



AN ACT TO ESTABLISH THE ZANZIBAR ROADS AGENCY AND OTHER MATTERS CONNECTED THERETO

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ACT NO. 11 OF 2019

I ASSENT

{DR. ALI MOHAMED SHEIN}
PRESIDENT OF ZANZIBAR AND CHAIRMAN OF
THE REVOLUTIONARY COUNCIL

31st December, 2019

**AN ACT TO ESTABLISH THE ZANZIBAR ROADS AGENCY AND
OTHER MATTERS CONNECTED THERETO**

ENACTED by the House of the Representatives of Zanzibar.

**PART ONE
PRELIMINARY PROVISIONS**

Short title and
Commence-
ment.

1. This Act may be cited as the Zanzibar Roads Agency Act, 2019 and shall come into operation after being assented to by the President.

Interpretation.

2. In this Act, unless the context requires otherwise:

“Agency” means the Zanzibar Roads Agency as established under section 3 (1) of this Act;

“Board” means an Advisory Board of the Agency established under section 7 (1) of this Act;

“Chairperson” means the Chairperson of the Board appointed under section 8 of this Act; and includes other person who performs the functions of the Chairperson;

“Executive Director” means a Executive Director of the Agency appointed under the provisions of section 17 of this Act;



“Government” means the Revolutionary Government of the Zanzibar;

“Minister” means the Minister responsible for roads;

“President” means the President of Zanzibar and Chairman of Revolutionary Council;

“Public roads” has meaning as ascribed under section 2 of the Roads Decree Cap 134;

“road facilities” includes bridges, road signs and any other structures situated or crossed to the public road;

“Road maintenance” means all works relating to preserve and to sustain the condition of the road;

“Road network” means the system of all roads of Zanzibar;

“Road” has meaning as ascribed under section 2 of the Roads Decree Cap 134.

PART TWO

ESTABLISHMENT OF ZANZIBAR ROADS AGENCY

Establishment
of the Agency.

3.-(1) There is hereby established a Government Agency to be known as the Zanzibar Roads Agency.

(2) The Agency shall be semi-autonomous body and shall, subject to the approval of the Minister, be capable to:

- (a) acquire, hold, purchase or dispose any movable and immovable property;
- (b) enter into any contract or transaction in accordance with the existing laws;
- (c) borrow any such sum of money from any financial institution in accordance with the provisions of the Public Finance Management Act; and
- (d) perform or do any act or thing which an Agency of its nature may by law, be entitled to perform or do according to the Law.



Acronym,
Seal and
Logo of the
Agency.

4.-(1) There shall be an acronym, common seal and logo of the Agency in a shape and size as may be determined by the Board.

(2) The application of the acronym, seal and logo of the Agency on any document shall be authenticated by the signature of the Executive Director or any other officer of the Agency authorized by the Executive Director.

(3) Every document purporting to be an instrument issued by the Agency, shall be sealed with the seal of the Agency and authenticated in accordance with subsection (2) of this section.

Objectives
of the
Agency.

5. The objectives of the Agency shall be to:

- (a) ensure Zanzibar has modern roads network which are quality, safe and comfort that will facilitate and promote the development of the socio-economic development of Zanzibar;
- (b) ensure the Agency has adequate road trained experts and are sustainable;
and
- (c) ensure the road services are accessible to the community;

Functions
of the
Agency.

6. The functions of the Agency shall be to:

- (a) construct new roads and maintain the existing roads within the road network;
- (b) supervise the consultants who construct the roads;
- (c) prepare and implement short and long term road maintenance programmes;
- (d) develop, maintain and update road maintenance management systems (RMMS) with regard to existing time;
- (e) plan, design and develop public roads in Zanzibar to ensure that such roads are in good and better condition at all time;
- (f) undertake research in collaboration with any institution with a view to facilitating road planning, development and maintenance;
- (g) establish, develop and maintain vehicle overloading system to control the use of roads for sustainable roads;



- (h) advise the Minister on the aspect of all roads issues;
- (i) prepare guidelines, design standards and specifications for road works and for monitoring its performance;
- (j) approve drawings and design and ensure the roads are constructed in accordance with design standards and quality;
- (k) promote and foster capacity building in road sectors including involvement of private sector in development, conservation and roads maintenance;
- (l) oversee and monitor road construction and maintenance activities including road safety and environmental issues;
- (m) oversee and monitor encroachment on roads reserve and destruction of roads furniture;
- (n) liaise with the road safety authorities on matters relating to safety of nature of the persons and animals on all roads of Zanzibar; and
- (o) perform any other functions which may be assigned to it by the Minister or necessary for achieving the purposes of this Act.

PART THREE

ADMINISTRATION AND MANAGEMENT OF THE AGENCY

Establishment
of the
Board.

7.-(1) There shall be an Advisory Board of the Agency which shall be composed of:

- (a) A Chairperson who shall be appointed by the President;
- (b) Director General from the Zanzibar Roads Transport and Safety Authority;
- (c) Executive Director;
- (d) Director responsible for the Local Governments Authorities;
- (e) Executive Director of the Zanzibar Roads Fund;
- (f) State Attorney from the Attorney General's Chambers; and
- (g) One engineer from a registered Engineering Association.



(2) Save for a Chairperson and ex-officio members, other members shall be appointed by the Minister upon consultation with the respective institution based on experience, professionalism and gender.

(3) The provisions relating to tenure of the members, quorum, decision of the meetings and other proceedings of the Board shall be as prescribed in the Schedule of this Act.

(4) The Minister may, from time to time, amend the Schedule when it deems necessary.

Appointment
and
Qualifications
of
Chairperson.

8.-(1) There shall be a Chairperson who shall be appointed by the President.

(2) A person shall qualify to be appointed as Chairperson of the Board, if he:

- (a) is a Zanzibari;
- (b) has at least first degree in the field of engineering, law, Public administration, public service or any other related field from the recognized institution;
- (c) has a working experience of not less than ten years in the public service; and
- (d) has high level of competence to manage efficiently and effectively the affairs of the Agency.

Functions
of the
Board.

9. The functions of the Board shall be to:

- (a) advise the Minister on matters related to:
 - (i) policy and strategic road issues;
 - (ii) formulating and reviewing the operating plans, budgets, reports and audit financial statements of the Agency;
 - (iii) implementation of:
 - (a) the strategic plan of the Agency;
 - (b) the annual plan of the Agency;
 - (c) procurement plan of the Agency; and
 - (d) any performance agreement;



- (b) propose the organizational structure, salary structure of the employees and other benefits in accordance with conditions of the Public Service Act;
- (c) recommend on the establishment of departments, units or sections within the Agency in accordance with Agency structure approved by the Public Service Commission; and
- (d) perform any other function conferred by this Act or which may be necessary for achieving the purposes for which the Agency is established.

Delegation of the functions of the Board.

10. The Board may, if it deems fit for the proper discharge of its functions, delegate some of its functions to the Executive Director, a committee or any other officer of the Agency.

Conflict of interest.

11. A member who has direct or indirect interest in a contract or proposed contract or any matter being deliberated by the Board, shall declare the nature of his interest to the Board and shall refrain from participating in the deliberation of the matter.

Co-option.

12. The Board may co-opt any person who is not a member of the Board to attend any deliberations of the meeting of the Board as an expert but such person so co-opted shall not have the right to vote.

Termination or suspension of the member of the Board.

13. The Minister may terminate or suspend any member of the Board other than Chairperson and ex-officio member if that member:

- (a) is unable to perform the functions of his office;
- (b) is convicted of a criminal offence involving fraud, dishonesty or moral turpitude; or
- (c) fails to attend three consecutive meetings of the Board without sufficient cause approved by the Chairperson.

Committees of the Board.

14.-(1) The Board may, for the purpose of facilitating the performance of its functions, establish such number of Committees to perform the specific functions as the Board may determine.

(2) The proceedings and other matters relating to such Committees so established, shall be as prescribed by the Board.



Vacancy of
a Member.

15.-(1) The office of a member of the Board shall become vacant if he:

- (a) dies;
- (b) fails to attend three consecutive meetings of the Board without sufficient cause approved by the Chairperson;
- (c) resigns or becomes in any manner disqualified from membership of the Board; or
- (d) fails to perform his duties by reasons of physical or mental health.

(2) Subject to the provisions relating to quorum, the Board may act notwithstanding any vacancy in the members thereof, and no act or proceedings of the Board shall be invalid by reason only of some defects in the appointment of a person who is purported to be a member thereof.

Secretary of
the Board.

16.-(1) The Board shall appoint a qualified lawyer who is an employee of the Agency to be a Secretary of the Board.

(2) The Secretary shall be accountable to the Board, and shall specifically ensure that:

- (a) the accurate minutes of meetings of the Board are properly taken, which shall be confirmed by the Board at its next meeting and signed by the Chairperson of the meeting and Secretary of the Board;
- (b) the correct and sufficient records of the Board are properly maintained;
- (c) proper notifications of the meetings of the Board are given to the members;
- (d) he provides the correct advice to the Board when so needed; and
- (e) he performs any other matter as the Board may, from time to time, direct.

PART FOUR THE EXECUTIVE DIRECTOR AND OTHER STAFF OF THE AGENCY

Appointment
of Executive
Director.

17. There shall be an Executive Director of the Agency who shall be appointed by the President.

Qualifications
of the
Executive
Director.

18. A person shall qualify to be appointed as the Executive Director if he:

- (a) is a Zanzibari;
- (b) has at least first degree in the field of engineering or project management relating to roads from the recognized institution;
- (c) has a working experience of not less than ten years in the field of engineering relating to roads; and
- (d) has high level of competence to manage efficiently and effectively the affairs of the Agency.

Duties of the
Executive
Director.

19.-(1) The Executive Director shall be a Chief Executive Officer of the Agency and shall be responsible for day to day functions.

(2) Without prejudice to the provisions of subsection (1) of this section, the duties of the Executive Director shall be to:

- (a) supervise all technical and professional roads matters of the Agency;
- (b) be accountable for all income and expenditure of the Agency in accordance with the relevant laws;
- (c) manage the affairs of the Agency in an efficient and cost reflective manner;
- (d) ensure all staff are adequately trained to perform their responsibilities and operations in an ethical and responsible manner;
- (e) supervise the disciplinary matters for the employees of the Agency in accordance with the Public Service Act;
- (f) to provide professional support to the Board;
- (g) report on activities of the Agency to the Board;
- (h) ensure that the objectives of the Agency are achieved;
- (i) oversee and promote the performance of Agency in all its functions through:



- (i) the administration of the day to day operation of the Agency;
- (ii) the management of the funds, properties and other business of the Agency; and
- (iii) performing any other duty necessary for the implementation of the provisions of this Act.

Staff of the
Agency.

20.-(1) The Agency may, upon such terms and conditions, employ other staff or hire services of a consultant or expert as may be necessary for proper performance of the functions of the Agency in accordance with the Public Procurement and Disposal of Public Assets Act.

(2) Recruitment of the staff made under subsection (1) of this section, shall be made in accordance with the Public Service Act and its Regulations.

(3) The existing lawful staff of the Roads Construction and Maintenance Department shall continue to work and be deemed to be the staff of the Agency immediately after this Act coming into operation.

Departments
and Units of
the Agency.

21.-(1) The Agency may establish departments and units in such number and manner as it deems necessary for proper performance of its functions in accordance with the provisions of the Public Service Act.

(2) Heads of departments shall be appointed by the Minister upon recommendations of the Board and heads of units shall be appointed by the Board after recommendation of the Executive Director subject to the provisions of the Public Service Act.

(3) The heads of departments and units shall be accountable to the Executive Director.

(4)(a) Without prejudice to the provisions of subsection (1) of this section, the Agency shall have sub office in Pemba which shall be led by the head of such office who shall be appointed by the Minister.

(b) The sub office of Pemba shall work under the directives and supervision of the Executive Director.

(5) In the performance of his functions, the Minister shall have the power to supervise the implementation of policies related to the Agency and provide general directives and orders to the Board of the Agency.



(6) Subject to the provisions of the Public Service Act and this Act, the Agency shall be responsible to submit any managerial and operational information to the Ministry whenever needed.

PART FIVE FINANCIAL PROVISIONS

Funds and
sources of
income of the
Agency.

22. The funds and resources of the Agency shall include:

- (a) moneys as may be approved by the House of Representatives for use by the Agency;
- (b) such fees or charges payable to the Agency for services rendered;
- (c) money received from Zanzibar Roads Fund for road maintenance;
- (d) such donations, grants or bequests as may be received from any institution or organization;
- (e) money paid from the leasing of road Construction equipment; and
- (f) any other moneys that may be legally acquired through the implementation of Agency's functions or otherwise.

Retention of
Monies.

23. The Agency may retain certain percentage of money collected from services rendered in accordance with the provisions of the Public Finance Management Act.

Budget.

24.-(1) The Agency shall, before the beginning of the new financial year, prepare an annual budget and submit to the Board for its consideration and thereafter shall submit to the Minister for consideration and approval in accordance with the provisions of the Public Finance Management Act.

(2) The Minister shall submit the annual budget of the Agency to the House of Representatives in the form and manner prescribed in the Public Finance Management Act.

Opening of
Bank Account.

25. The Agency shall, subject to provisions of the Public Finance Management Act, open bank account and deposit its moneys for the performance of its functions under this Act.



Accounts and
Audit.

26.-(1) The Agency shall keep and properly maintain books of accounts which includes all financial records and transactions for each financial year.

(2) The Executive Director shall, at the end of each financial year, prepare or cause to be prepared:

- (a) a statement of income and expenditure during such financial year;
- (b) a statement of the assets and liabilities of the Agency on the last day of that financial year which has been submitted and audited by the Controller and Auditor General or any other auditor appointed by the Controller and Auditor General; and
- (c) any other financial reports as may be required in accordance with provisions of the Public Finance Management Act.

(3) Copies of the statements or reports referred to in subsection (2) of this section, and a copy of the auditor's report if any, shall be submitted to the Board for consideration and thereafter shall be submitted to the Minister together with a report on the activities of the Agency during that financial year, and upon receipt, the Minister shall lay before the House of Representatives.

Annual
Report.

27.-(1) The Agency shall, in accordance with the Public Finance Management Act, submit to the Minister an annual report in respect of that year containing:

- (a) a copy of the audited accounts of the Agency, together with the auditor's report on those accounts;
- (b) a report on performance against key targets and any other related information;
- (c) a report on the operations of the Agency during that financial year; and
- (d) such other information on the activities of the Agency as the Minister may require.

(2) The Minister shall cause a copy of the annual report of the Agency to be laid before the House of the Representatives, within two months or at the next meeting of the House of Representatives after he has received the report under subsection (1) of this section.



PART SIX OFFENCES AND PENALTIES

Offences and
Penalties.

28.-(1) A person employed in the execution of any duty under this Act, who:

- (a) by virtue of his position obtains any information and uses such information for his personal interests or business transaction which might influence or affect security, interest or business transaction for personal gain;
- (b) knowingly complies for issue, distorts or provides false information for his personal gain; or
- (c) contravenes or fails to comply with any provision of this Act.

commits an offence and shall, upon conviction, be liable to a fine of not less than Two Million Tanzanian Shillings but not exceeding Five Million Tanzania Shillings or to imprisonment for a term not less than two year but not exceeding three years or to both such fine and imprisonment.

(2) A person who sells, uses, or allows to sell or use of raw materials, machine or any vehicle of the Agency for his private activities and without written permission of the Executive Director, commits an offence and shall, upon conviction, be liable to a fine of not less than Tanzanian Shillings Three Million but not exceeding Ten Million Tanzania Shillings or imprisonment for a term of not less than one year but not exceeding five years or both such fine and imprisonment.

(3) A person or institution which uses or allows to use the acronym, seal or logo of the Agency without consent of the Executive Director, commits an offence and shall, upon conviction, be liable to a fine of not less than Three Million Tanzanian shillings but not exceeding Five Million Tanzania Shillings or imprisonment for a term of not less than two years but not exceeding three years or both such fine and imprisonment.

(4) A person who refuses to allow or obstructs any officer of the Agency to exercise his lawful duties conferred under this Act, commits an offence and shall, upon conviction, be liable to a fine of not less than One Million Tanzanian shillings but not exceeding Three Million Tanzania Shillings or imprisonment for a term of not less than six months but not exceeding two years or both such fine and imprisonment.



(5) A person who has been given permission and uses any machine or device and negligently or intentionally causes damage, commits an offence and upon conviction, shall be liable to a fine of not less than Three Million Tanzania Shillings but not exceeding Five Million Tanzania Shillings or imprisonment for a term of not less than one year but not exceeding three years or both such fine and imprisonment.

PART SEVEN MISCELLANEOUS PROVISIONS

Vesting of
assets and
liabilities.

29. The assets, properties and liabilities which were vested in the Roads Construction and Maintenance Department before this Act shall, immediately after coming into operation of this Act, be deemed to be vested in the Agency under the provisions of this Act.

Immunity.

30. A member of the Board or any staff in the service of the Agency shall not be personally liable for an act, matter, or thing done or omitted to be done in good faith in the course of performance of his duties or functions under this Act.

Regulations.

31.-(1) The Minister may, after consultation with the Board, make Regulations for the better carrying out of the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1) of this section, the Minister shall make regulations which prescribes:

- (a) use, safety and maintenance of all Zanzibar roads;
- (b) erection of structures on, near, along or under all Zanzibar roads;
- (c) fees to be charged under this Act;
- (d) removal, demolition or alteration of any projection or structures, trees obstructing any road of Zanzibar or likely to cause danger or inconvenience to users of road; and
- (e) Any other thing which is necessary and required for the effective implementation functions of the Agency.

Saving.

32.-(1) Anything done by the Roads Construction and Maintenance Department before the commencement of this Act, shall continue and be deemed to have been done under the provisions of this Act.



SCHEDULE

Proceedings of the Board [Made under section 7 (3)]

Meetings of
the Board.

1.-(1) The Board shall meet ordinarily once in every three months and may meet for the emergency meetings at any time when the need arises for the discharge of its functions.

(2) All meetings of the Board shall be convened by the Chairperson.

(3) Where the Chairperson is absent, the Vice-Chairperson shall convene the meeting of the Board.

(4) Where the Chairperson and Vice Chairperson are absent, the members present shall elect one among them to preside the meeting, and the member so elected shall exercise all the powers and perform all the duties of the Chairperson.

Tenure of
members of
the Board.

2.-(1) The Chairperson of the Board shall hold office for a term of four years from the date of his appointment and may be eligible for re-appointment for another term.

(2) Save for ex-officio members, other members of the Board shall hold office for a period of three years from the date of their appointment and may be eligible for re-appointment for another term.

Vice
Chairperson.

3. The Board members shall elect one member among them to be a Vice-Chairperson of the Board.

Quorum of a
meeting.

4. More than half of the total number of members shall constitute a quorum at any meetings of the Board.

Decisions of
the Board.

5. The Board shall make its decision by consensus and in the event of disagreement, the decision shall be reached by voting and in case of an equality in the votes, the Chairperson shall have a casting vote.

Procedures of
meetings.

6. Subject to the provisions of this Act, the Board shall have power to regulate its own procedures in respect of the meetings and the proper conduct of its business including committees of the Board.



Allowances
for Members.

7. The Chairperson and other members of the Board shall be entitled to be paid such allowances in accordance with the Public Service Act, its Regulations or Guidelines.

Resignation.

8. The Chairperson or any member of the Board may, at any time resign by giving one month notice in writing to the appointing authority and from the date specified in the notice or if the date is not so specified, from the date of receipt of the notice by the appointing authority, he shall cease to be a member.

PASSED by the House of Representatives of Zanzibar on 3rd December, 2019.

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(RAYA ISSA MSELLEM)

Clerk of the House of Representatives of Zanzibar.