

Chapter 246.
Roads Maintenance Act 1971.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 246.

Roads Maintenance Act 1971.

ARRANGEMENT OF SECTIONS.

PART I – PRELIMINARY.

1. Interpretation.
 - “the Central Roads Board”
 - “declared minor road”
 - “feeder road”
 - “the Local Government Association”
 - “maintain”
 - “major highway”
 - “minor road”
 - “occupier”
 - “the Provincial Roads Board”
 - “Provincial Roads Board”
 - “public road”
 - “reasonable repair”
 - “the regulations”
 - “road”
 - “Roads Board”
 - “this Act”
 - “trunk road”
 - “urban road”

PART II – MAINTENANCE OF ROADS.

2. Functions of the State.
3. Functions of Local-level Governments.
4. Maintenance of urban roads.
5. Maintenance of minor roads.
6. Maintenance by occupiers of land adjoining urban roads.

PART III – ROADS BOARDS.

Division 1 – The Central Roads Board.

Subdivision A – Establishment and Constitution.

7. Establishment of the Central Roads Board.
8. Tenure of office of Local-level Government member.
9. Quorum.

Subdivision B – Powers and Functions.

10. Classification of roads, etc.
11. Minimum maintenance standards.
12. Priorities for maintenance of roads.

Division 2 – Provincial Roads Boards.

Subdivision A – Establishment and Constitution.

13. Establishment of Provincial Roads Boards.
14. Tenure of office of Local Government Member.

Subdivision B – Powers and Functions.

15. Recommendations to the Central Roads Board.
16. Notice to maintain road.

Division 3 – Local Government Roads Authorities.

17. Establishment of Local Government Roads Authorities.

Division 4 – General.

18. Meetings of Boards.

PART IV – MISCELLANEOUS.

19. Appeals.
20. Certificate to be evidence.
21. Responsibility joint and several.
22. Damaging, etc., roads.
23. Closure of roads.
24. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Roads Maintenance Act 1971,

Being an Act to provide for—

- (a) the classification and maintenance of roads; and
- (b) the construction of footpaths, kerbs and gutters,

and for those purposes—

- (c) to provide for the establishment of a Central Roads Board and Provincial Roads Board; and
- (d) to define the powers and functions of those Boards,

and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the Central Roads Board**” means the Central Roads Board established by Section 7;

“**declared minor road**” means a minor road declared under Section 10(4);

“**feeder road**” means a road classified as a feeder road under Section 10(3);

“**the Local Government Association**” means the Local Government Association of Papua and New Guinea Incorporated;

“**maintain**”, in relation to a road, means to do such acts and things as are necessary to keep the road in reasonable repair, having regard to the manner of its construction and the purpose for which it is used, and includes—

- (a) the collection of standing waters on the road or in drains or culverts constructed or used in connection with the road; and
- (b) such reconstruction as is necessary to keep the road in reasonable repair,

but does not include the construction of a new road;

“major highway” means a road classified as a major highway under Section 10(3);

“minor road” means a road (other than an urban road) not gazetted under this Act as a major highway, trunk road or feeder road, and includes a declared minor road;

“occupier”, in relation to any land, includes a person—

- (a) who has, or is entitled to have, immediate possession of the land; and
- (b) who is entitled to remove timber, minerals, petroleum or other things on or under the land,

whether solely or jointly with another person;

“the Provincial Roads Board”, in relation to a road, means the Provincial Roads Board established for the province in which the road is situated;

“Provincial Roads Board” means a Provincial Roads Board established by Section 13;

“public road” means a street, road, lane or thoroughfare open to or used by the public;

“reasonable repair” means reasonable repair, to the satisfaction of the District Roads Board, in accordance with the minimum standards set by the Central Roads Board under Section 11 for maintaining a road;

“the regulations” means any regulations made under this Act;

“road” means a public road or part of a public road, and includes—

- (a) a bridge, culvert and ford on a road; and
- (b) a vehicular ferry used as a link between two roads,

but does not include a footpath or footway;

“Roads Board” means the Central Roads Board or a District Roads Board;

“this Act” includes the regulations;

“trunk road” means a road classified as a trunk road under Section 10(3);

“urban road” means a road in a town, other than a major highway, trunk road or declared minor road.

PART II. – MAINTENANCE OF ROADS.

2. FUNCTIONS OF THE STATE.

(1) Subject to Section 11, the State shall, out of moneys lawfully available for the purpose, maintain major highways, trunk roads and, subject to Section 4, urban roads.

(2) Subject to Section 11, the State may, out of moneys lawfully available for the purpose, maintain a feeder road, or assist a Local-level Government in the maintenance of a feeder road, whether by subsidy or the supply of labour or equipment, or otherwise.

(3) The State shall, out of such moneys as are lawfully available for the purpose, maintain a declared minor road.

(4)¹ ²The State may–

(a) maintain bridges on feeder roads at the request of the Central Roads Board; and

(b) undertake such other works in connection with the maintenance of a feeder road as, in the opinion of the Minister, are beyond the reasonable capacity of the persons or bodies otherwise liable to maintain it.

(5) The State may, out of moneys lawfully available for the purpose–

(a) make provision for the construction of footpaths, kerbs and gutters; and

(b) recover from the owners of the land adjacent to the kerbs and gutters the prescribed charges for their construction.

3. FUNCTIONS OF LOCAL-LEVEL GOVERNMENTS.

(1) A Local-level Government shall maintain in reasonable repair a minor road within its area, other than a declared minor road.

(2) Subject to Section 12, a Local-level Government may–

(a) with or without assistance from the State, accept responsibility for the maintenance of all feeder roads in its area subject to such conditions as are agreed on between the State and the Local-level Government; and

(b) enter into a contract with the State for the maintenance of a major highway or trunk road or part of a major highway or trunk road or of a declared minor road.

4. MAINTENANCE OF URBAN ROADS.

(1) Notwithstanding any other provision of this Act–

¹ Section 2(4) amended by No. 25 of 1976, Schedule 31.

² Section 2(4) amended by No. 25 of 1976, Schedule 31.

- (a) a Local-level Government may, subject to such conditions as are agreed on between the Local-level Government and the State, assume responsibility for the maintenance of all urban roads within its boundaries; or
- (b) the Minister may direct a Local-level Government to assume the responsibility for the maintenance of all urban roads within its boundaries.

(2) A Local-level Government that assumes the responsibility for maintenance of urban roads under Subsection (1)(a) or is directed to assume the responsibility for urban roads under Subsection (1)(b) shall maintain them in reasonable repair.

(3) A Local-level Government may—

- (a) construct footpaths, kerbs and gutters adjacent to urban roads for which it is responsible; and
- (b) recover from the owners of the land adjacent to the kerbs and gutters the prescribed charges for the construction.

5. MAINTENANCE OF MINOR ROADS.

(1) A Local-level Government may direct a person or group who is the occupier of land served by a minor road within the Local-level Government area—

- (a) to maintain the road; or
- (b) to do specified work in relation to the maintenance of the road.

(2) Where there is no Local-level Government in an area, a District Officer for the area may direct a person or group who is the occupier of land served by a minor road within that area—

- (a) to maintain that road; or
- (b) to do specified work in relation to the maintenance of the road.

(3) Subject to Section 19, a person or group who is directed to maintain a minor road under Subsection (1) or (2) and who fails to comply with that direction is guilty of an offence.

Penalty: A fine not exceeding K200.00.

Default penalty: A fine not exceeding K4.00.

(4) Conviction of an offence against this section does not relieve an occupier of his obligation to obey a direction under Subsection (1).

6. MAINTENANCE BY OCCUPIERS OF LAND ADJOINING URBAN ROADS.

The occupier of land adjoining an urban road who fails to keep the part of the road from the boundary of his allotment fronting the road free from rubbish and in a clean and sanitary condition is guilty of an offence.

Penalty: A fine not exceeding K200.00.

PART III. – ROADS BOARDS.

Division 1.

The Central Roads Board.

Subdivision A. – Establishment and Constitution.

7. ESTABLISHMENT OF THE CENTRAL ROADS BOARD.

³(1) A Central Roads Board for Papua New Guinea is hereby established.

(2) Subject to this Subdivision, the Central Roads Board shall consist of–

- (a) the Secretary, Department of Transport, or his nominee, who shall be Chairman; and
- (b) the Director of Public Works or his nominee; and
- (c) the Secretary, Department of the Prime Minister and National Executive Council, or his nominee; and
- (d) the Secretary for Finance or his nominee; and
- (e) a member appointed by the Minister by notice in the National Gazette, from a panel of names submitted by the Local Government Association; and
- (f) not more than one member nominated by the Road Transport Association of Papua New Guinea Incorporated.

8. TENURE OF OFFICE OF LOCAL-LEVEL GOVERNMENT MEMBER.

A member of the Central Roads Board referred to in Section 7(2)(e)–

- (a) subject to Paragraph (b), holds office during the pleasure of the Minister; and
- (b) shall be deemed to have vacated his office if–
 - (i) his appointment is terminated by the Minister or by the Local Government Association; or
 - (ii) he resigns his office in writing addressed to the Minister and his resignation is accepted by the Minister; or
 - (iii) he is absent, except on leave granted by the Board, from three consecutive meetings of the Board.

9. QUORUM.

At a meeting of the Central Roads Board the Chairman and two other members are a quorum.

³ Section 7 amended by No. 25 of 1976, Schedule 31.

Subdivision B. – Powers and Functions.

10. CLASSIFICATION OF ROADS, ETC.

⁴(1) Subject to this section, the Central Roads Board shall consider for classification any roads referred to it for consideration by—

- (a) the Provincial Roads Board for the area in which the road is situated; or
- (b) the Director of Public Works; or
- (c) the Commissioner of Police; or
- (d) the Secretary, Department of Transport.

(2) In making a classification of a road under Subsection (3), the Central Roads Board shall take into consideration all relevant factors including—

- (a) the length of the road; and
- (b) the terrain through which the road passes; and
- (c) the existing surface material; and
- (d) the amount and nature of traffic using or likely to use the road.

(3) With the approval of the Minister, the Central Roads Board may, by notice in the National Gazette, classify a road as—

- (a) a major highway; or
- (b) a trunk road; or
- (c) in the case of a road outside a town—a feeder road.

(4) With the approval of the Minister, the Central Roads Board may, by notice in the National Gazette, declare a minor road which leads to a Government or semi-Government institution to be a declared minor road.

11. MINIMUM MAINTENANCE STANDARDS.

The Central Roads Board may set minimum standards to be used for maintaining a major highway, a trunk road or a feeder road, in reasonable repair.

12. PRIORITIES FOR MAINTENANCE OF ROADS.

⁵With the approval of the Minister, the Central Roads Board may fix priorities, in accordance with which a road or class of road (other than urban roads) shall be maintained.

⁴ Section 10 amended by No. 25 of 1976, Schedule 31.

⁵ Section 12 amended by No. 25 of 1976, Schedule 31.

Division 2.

Provincial Roads Boards.

Subdivision A. – Establishment and Constitution.

13. ESTABLISHMENT OF PROVINCIAL ROADS BOARDS.

(1) Subject to Section 17(3), a Provincial Roads Board for each province is hereby established.

(2) Subject to this Subdivision, a Provincial Roads Board shall consist of–

- (a) the Regional Works Engineer for the area or a civil engineer nominated by him, who shall be the Chairman; and
- (b) the Provincial Administrator or his nominee; and
- (c) a person appointed by a committee consisting of a representative from each of the Local-level Governments in the province.

14. TENURE OF OFFICE OF LOCAL GOVERNMENT MEMBER.

(1) The member of a Provincial Roads Board referred to in Section 13(2)(c)–

- (a) holds office during the pleasure of the Minister; and
- (b) is deemed to have vacated his office if–
 - (i) his appointment is terminated by the Minister; or
 - (ii) he resigns his office in writing addressed to the Minister and his resignation is accepted by the Minister; or
 - (iii) he is absent except on leave granted by the Provincial Roads Board from three consecutive meetings of the Board; or
 - (iv) he becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his property for their benefit; or
 - (v) he is of unsound mind as that expression is used in the *Public Health Act 1973*; or
 - (vi) he is convicted of an offence punishable under a law of Papua New Guinea, or of Australia or a State or Territory of Australia, by death or imprisonment for one year or longer and, as a result of the conviction, is under sentence of death or imprisonment.

(2) A vacancy in the office of the member of a Provincial Roads Board referred to in Section 13(2)(c) due to one of the reasons specified in Subsection (1) shall be filled in the manner specified in Section 13(2)(c), except that the Minister may, until such time as an appointment is made as specified in that paragraph, appoint a person to act as a temporary member of the Provincial Roads Board.

Subdivision B. – Powers and Functions.

15. RECOMMENDATIONS TO THE CENTRAL ROADS BOARD.

(1) Before making a reference to the Central Roads Board under Section 10(1)(a), a Provincial Roads Board shall–

- (a) consider all submissions and requests by Local-level Governments or other persons or bodies within its area relating to the maintenance of roads; and
- (b) take into consideration in relation to each road–
 - (i) the length of the road to be maintained; and
 - (ii) the terrain through which the road passes; and
 - (iii) the existing surface material; and
 - (iv) the amount and nature of the traffic using or likely to use the road; and
 - (v) the population living adjacent to the road from whom assistance could be obtained for the maintenance of the road.

(2) A Provincial Roads Board shall recommend to the Central Roads Board the manner in which it thinks the roads in the province should be classified under Section 10.

(3) The Provincial Roads Board shall–

- (a) recommend to the Central Roads Board the priorities for maintenance that should be apportioned to the roads in the province (other than urban roads), that under Section 4 a Local-level Government is responsible to maintain; and
- (b) advise the Central Roads Board of–
 - (i) the funds available for road maintenance in the province; and
 - (ii) assistance available for any particular road in the province; and
 - (iii) the approximate cost of maintaining each of the roads for which a priority is recommended.

16. NOTICE TO MAINTAIN ROAD.

(1) Where a Provincial Roads Board is satisfied that a road (other than a minor road) for which a Local-level Government is responsible under this Act is not being kept in reasonable repair, it may give notice to the Local-level Government responsible for the maintenance of the road requiring the Local-level Government to maintain the road in reasonable repair without delay.

(2) If a Local-level Government fails to comply with the notice under Subsection (1) the State may–

- (a) re-assume the responsibility for the road; and

- (b) recover from the Council as a debt the cost of maintaining the road, to the relevant minimum standard set by the Central Roads Board under Section 11.

Division 3.

Local Government Roads Authorities.

17. ESTABLISHMENT OF LOCAL GOVERNMENT ROADS AUTHORITIES.

(1)⁶ ⁷Where for any special reason he thinks it proper to do so, the Minister may, by notice in the National Gazette, authorize a Local-level Government Special Purposes Authority established under the *Local-level Governments Administration Act 1997* to be the Roads Authority for the area specified in the notice.

(2)⁸ ⁹An authorization under Subsection (1) may be made subject to such limitations and conditions as the Minister thinks proper and specifies in the notice under that subsection.

(3) Except to the extent allowed by the limitations and conditions to which the authorization under Subsection (1) was made subject, a Provincial Roads Board has no jurisdiction and may not exercise any functions as a Provincial Roads Board in or in relation to the area for which a Roads Authority is established, and where the authorization under Subsection (1) was not subject to any such limitation or condition it is not necessary to appoint a Provincial Roads Board for that area.

(4) Subject to any limitations or conditions to which the authorization under Subsection (1) was made subject, a Roads Authority has all the jurisdiction, powers, functions, duties and responsibilities, in and in relation to the area for which it was established, of a Provincial Roads Board, and—

- (a) a reference in this Act (other than in Section 13 or 14) or any other law to a Provincial Roads Board shall be read as including a reference to a Roads Authority; and
- (b) any such reference to the Chairman or a member of a Provincial Roads Board shall be read as including a reference to the persons appointed to be the President and members of the Local-level Government Special Purposes Authority authorized to be the Roads Authority.

Division 4.

General.

18. MEETINGS OF BOARDS.

- (1) A Roads Board shall meet—

⁶ Section 17(1) amended by No. 25 of 1976, Schedule 31.

⁷ Section 17(1) amended by No. 25 of 1976, Schedule 31.

⁸ Section 17(2) amended by No. 25 of 1976, Schedule 31.

⁹ Section 17(2) amended by No. 25 of 1976, Schedule 31.

- (a) at least once in every three months; and
 - (b) at such times and places as are fixed by the Chairman or as are directed by the Board.
- (2) At a meeting of a Board–
- (a) the Chairman shall preside; and
 - (b) all questions arising at the meeting shall be determined by a majority of the votes of the members present and voting.
- (3) Subject to this Act, the procedure at meetings of any Board are as the Board determines, or as are prescribed.
- (4) Each Board shall cause minutes of its proceedings to be kept.

PART IV. – MISCELLANEOUS.**19. APPEALS.**

(1) A person or group aggrieved by a direction under Section 5 may appeal to a District Court.

(2) An appeal under Subsection (1) may be made on the ground that—

- (a) the appellant is not served, or is not a member of a group served, by the minor road; or
- (b) the use made of the minor road by the appellant is occasional or sporadic only; or
- (c) the work ordered to be done is excessive having regard to the relative amounts of use made of the minor road by the appellant and other persons; or
- (d) in all the circumstances the direction is unjust, inequitable or unreasonable in relation to the appellant.

(3) The District Court shall consider the appeal and may—

- (a) allow the appeal; or
- (b) vary a direction as to the maintenance or work to be done by the appellant; or
- (c) dismiss the appeal.

(4) The decision of the District Court is final.

20. CERTIFICATE TO BE EVIDENCE.

(1) In this section, “**the road**” means a road for which the State has re-assumed responsibility under Section 16(2)(a).

(2) For the purposes of an action by the State to recover payment from a Local-level Government under Section 16(2)(b), a certificate purporting to be signed by the Chairman of the Provincial Roads Board that, as at a specified date—

- (a) the State had commenced to repair the road; and
- (b) the road was not in reasonable repair,

is evidence of those matters.

21. RESPONSIBILITY JOINT AND SEVERAL.

(1) Where two or more persons are responsible under this Act for the maintenance of a road or part of a road, the responsibility is joint and several.

(2) Where—

- (a) two persons are liable under this Act to maintain or to do work in relation to a road or part of a road because they are occupiers of the same land; and
- (b) the rights or interests by virtue of which they are respectively such occupiers are of different natures,

the cost of maintenance shall be borne by them in such proportions as are agreed on or, in default of agreement, as is settled by arbitration.

22. DAMAGING, ETC., ROADS.

(1) In this section, “**road**” includes a footpath, footway, kerb or gutter formed or used, or being formed or used, in conjunction with a road.

(2) Subject to any other law, a person who, without the consent of the Provincial Roads Board—

- (a) forms, digs or opens any drain or sewer in a road; or
- (b) removes, or causes to be removed, from a road any turf, clay, sand, soil, stone, gravel or other matter used, or to be used, in the formation of the road; or
- (c) wantonly breaks up or damages a road; or
- (d) wilfully obstructs, or hinders or prevents the free passage of, any person, vehicle, horse or cattle on a road; or
- (e) deposits rubbish or litter of any kind on a road,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

23. CLOSURE OF ROADS.

Where the State or a Local-level Government is responsible for the maintenance of a road it may, in the prescribed manner, restrict the use of the road or close the road for the purpose of maintenance or public safety.

24. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing—

- (a) the manner in which the use of a road may be restricted or a road closed for maintenance; and
- (b) the form of any notices to be served or given under this Act and the manner of their service or use; and

s. 24.

Roads Maintenance 9999

- (c) warning devices that may or must be used for the safety of the public when a road is under repair; and
- (d) the charges to be made to occupiers of adjacent land for footpaths, kerbs and gutters constructed under this Act; and
- (e) penalties of fines not exceeding K200.00 and default penalties of fines not exceeding K5.00 for offences against the regulations.

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