it considers expedient;
- (e) maintain and update a list of public roads;
- (f) carry out, on a permanent basis, such necessary engineering traffic and economic studies as it may consider necessary for the maintenance and improvement of public roads;
- (g) implement a maintenance management system for planning, organizing, directing and controlling routine and periodic maintenance activities performed by employees of the Authority or through independent contractors;
- (h) carry out either by its employees or through contracts with qualified consultants, location and design studies (including right-of-way requirements) necessary for proposed public road improvement or rehabilitation projects and prepare corresponding construction plans, specifications, cost estimates and other documents required for proper tendering of the proposed works;

- (i) subject to any Law for the time being in force, tender, let and administer contracts for public road improvement and rehabilitation projects and for public road maintenance activities for which contracting is considered by the Authority to be cost effective or otherwise advantageous;
 - (j) carry out, either through its employees or through independent contractors, the necessary routine periodic and emergency public road maintenance activities in accordance with the service level of maintenance established for each class or type of public road;
 - (k) keep adequate records and operate a management information system which provides the managers with timely and accurate information on commitments and expenditure for works and services for which the managers are responsible;
 - (l) carry out a comprehensive continuing programme of professional staff development and appropriate skills training for non-professional staff;
 - (m) establish and operate facilities for the testing of materials in connection with the construction and the maintenance of public roads;
 - (n) supervise work contracted out under this Law;
 - (o) operate public road management systems;
 - (p) acquire, hire and improve property required for the exercise and performance of the responsibilities, powers, duties and functions of the Authority and to dispose of such property, provided that the Authority may only acquire or dispose of immovable property with the consent of the Governor and subject to the provisions of the Governor (Vesting of Lands) Law (1998 Revision);
 - (q) set operational priorities with regard to construction, upgrading, rehabilitation and maintenance of public roads;
 - (r) provide to the Minister advice on -
 - (i) the adequacy of the funding provided to the Authority from the Road Fund for financing the maintenance and construction of public roads;
 - (ii) the need to develop new, or abolish or amend existing, financing instruments for the Road Fund; and
 - (iii) the optimal level of Authority revenue from the Road Fund in the context of other revenue sources of the Authority; and
 - (s) perform such other responsibilities, functions and duties as may be assigned to it by this or any other Law.
- (3) Without prejudice to subsections (1) and (2), the Authority has power to carry on any activity which appears to it to be requisite, advantageous or

convenient for or in connection with the performance of its responsibilities, functions or duties.

(4) The Authority shall perform its responsibilities, functions and duties through the Managing Director.

(5) The Board shall issue, to the Managing Director, policy directions with respect to any matters for which the Managing Director has responsibility under this Law.

Minister may give
general directions

6. (1) The Minister may, after consultation with the Board, give such general and lawful directions in written form as to the policy to be followed by the Authority in the performance of its responsibilities, functions and duties, and the Board shall give effect to such directions.

(2) Any direction given or decision made by the Minister which affects the members of the public and which is not of an internal or administrative nature, shall be published in the Gazette; but no such direction shall apply in respect of a matter pending before the Authority on the day on which the directions are published.

Constitution and
responsibilities of the
Board of the Authority

7. (1) The Authority shall have a board of directors which shall be responsible for the policy and general administration of the affairs and business of the Authority.

(2) Without prejudice to the generality of subsection (1), the Board shall be responsible for -

- (a) securing the effective implementation of the responsibilities, functions and duties of the Authority;
- (b) overseeing the effective performance of the Authority; and
- (c) setting operational priorities with regard to construction, upgrading, rehabilitation and maintenance of public roads.

(3) The Board shall have power to -

- (a) act by sub-committee; and
- (b) delegate any of its daily administrative duties and powers from time to time to such sub-committees and to any of their own number and to the employees and agents of the Authority,

except that where the Board sets up a sub-committee which consists of members other than directors and employees of the Authority, it may only act or delegate its duties or powers to such sub-committee with the approval of the Governor.

(4) The Board shall consist of not less than twelve nor more than thirteen directors of whom -

- (a) one, not being a public officer, shall be chairman;
- (b) one, not being a public officer, shall be deputy chairman;
- (c) one, who has demonstrated to the satisfaction of the Board substantial knowledge of and experience in planning, design and development of public roads, shall be the Managing Director;
- (d) one, who has demonstrated to the satisfaction of the Board substantial knowledge of and experience in planning, design and development of public roads, shall be the Deputy Managing Director;
- (e) one shall be the Permanent Secretary of the Ministry responsible for roads or his nominee;
- (f) one shall be the Financial Secretary or his nominee;
- (g) three shall be individuals who have demonstrated to the satisfaction of the Governor substantial knowledge of and experience in one or more of the following areas -
 - (i) tourism;
 - (ii) law; and
 - (iii) environmental matters; and
- (h) the others shall be not less than three but not more than four individuals,

to be appointed for not less than three years by the Governor, but who shall hold office at his pleasure.

(5) An individual appointed to be a director under subsection (4)(g) or (h) shall hold office for a term of not more than three years and shall be eligible for re-appointment.

(6) The Board shall appoint an individual (not being a director) to be the Executive Secretary of the Authority, who shall be answerable to the Board for his acts and decisions, shall be a full time officer and employee of the Authority and shall render his services exclusively to the Authority.

(7) The Executive Secretary -

- (a) shall be present at all meetings of the Board and its sub-committees and shall take minutes of the business transacted;
- (b) shall carry out the administrative work of the Board and its subcommittees; and
- (c) shall provide the secretarial support for the Board, including the distribution of minutes, the coordination of meetings and the

communication of decisions for action to the members of the Board and its sub-committees.

(8) The Board shall be deemed to be properly constituted notwithstanding that there is a vacancy in the office of chairman or deputy chairman or any other director.

(9) There shall be paid to any director (other than a public officer) appointed under subsection (4)(e) or (f), such remuneration as the Governor may determine.

(10) The Governor shall terminate the appointment of any director who -

- (a) resigns his office;
- (b) becomes of unsound mind or incapable of carrying out his duties;
- (c) becomes bankrupt or suspends payment to or compounds with his creditors;
- (d) is convicted in the Islands or elsewhere of any offence involving dishonesty or fraud;
- (e) is guilty of serious misconduct in relation to his duties;
- (f) is absent without leave of the chairman from three consecutive Board meetings; or
- (g) fails to comply with his obligations under section 9.

(11) If any director dies or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, another person may be appointed by the Governor for the unexpired period of the term of office of the director in whose place he is appointed.

Meetings of the Board

8. (1) The chairman of the Board shall summon regular meetings of the Board as often as may be required but not less than ten times in any one year.

(2) Meetings of the Board shall be held at such places on such days, and at such times as the chairman shall determine, and due notice of such place, date and time shall be given to each director in writing at least seven days before the time at which the meeting is to be held.

(3) The chairman may at any time call a special meeting of the Board within two days of receipt of request for that purpose addressed to him in writing and signed by any three directors.

(4) The chairman may at any time, in exceptional circumstances, call a special meeting of the Board.

(5) A meeting of the Board shall be presided over by -

- (a) the chairman; or
- (b) in the absence of the chairman, the deputy chairman; or
- (c) in the absence of both the chairman and deputy chairman, such director as the directors present elect to act as chairman at that meeting.

(6) The quorum of the Board shall be a majority of the appointed directors.

(7) Every question or matter to be determined by the Board at any meeting shall be decided by a majority of the votes of the directors present and voting on the question or matter and in the event of any equal division of votes on any question or matter the person presiding at the meeting shall give a second or casting vote.

(8) The decisions, resolutions, orders, policies and rules made by the Board shall be recorded in the minutes and kept by the Executive Secretary; and the Board shall cause any decision, resolution, order, policy or rule which affects the members of the public to be published in the Gazette, in a website or in a newspaper of the Islands.

9. (1) If a director has any pecuniary interest, direct or indirect, in any contract, proposed contract, licence or other matter and is present at a meeting of the Board at which any of the foregoing is to be considered, he shall at or before the meeting or before the matter is considered disclose the fact and shall leave the meeting for the duration of and not take part in the consideration or discussion of or vote on the matter.

Disclosure of director's
interests

(2) If any director fails to comply with subsection (1) he shall be guilty of an offence and liable -

- (a) on summary conviction to a fine of five thousand dollars or imprisonment for a term of six months, or both; or
- (b) on conviction on indictment to a fine of ten thousand dollars or imprisonment for a term of two years, or both,

unless he proves that he did not know that the matter in which he had a pecuniary interest was the subject of consideration at that meeting.

(3) A disclosure under subsection (1) shall be recorded in the minutes of the Board meetings.

(4) No act or proceeding of the Board shall be questioned on the ground that a director contravened this section.

(5) This section does not apply to an interest in a contract or licence or proposed contract or licence or other matter which a director has as a member of the public or to an interest in any matter relating to the terms on which the right to participate in any service is offered to the public.

Director's pecuniary interests

10. (1) For the purposes of section 9, a director shall be treated as having an indirect pecuniary interest in a contract, proposed contract, licence or other matter if -

- (a) he or any nominee of his is a member of a company or other body which has a direct or indirect pecuniary interest in the contract, proposed contract, licence or other matter under consideration;
- (b) he is a partner, or in the employment of a person with whom the contract was made or is proposed to be made, or who has a direct or indirect pecuniary interest in the contract, proposed contract, licence or other matter under consideration; or
- (c) he or any partner of his is a professional adviser to a person who has a direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter under consideration.

(2) Subsection (1) does not apply to membership of, or employment by, any public body.

(3) In the case of married persons the interest of one spouse shall be deemed for the purpose of section 9 to be also the interest of the other.

(4) The Governor may subject to such conditions as he may think fit appoint persons to act as directors for any specified period, in any case in which the number of directors disabled by section 9 at any one time would be so great a proportion of the whole as to impede the transaction of business by the Board.

PART III – PERSONNEL OF THE AUTHORITY

Managing Director and Deputy Managing Director

11. (1) The person appointed to be a director under section 7(4)(c) shall be appointed by the Board to be the Managing Director of the Authority, at such remuneration and on such terms and conditions as the Board may think fit.

(2) The person appointed to be a director under section 7(4)(d) shall be appointed by the Board to be the Deputy Managing Director of the Authority, at such remuneration and on such terms and conditions as the Board may think fit.

(3) The Managing Director and the Deputy Managing Director shall be answerable to the Board for their respective acts and decisions, shall both be full

time officers and employees of the Authority and shall render their services exclusively to the Authority.

(4) In the Managing Director's absence or inability to fulfil his duties, the Deputy Managing Director shall discharge the duties and functions of the Managing Director during the period of his absence or disability.

12. (1) The Managing Director shall be the principal executive officer of the Authority entrusted with the day to day management and administration to the extent of the authority delegated to him by the Board.

Functions, powers and duties of the Managing Director

(2) The Managing Director shall manage road operations and procurement on behalf of the Authority, subject to the directions of the Board, and to this end shall -

- (a) oversee the technical operations of the Authority related to planning, demand forecasting, construction, upgrading, rehabilitation or maintenance;
- (b) procure and conclude contracts on behalf of the Authority subject to approval by the Board;
- (c) monitor the operations of persons administering road user charges;
- (d) establish, maintain and update an asset register of the Authority;
- (e) supervise the development and implementation of a human resources plan which shall include but not be limited to succession planning and re-training within a defined organisational structure, and appoint staff of the Authority in accordance with the plan;
- (f) supervise communication and marketing campaigns aimed at sensitizing road users and the general public to the role of roads in economic development and the activities of the Authority; and
- (g) supervise research with regard to any aspect related to the implementation of this Law, including technical standards in respect of -
 - (i) infrastructure planning, land use planning and design;
 - (ii) materials testing; and
 - (iii) road and bridge construction.

13. The Managing Director shall perform his responsibilities, functions and duties in accordance with an operational plan approved by the Board, which shall -

Operational plan

- (a) specify a three year public roads development programme, including -
 - (i) construction programmes for new public roads; and

- (ii) maintenance, rehabilitation and upgrading programmes in respect of existing public roads;
- (b) specify a procurement plan relating to such development programme; and
- (c) specify a human resources plan for the Authority with a defined organisational structure for the purpose of giving effect to paragraph (a).

Power to employ staff,
etc.

14. (1) The Board may employ, at such remuneration and on such terms and conditions as may be approved from time to time by the Board, such employees and engage under contract for services such professional, technical or other assistance, as it considers necessary to carry out its functions.

(2) Subject to this Law, the Board shall determine the executive, management and administrative structure of the Authority for the necessary and proper discharge of the duties, responsibilities and functions of the Authority including, without limitation, the delegation of functions to directors and employees and to sub-committees of the Board.

(3) The Board shall also determine -

- (a) the professional qualifications and requirements of the employees of the Authority and persons under contracts for services with the Authority;
- (b) the terms and conditions of employment and contracts for services with the Authority; and
- (c) disciplinary procedures for employees of and for persons under contracts for services with the Authority.

Transfer of public
officers to the Authority

15. (1) A person who is a public officer immediately before the date of commencement of this section may, on or after that date, be offered employment by the Authority and, if he accepts the offer, shall become an employee of the Authority on the same terms and conditions as those applicable to him on the day immediately preceding such date except -

- (a) to the extent other terms and conditions are agreed between such employee and the Authority; and
- (b) that disciplinary matters shall be dealt with in accordance with the Labour Law (2001 Revision) and the disciplinary rules and procedures of the Authority and not under General Orders.

(2001 Revision)

(2) Pension arrangements and medical benefits relating to any employee specified under subsection (1) shall be subject to sections 16 and 17, respectively.

(3) The Governor may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Government by way of secondment to any office with the Authority, and any public officer so appointed shall, in relation to discipline, salary, pension, gratuity or other allowance and to other rights and obligations as a public officer, be treated as continuing in the service of Government.

16. (1) The Authority shall subscribe to the Public Service Pensions Fund in accordance with the provisions of the Public Service Pensions Law (2003 Revision) for the payment of pensions to all employees of the Authority.

Pension fund

(2003 Revision)

(2) Notwithstanding subsection (1) -

- (a) where an employee transferred in accordance with section 15(1) is entitled to a contracted officer's supplement the Authority shall not subscribe to the Public Service Pensions Fund in respect of such employee during the period in which the employee remains entitled to such supplement;
- (b) with respect to employees employed by the Authority after the date of the commencement of this section and who have not been transferred in accordance with this Law, the Authority has the option of subscribing to the Public Service Pensions Fund or of creating and maintaining or subscribing to a fund in accordance with the provisions of the National Pensions Law (2000 Revision); and
- (c) the Authority shall not subscribe to any fund in respect of those employees who are employed under contracts which are six months or less in duration.

(2000 Revision)

(3) The Authority shall be considered to be an employer for the purposes of the Public Service Pensions Law (2003 Revision) and an employee transferred in accordance with section 15(1) shall not be considered to have retired from Service for the purposes of that Law.

(2003 Revision)

17. The Health Insurance Law (2003 Revision) shall apply to the Authority except that -

Medical care for employees of the Authority and applicability of Health Insurance Law (2003 Revision)

- (a) the Authority may elect to provide free or subsidised medical benefits in lieu of, or in addition to, insurance coverage under that Law; and
- (b) any person described in section 15(1) shall, unless otherwise notified by the Authority, be entitled to receive from the Authority the medical benefits provided to him on the day preceding his transfer to the Authority.

PART IV – FINANCIAL PROVISIONS

Discontinuance of Roads Development Fund and establishment of Road Fund

18. (1) Subject to section 34(5), (6) and (7), the Roads Development Fund is discontinued with effect from the date of commencement of this section.

(2) There is hereby established within the core government a fund, to be called the “Road Fund” which shall be accounted for as a discretionary reserve in the financial statements of the core government in accordance with the provisions of the Public Management and Finance Law.

Revenue to be placed into Road Fund

19. (1) The following executive revenue shall, upon being earned by the Government, be placed in the Road Fund -

- (a) twenty percent of the duty charged, collected and paid pursuant to the Customs Tariff Law (2002 Revision), upon motor gasoline imported into the Islands;
- (b) sixteen and two-thirds percent of the duty charged, collected and paid pursuant to the Customs Tariff Law (2002 Revision), upon diesel oil imported into the Islands, excluding diesel oil under code number 27.03 in the First Schedule of that Law;
- (c) one hundred percent of the fees paid to the infrastructure fund pursuant to section 38(4) of the Development and Planning Law (2003 Revision); and
- (d) eighty percent of the fees paid in respect of the registration of motor vehicles under Part II of the Traffic Law (2003 Revision).

(2) The Governor may by regulations amend subsection (1).

(3) Regulations made under subsection (1) are subject to negative resolution of the Legislative Assembly.

Utilisation of Road Fund

20. The Road Fund shall be used by the Governor to –

- (a) acquire or construct public roads and other related executive assets;
- (b) purchase from the Authority outputs related to the maintenance of public roads or the exercise of any other function of the Authority; and
- (c) make equity investments into the Authority,

pursuant to an appropriation in accordance with the provisions of the Public Management and Finance Law.

Public roads to be asset of the Government

21. Any public road existing at the date of commencement of this section and any public road constructed by the Authority from money appropriated from the Road Fund shall be an asset of the Government and accounted for in the financial

statements of the core government in accordance with the provisions of the Public Management and Finance Law.

22. (1) Subject to the approval of the Governor, the Authority may levy and collect a road user charge on users of public roads provided that the amount of the road user charge –

Levying and collection
of user charges

- (a) is directly related to the amount of usage of roads by the users concerned;
- (b) is determined in a transparent and equitable manner; and
- (c) is regularly reviewed for accuracy and equity.

(2) Before levying a road user charge in accordance with subsection (1), the Authority shall publish in the Gazette a notice specifying -

- (a) the amount of the proposed road user charge;
- (b) the classes of vehicles to be charged with reference to the amount of the proposed road user charge;
- (c) the classes of vehicles, if any, to be exempted from the proposed road user charge;
- (d) the manner in which the proposed road charge is to be paid; and
- (e) the date on which the levying of the proposed road charge is to commence.

(3) The notice referred to in subsection (2), shall be published at least three months prior to the date on which the levying of the road user charge is to commence.

(4) The Authority may authorise any other person to collect a road user charge on its behalf in the manner which the Authority deems fit.

23. (1) The revenue and resources of the Authority shall comprise -

Revenue and resources
of the Authority

- (a) such monies as may be appropriated by Law for the purposes of the Authority, including those from the Road Fund;
- (b) road user charges collected by the Authority in accordance with section 22;
- (c) gifts or bequests received by the Authority in accordance with section 27;
- (d) other monies paid and property provided to the Authority by way of grants, rent, interest and other income derived from the investment of the Authority's funds;
- (e) monies derived from the disposal of or dealing with real or personal property held by the Authority;
- (f) monies borrowed by the Authority in accordance with this Law; and

- (g) any property lawfully received or made available to the Authority.

(2) Subject to the provisions of this Law, monies appropriated by the Legislative Assembly for the purposes of the Authority, any income derived from fees and any other income of the Authority, shall be held and applied to furthering the purposes of the Authority in such manner as the Authority may think fit.

(3) Monies appropriated by the Legislative Assembly for the purposes of the Authority shall be applied by the Authority in accordance with the terms of the appropriation.

Financial year

24. The financial year of the Authority shall end on 30 June.

Capital and borrowing powers of the Authority

25. (1) The Authority shall have the power to borrow for or in connection with the performance of its responsibilities, functions and duties.

(2) In accordance with a resolution of the Legislative Assembly, the Governor may guarantee the payment of the principal and interest on any authorised borrowings of the Authority.

Applicability of Public Management and Finance Law (2003 Revision)

26. (1) The Authority is a statutory authority as defined in section 3 of the Public Management and Finance Law (2003 Revision) and accordingly the provisions of that Law apply, among other things, to -

- (a) the Authority's expenditure budget for each financial year; and
- (b) the preparation, maintenance, auditing and publication of the Authority's accounts.

(2) Where the exercise of any power conferred by or under this Law would be inconsistent with the exercise of a power conferred by or under the Public Management and Finance Law, the provisions of the Public Management and Finance Law shall to the extent of the inconsistency prevail over the provisions of this Law.

Power of Authority regarding funds, gifts, land etc.

27. (1) Subject to section 21, the Authority shall have the power -

- (a) to receive all funds or gifts in kind given or bequeathed to the Authority, or to the Government for the purposes of the Authority, or given or bequeathed by words showing an intention that the funds or gifts should inure to or for the benefit of the Authority; and
- (b) to acquire by purchase, gift or demise, and hold in their corporate capacity, with the previous sanction in each case of the Governor

but not otherwise, any land in the Islands required to further the purposes of the Authority.

(2) Subject to the provisions of this Law, the Authority shall apply all such funds or gifts specified in subsection (1)(a) or, if such funds are invested, the income derived therefrom, to furthering the purposes of the Authority in such manner as the Authority thinks fit.

(3) The powers conferred by subsection (1) shall not be exercised in any manner inconsistent with any condition or action imposed or given by the donor or testator with respect to such fund or gift.

(4) The following provisions shall have effect with respect to funds received by the Authority by way of gift or bequest for the purposes of the Authority -

- (a) the Authority may invest liquid funds in such bank deposits or similar financial instruments as the Authority may determine, and shall so invest any such funds that are given or bequeathed for the endowment of the Authority;
- (b) the Authority may realise any funds that are in a state of investment, and any funds so realised which are given or bequeathed for the endowment of the Authority shall, as soon as may be practicable or expedient, be reinvested by the Authority; and
- (c) funds which, when received by the Authority, are in any investment, may be retained by the Authority in that investment.

28. (1) Any annual payment of the Authority to the core government shall be calculated by a formula determined by the Financial Secretary after consultation with the Authority and the Minister, and the balance shall be carried forward to the account of the Authority.

Annual payment to core government

(2) No receipts under section 23(1)(f) shall be taken into account in calculating the amount of any annual payment into the general revenue of the Islands pursuant to subsection (1).

PART V - GENERAL

29. (1) The Authority shall each year review its requirements for premises, and any premises in the possession of the Authority which are no longer required for the purposes of the Authority shall be disposed of in accordance with this section.

Disposal of premises no longer required by the Authority

(2) Premises which were transferred to the Authority by the Government for no consideration or for a nominal consideration shall be transferred by the Authority to the Government for no consideration or for the same nominal consideration, as the case may be.

(3) Premises other than those to which subsection (2) applies shall be offered to the Government for purchase at a fair market value; and any appraisal of real property in relation to this subsection shall be made according to the principles of valuation used by the Ministry responsible for lands.

(4) Where Government does not wish to purchase the premises offered to it under subsection (3) it shall notify the Authority in writing within twenty-one days of the receipt of the offer, after which the Authority may dispose of the premises on the open market to the Authority's best advantage.

Regulations

30. (1) The Governor may, upon recommendation by the Authority, make regulations prescribing –

- (a) such minimum standards for the maintenance of any public road as may, in the opinion of the Authority, be reasonably necessary in the national interest to promote accessibility to any area in the Islands;
- (b) the measures which are, in the opinion of the Authority, reasonably required in the management of public roads to cause the least possible disruption of the environment, but subject to the provisions of any other Law;
- (c) the manner in which the Authority or the Board may execute or perform any responsibility, function, duty or power, under this Law;
- (d) the fees, or portions thereof, that are to be charged for any service provided by the Authority including the repair or restoration of public roads under section 5(2)(c); and
- (e) all other matters as may be necessary for giving full effect to this Law and for its administration.

(2) Any regulation made under this Law may provide for the imposition of a fine of five thousand dollars or imprisonment for six months or both for any contravention of, or failure to comply with, such regulation.

Rules

31. The Authority may, subject to this Law, make such rules as it thinks fit to regulate its own internal management.

Immunity

32. Neither the Authority, nor any director or employee of the Authority, shall be liable in damages for anything done or omitted in the discharge or purported

discharge of their respective functions, responsibilities, powers and duties under this Law unless it is shown that the act or omission was in bad faith.

33. The Authority shall indemnify a director against all claims, damages, costs, charges or expenses incurred by that director in the discharge or purported discharge of his functions, responsibilities, powers and duties under this Law, except claims, damages, costs, charges or expenses caused by the bad faith of that director. Indemnity

34. (1) Subject to the provisions of this section, the Governor shall on such conditions as the Governor may determine, transfer to the Authority such liabilities, rights or obligations, which relate to or are connected with the management of roads by the Roads Section of the Public Works Department on the date immediately before the commencement of this section, as the Governor may determine. Savings and transitional provisions

(2) Notwithstanding any provision to the contrary in any other Law, the Authority shall, with effect from the date on which the liabilities, rights and obligations are transferred pursuant to subsection (1), be vested with the ownership of the rights and be charged with the liabilities and obligations so transferred or assigned to it.

(3) A certificate issued by the Minister in which it is stated that any right described in such certificate has been transferred to the Authority pursuant to subsection (1), shall be sufficient proof that the right so described vests in the Authority.

(4) The Authority shall be substituted as a contracting party in respect of any agreement transferred to the Authority pursuant to subsection (1), without such substitution bringing about a novation of such agreement.

(5) On the date of commencement of section 18, any amounts held in the Roads Development Fund shall be transferred to and vest in the core government without further assurance, and the core government shall have all powers necessary to take possession of, recover and deal with, those amounts.

(6) Where, immediately before the date of commencement of section 18, any amount is owing to the Roads Development Fund, such amount shall be deemed to be owing to the core government, and when paid or collected, shall be credited to the Road Fund.

(7) Where a document refers expressly or by implication to the Roads Development Fund, the reference shall be construed as a reference to the Road Fund.

SCHEDULE (Section 3(5))

PROPERTY TO BE VESTED IN THE NATIONAL ROADS AUTHORITY

Any moveable property as may be agreed between the Governor and the Authority.

Passed by the Legislative Assembly the 11th day of June, 2004.

LINFORD A. PIERSON

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.