

THE UNITED REPUBLIC OF TANZANIA

THE ROADS ACT, 2007

[No. 13 of 2007]

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THE ROADS ACT, 2007

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THE UNITED REPUBLIC OF TANZANIA



NO. 13 OF 2007

I ASSENT,

JAKAYA MRISHO KIKWETE
President

28th August, 2007

An Act to make provisions for road financing, development, maintenance, management and other related matters

[.....]

ENACTED by Parliament of the United Republic of Tanza

PART I
PRELIMINARY PROVISIONS

Short title and Commencement

1. This Act may be cited as the Roads Act, 2007 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Application

2. This Act shall apply to Mainland Tanzania.

Interpretation

3. In this Act, unless the context requires otherwise-

"audits" means financial, technical, safety or management audits;

"authorised officers" means an officer of the ministry or road authority;

"centre of a road" means centre line of that part of a road commonly used by vehicles;

"classified road" means any road declared under section 11 to be a public road;

"development" means upgrading of a road which may include a new road construction, widening or rehabilitation or reconstruction;

"emergency repair" means unforeseen works required to reinstate the roads;

"local government authority" has the same meaning as ascribed to it under the Local Government (District Authorities) Act, and the Local Government (Urban Authorities) Act;

Cap.287 and 288

"Minister" means the Minister responsible for roads;

"Ministry" means the Ministry responsible for roads;

"private road" means any road constructed by any person not being the road authority and passing through a private land;

"public road" means any road specified in the first Schedule to this Act and any road which may be classified or reclassified by the Minister under section 11 of this Act to be a public road and includes every carriageway over which the public has a right of way and shall include the pathways on either side thereof, all drains, ditches, embankments, ferries, bridges appertaining thereto, and all land, not being private property, lying within the road reserve of such road;

"Regional Roads Board" means the Board established under section 7;

"Regional roads" means roads as provided for under section 12(3);

"right of way" means the right to use the road;

"road Authority" means any local government authority and includes any institution, agency or any other body entrusted by the Minister with the duties to develop, manage and maintain road";

"Road furniture" includes traffic lights, sign posts, traffic signs, hard rails and fences that provide information to road users;

"road maintenance" means all works to preserve and to sustain the condition of the road including riding quality, road shape, drains, culverts, bridges and other road facilities;

"road reserve" means the area of land specified by the Minister under section 13(1) and lying on either side of the road measured from the centre of such road;

Cap.245 "TANROADS" means Tanzania National Roads Agency established under the Executive Agencies Act;

"Trunk road" means a road as provided for under section 12(2);

"user charge" means any charge imposed on a user for the use of the road network, including weight-distance charges, fuel levies, transit charges, tolls and abnormal load charges.

PART II
ROAD MANAGEMENT

Responsibilities of the Ministry

4. The Ministry shall have the following responsibilities-

(a) to formulate road policy;

(b) to cause to be prepared and coordinate the implementation of roads investment and development programmes;

(c) to prepare guidelines, standards and specifications for road works and monitoring the performance of the road network;

(d) to promote and foster capacity building in road sector;

(e) to promote involvement of the private sector in development, maintenance and management of roads;

(f) to oversee and monitor road safety and environmental issues;

(g) to perform any other function as the Minister may determine;

(h) to audit or to cause auditing of the road authority in terms of financing, safety, technical and management in road works.

Appointment of road authority

5.-(1) The Minister may, by notice in the *Gazette*, appoint a road authority for the purpose of this Act.

(2) The Minister shall specify the area or roads over which the road authority under subsection (1) shall exercise jurisdiction in relation to construction, alteration, maintenance, protection and supervision of such roads.

(3) The Minister may, by notice published in the *Gazette*, delegate any of the powers or functions of the Road authority to any public institution or agency in respect of the area or specified road.

(4) In any case where the Minister has assigned or has delegated any of the duties under this section to any public institution or agency, the exercise by such public institution or agency, of any of the powers or duties conferred upon road authorities by this Act, shall not be invalidated solely by reason of the fact that no notice was published in the *Gazette*, that the powers and duties of a Road authority had been conferred upon or delegated to such public institution or agency.

Functions of the road authority

6.-(1) The road authority shall be responsible for the development, maintenance and management of public roads and related facilities.

(2) Without prejudice to the generality of subsection (1), the road authority shall-

(a) develop roads based on the national roads investment and development programme;

(b) prepare and implement short and long term road maintenance programme;

(c) negotiate concession agreements with private sector entities to facilitate financing and development of selected roads in accordance with guidelines prescribed by the Minister;

(d) adopt a harmonized approach on technical standards for the promotion of the sustainable road network;

(e) carry out from time to time such necessary engineering, traffic and economic studies as it may consider necessary for the maintenance and improvement of the road network;

(f) undertake research or collaborate with any research organization with a view to facilitate the road authority's planning, development, and maintenance activities;

(g) control the use of roads with the aim of providing safe and adequate infrastructure for road transportation commensurate with the economic development of the country;

(h) conduct and maintain inventories and other relevant surveys for all road under its jurisdiction;

(i) establish, maintain and update road management systems.

Establishment of Regional Roads Board

7.-(1) There is hereby established for each region a Regional Roads Board.

(2) The Regional Roads Board shall consist of –

(a) the Regional Commissioner who shall be the chairman of the Board;

"private road" means any road constructed by any person not being the road authority and passing through a private land;

"public road" means any road specified in the first Schedule to this Act and any road which may be classified or reclassified by the Minister under section 11 of this Act to be a public road and includes every carriageway over which the public has a right of way and shall include the pathways on either side thereof, all drains, ditches, embankments, ferries, bridges appertaining thereto, and all land, not being private property, lying within the road reserve of such road;

"Regional Roads Board" means the Board established under section 7;

"Regional roads" means roads as provided for under section 12(3);

"right of way" means the right to use the road;

"road Authority" means any local government authority and includes any institution, agency or any other body entrusted by the Minister with the duties to develop, manage and maintain road";

"Road furniture" includes traffic lights, sign posts, traffic signs, hard rails and fences that provide information to road users;

"road maintenance" means all works to preserve and to sustain the condition of the road including riding quality, road shape, drains, culverts, bridges and other road facilities;

"road reserve" means the area of land specified by the Minister under section 13(1) and lying on either side of the road measured from the centre of such road;

Cap.245 "TANROADS" means Tanzania National Roads Agency established under the Executive Agencies Act;

"Trunk road" means a road as provided for under section 12(2);

"user charge" means any charge imposed on a user for the use of the road network, including weight-distance charges, fuel levies, transit charges, tolls and abnormal load charges.

PART II
ROAD MANAGEMENT

Responsibilities of the Ministry

4. The Ministry shall have the following responsibilities-
   (a) to formulate road policy;
   (b) to cause to be prepared and coordinate the implementation of roads investment and development programmes;
   (c) to prepare guidelines, standards and specifications for road works and monitoring the performance of the road network;
   (d) to promote and foster capacity building in road sector;
   (e) to promote involvement of the private sector in development, maintenance and management of roads;
   (f) to oversee and monitor road safety and environmental issues;
   (g) to perform any other function as the Minister may determine;
   (h) to audit or to cause auditing of the road authority in terms of financing, safety, technical and management in road works.

Appointment of road authority

5.-(1) The Minister may, by notice in the *Gazette*, appoint a road authority for the purpose of this Act.

(2) The Minister shall specify the area or roads over which the road authority under subsection (1) shall exercise jurisdiction in relation to construction, alteration, maintenance, protection and supervision of such roads.

(3) The Minister may, by notice published in the *Gazette*, delegate any of the powers or functions of the Road authority to any public institution or agency in respect of the area or specified road.

(4) In any case where the Minister has assigned or has delegated any of the duties under this section to any public institution or agency, the exercise by such public institution or agency, of any of the powers or duties conferred upon road authorities by this Act, shall not be invalidated solely by reason of the fact that no notice was published in the *Gazette*, that the powers and duties of a Road authority had been conferred upon or delegated to such public institution or agency.

Functions of the road authority

6.-(1) The road authority shall be responsible for the development, maintenance and management of public roads and related facilities.

(2) Without prejudice to the generality of subsection (1), the road authority shall-

(a) develop roads based on the national roads investment and development programme;

(b) prepare and implement short and long term road maintenance programme;

(c) negotiate concession agreements with private sector entities to facilitate financing and development of selected roads in accordance with guidelines prescribed by the Minister;

(d) adopt a harmonized approach on technical standards for the promotion of the sustainable road network;

(e) carry out from time to time such necessary engineering, traffic and economic studies as it may consider necessary for the maintenance and improvement of the road network;

(f) undertake research or collaborate with any research organization with a view to facilitate the road authority's planning, development, and maintenance activities;

(g) control the use of roads with the aim of providing safe and adequate infrastructure for road transportation commensurate with the economic development of the country;

(h) conduct and maintain inventories and other relevant surveys for all road under its jurisdiction;

(i) establish, maintain and update road management systems.

Establishment of Regional Roads Board

7.-(1) There is hereby established for each region a Regional Roads Board.

(2) The Regional Roads Board shall consist of –

(a) the Regional Commissioner who shall be the chairman of the Board;

(b) the Regional Administrative Secretary who shall be the Secretary of the Board;
(c) constituency Members of Parliament and not more than two Members of Parliament from other categories of members in the respective regions;
(d) not more than three nominated members from the private sector road users nominated by the Regional Commissioner in consultation with the Minister;
(e) District Commissioners of the districts in the region;
(f) A mayor of City Council or Municipal Council and every Chairman of a District Council within the region;
(g) every Council Director in charge of district council. Municipal Council and City Council within the region;
(h) the Regional Manager of TANROADS in the region;
(i) the Regional Engineer in the Regional Secretariat; and
(j) the Engineers in the Councils within the region.

(3) All members of the Regional Roads Board including the Chairman shall be appointed by the Minister.

(4) The provisions of the Fourth Schedule to this Act, shall have effect to the composition, tenure and proceedings of the Regional Roads Board.

Functions of Regional Roads Board

8. The functions of the Regional Roads Board shall be-
(a) to advise and make recommendations to the Minister, on any matter relating to the development, maintenance and management, of the roads within the region for which the Regional Roads Board has been established;
(b) to receive and consider mid-year and annual progress reports on road construction and maintenance from the Road Authorities within the region;
(c) to receive and consider annual work plans from the road authorities within the region for the purpose of connectivity and coordination between different levels of road networks and between councils;
(d) to perform any other functions as the Minister may determine.

TANROADS Board

Cap.245

9.-(1) There shall be the Board for TANROADS.

(2) Notwithstanding the provisions of the Executive Agencies Act in relation with composition of the Board, the TANROADS Board shall consist of-
(a) a Chairman, who shall be appointed by the President from amongst persons outside the public service;
(b) not more than eight members appointed by the Minister from sectors, institutions or associations as follows-
(i) one member representing the road transport industry who shall be nominated by the transport association;
(ii) one member representing local government authorities who shall be nominated by the Minister responsible for local government;
(iii) one member representing Treasury who shall be nominated by the Minister responsible for finance;

(iv) one member representing the Confederation of Tanzania Industries who shall be nominated by the Confederation;

(v) one member representing the tourist industry who shall be nominated by the Tanzania Tourism Board;

(vi) one member representing the Surface and Marine Transport Regulatory Authority who shall be nominated by the Director General;

(vii) one member representing the directorate of roads from the Ministry who shall be nominated by the Permanent Secretary;

(viii) one member representing the Road Fund who shall be nominated by the Roads Fund Board; and

(ix) one member representing the Attorney-General's Chambers.

"functions of the TANROADS Board GN. No. 293/2000

10. Subject to the Executive Agencies (The Tanzania National Roads Agency (Established) Order 2000, the functions of the TANROADS Board shall be to-

(a) advise the Minister on the performance of TANROADS;

(b) approve work programmes;

(c) monitor TANROADS performance;

(d) advise on the road safety and mechanism to reduce negative environmental impact in the road network control;

(e) ensure establishment and proper maintenance of road data bank;

(f) maintain cooperation with other road authorities;

(g) ensure that TANROADS carries out research and development as necessary in support of its aims and functions;

(h) advise on the development and maintenance of a strategic framework;

(i) set priorities and annual performance targets for TANROADS;

(j) consider TANROADS annual reports and accounts;

(k) evaluate TANROADS performance.

PART III

ROAD CLASSIFICATION AND DECLARATION

Minister may Classify and reclassify public roads

11.-(1) The Minister may, by notice in the Gazette, classify or reclassify public roads for the purposes of this Act and may define the boundaries of, any class of roads, according to the criteria specified under section 12.

(2) In exercising the powers conferred by subsection (1), the Minister shall-

(a) be guided by functional or administrative criteria; and

(b) consult the Minister responsible for local government authority in case of classification of district roads.

(3) The Minister shall have powers to determine such other width on a classified road from the centre of any public road.

Classes of public roads

12.-(1) The public road network in Mainland Tanzania is hereby classified as national roads and district roads.

(2) A national road shall include-

(a) a trunk road which is primarily-

(i) a national route that links two or more regional headquarters; or

(ii) an international through route that links regional headquarters and another major or important city or town or major port outside Tanzania.

(b) a regional road which is a secondary national road that connects-

(i) a trunk road and district or regional headquarters;

(ii) a regional headquarters and district headquarters;

(3) The district road shall include-

(a) a collector road which is-

(i) a road linking a district headquarters and a division centre;

(ii) a road linking a division centre with any other division centre;

(iii) a route linking a division centre with a ward centre;

(iv) a road within urban an area carrying through traffic which predominantly originates from and destined out of the town and links with either regional or a trunk road;

(b) a feeder road which shall be-

(i) a road within urban area that links a collector road and other minor road within the vicinity and collects or distributes traffic between residential, industrial and principal business centres of the town;

(ii) a village access road linking wards to other wards centres;

(c) a community road within the village or a road which links a village to a village.

(4) The Minister may, by notice published in the *Gazette* prescribe the width of the classified roads specified under subsections (1), (2), and (3).

Declaration of a public road

13.-(1) Every road set out in the First Schedule to this Act is hereby declared to be a public road for the purposes of this Act.

(2) The Minister may, taking into consideration any road declaration, road closure, diversion, turning, and enlargement, amend the First Schedule to this Act.

Plans of public roads

14.-(1) The Minister shall cause a plan or survey to be prepared of all public roads declared under this Act and shall, from time to time, cause any deviation or alteration made in any existing public road to be added to the plan or survey.

(2) The plans or survey shall be authenticated by a professional surveyor or other public officer authorized by the Minister.

(3) The authenticated plans or survey shall be submitted to the Director of Surveys and Mapping for registration.

Minister may give notice of construction of a road

15. Where it appears to the Minister that it is desirable and necessary in the public interest to construct a new road or to widen, deviate or re-align an existing road or road of access as a road under this Act, the Minister shall publish a notice in the *Gazette* showing the situation and other particulars of the centre line of the proposed road.

Compensation for acquired land

Caps.118 and 113

16. Where it becomes necessary for the road authority to acquire a land owned by any person for the purposes of this Act, the owner of such land shall be entitled to compensation for any development on such land in accordance with the Land Acquisition Act, Land Act, Village Land Act and any other written law.

Private roads

17.-(1) The road authority may authorise the establishment of a private road within the area of its jurisdiction or declare any existing road to be a private road subject to such conditions as it may prescribe.

(2) Except where the road authority declares otherwise, a private road shall be for the exclusive use of the person authorised to establish such a road.

(3) Where a public road is inaccessible or becomes impassable, the Road authority may order the owner of a private road, subject to such conditions as may be prescribed to make such road temporarily open to the general public until such time as the public road is accessible or becomes passable again.

(4) Any person who fails to comply with an order under subsection (3), commits an offence.

(5) Any damage to a private road caused by any additional traffic as a result of such road having been opened to the general public under subsection (3), shall be made good by the road authority having jurisdiction over such road.

PART IV
EXECUTION OF ROAD WORKS

Power to enter and survey

18.-(1) The road authority or an authorized officer or surveyor after consultation with the relevant authorities may, at all reasonable times and with proper assistants, enter upon the land owned by any person for the purpose of ascertaining whether it is advisable in the public interest to construct a road on or over such land and for that purpose to run trial lines, make surveys and fix any post, stone, mark or object on such land.

(2) In exercising the powers under subsection (1), the Road authority, authorized officer or surveyor shall give at least fourteen days notice in writing of his intention to do so.

Power of road authority to take stones and materials

19.-(1) The road authority may, with necessary vehicles and equipment after consultation with relevant authorities, enter upon the land owned by any person in any place not less than fifty meters from any dwelling-house, and on, through and over such land construct a passage way for such vehicles, and may collect from such land any stones, sand, earth, gravel or other material which may be required for the purpose of opening, making or repairing any public road in the vicinity.

(2) The road authority may acquire quarries for the purpose of developing and maintaining road in any area under its jurisdiction and the Minister responsible for finance after consultation with the Minister responsible for minerals may exempt the road authority from paying any levy, royalty and fees for licence.

(3) In exercising the powers vested under this section, the Road authority shall give the owner of such land notice in writing at least fourteen days before entry on such land.

Power to cut and remove trees

20. The road authority may, after consultation with relevant authorities, enter upon any land adjacent to any public road for the purpose of removing the whole or any part of any tree which overhangs such road, obstructs or interferes with the light from any public lamp, or endangers or obstructs the passage of vehicles or which grows in a way that causes damage to such road or interferes with its proper performance or maintenance.

Power of road authority to make ditches etc.

21. The road authority may make and keep open all ditches, gutters, drains or watercourses, and may make and lay drains, culverts, tunnels or bridges as it shall deem necessary for the draining, reservation, improvement, repair or construction of any public road in and through any lands or grounds adjacent or lying near such public road, provided that no drain, tunnel or culvert shall be opened into private property in such manner which may cause damage or erosion on such property.

Power to place stones, etc on public roads

22. The road authority may place any stone, gravel, wood or other matter or thing upon any public road and may allow the same to remain there during the time such public road is under repair, or for such time before the repairs are commenced and after the repairs are completed, as may be necessary for facilitating the making of such repairs, or for preventing damage to such recently repaired public road, and shall take due and reasonable precaution for preventing damage or injury to persons, vehicles or animals passing along such public road.

Removal of obstructions and encroachments

23.-(1) The road authority may give notice in writing to any person obstructing or encroaching on any public road to remove or abate such obstruction.

(2) Where any person to whom notice has been given under subsection (1), fails to comply with such notice within a prescribed time or if there be any doubt as to the proper person to whom such notice should be given, the road authority may, after affixing a notice of its intention on or near the obstruction or encroachment, cause the obstruction or encroachment to be removed or abated.

(3) For the purposes of giving effect to subsection (2), the road authority may enter into any house, garden, enclosure or other premises with such instruments for the removal or abatement of any obstruction or encroachment and may recover the costs occasioned from the person failing to remove or abate the same.

Preventing soil, from being washed onto roads

24.-(1) The road authority may give notice to the owner of any lands abutting upon any public road, requiring him, within twenty-eight days after the service of the notice, to fence off, channel or embark the land in order to prevent soil or refuse from such land from falling upon, or being washed or carried into the public road, or into any sewer or gully.

(2) Where a person served with a notice under subsection (1) fails to comply with such notice, the road authority may cause the work to be done and shall recover the costs incurred from the owner.

Owner of adjoining lands to have bridge over drain

25.-(1) Where the owner of any premises or any land adjoining any public road, by the side of which a drain has been made, requires a means of access to such premises or land from such road, he may place or construct over such drain a bridge, platform or culvert in a manner which does not interfere with the efficiency of such drain in accordance with section 35.

(2) The road authority may require a person having access to any premises or land contrary to the provisions of subsection (1) to build a bridge, platform or culvert for such access and if he fails to do so within a reasonable time the road authority may cause the same to be done and recover the costs incurred from the owner of such premises or land.

Erection of temporary premises

26.-(1) Nothing contained in this Part shall prevent any public officer duly authorised in that behalf from making temporary use of any part of any public road for the public service, nor shall it prevent the road authority from granting its licence to any person or persons for the erection of temporary fences and enclosures upon any public roads for the purpose of building, pulling down or repairing their houses and other buildings or for the erection of temporary decorations.

(2) The length and breadth of enclosures under subsection (1) shall be described in such licence, and the licensee shall ensure sufficient room for vehicles to pass, and immediately after sunset during all the time that the enclosure continues and if so required in such licence by the road authority, place and keep a sufficient light or some conspicuous sign upon the premises till sunrise.

(3) Any person who contravenes subsection (2) commits an offence.

Temporary closure of new public roads after construction

27. The road authority may prohibit any person from riding or driving any kind of animal or vehicle on any public road for such period as it shall consider necessary, not exceeding one month after such road has been constructed or repaired and any person who willfully disobeys such order, commits an offence.

Construction of special roads and restriction of traffic

28.-(1) The road authority may construct or maintain a public road or part of a public road restricted to the exclusive use of any specified kinds of traffic or to traffic moving in one direction only or to construct and maintain adjacent to any public road a track or passage which, for the purposes of this Act, shall also be deemed to be a public road for the exclusive use of pedestrians or ridden or driven animals.

(2) In exercise of the powers conferred by subsection (1), the road authority may give orders prohibiting the use of any public road by any class or classes of traffic, and otherwise regulating or restricting the manner in which any public road or part of a public road is to be used, and shall give notice of such orders by the erection of traffic signs or in such other manner as in the circumstances may be reasonable.

(3) The construction or provision of any public road, track or passage specially prepared or intended for exclusive or restricted use, may in itself be deemed sufficient notice to the public of the orders of the road authority as to the use of such public road, track or passage.

(4) Any person who fails to comply with any order made by the road authority under subsection (2), or uses a public road in contravention of any such order without the permission of the road authority or without reasonable excuse commits an offence.

Use of road reserve

29.-(1) The road reserve is exclusively for the use of road development and expansion or any other road related activities.

(2) Notwithstanding the provisions of subsection (1), road authority may, in writing, permit any person or authority to use the road reserve temporarily under its jurisdiction for utilities such as placing of public lighting, telegraph, adverts, telephone, electric supplies and posts, drains, sewers and mains, only in cases where such use or uses do not hinder any future use of the road reserve by the road authority.

(3) The authorised user of the road reserve shall be allowed to use the road reserve, upon such terms and conditions as the road authority may impose and shall be bound to remove such utilities and their related developments and make good the area at his own cost without any compensation in case the said road reserve is required for road expansion, development or maintenance or any other road related activities by the road authority.

(4) Any authorized user of the road reserve which involves or is likely to cause damage to the road, road furniture, road asset or the surrounding environment shall-

(a) in case the damage is done to the road, road furniture or road asset, restore the damaged road, road furniture or road asset to its original state and condition in accordance with the road technical specifications and standards;

(b) in case the damage is done to the surrounding environment of the road reserve, restore it to its previous state and condition in accordance with the environmental engineering practise authorized by the Ministry responsible for environment.

Protection of environment

30. The road authority entrusted with the duties of developing, managing and maintaining the public roads under its jurisdiction, shall comply with the prescribed guidelines, regulations or any other written law relating to environmental protection and waste disposal.

PART V
ROAD SAFETY

Road Furniture

31.-(1) The road authority shall ensure that the necessary road furniture are erected on the public roads under its jurisdiction as may be prescribed in the regulations or any other written law.

(2) Any person who damages, removes or obscures a road furniture commits an offence and shall be liable on conviction to a fine of not less than two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

(3) Any person who fails to comply with a message conveyed by a road furniture commits an offence.

(4) Notwithstanding the provisions of subsection (3), the Minister may by Regulations exempt particular persons from complying with the provisions of subsection (3).

Speed limit

32.-(1) The road authority shall prescribe speed limits in respect of all roads or sections thereof as the Minister may approve.

(2) Any person who fails to comply with speed limits as prescribed under subsection (1), commits an offence and upon conviction shall be liable to a fine of not less than two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Safety of road users

33.-(1) The road authority shall ensure to the safety of road users during the design, construction, maintenance and operation of a public road by providing side walks, overhead bridges, zebra crossings and other matters related thereto.

(2) The road users and pedestrians in particular shall use public roads in a manner that does not pose safety hazard to themselves, vehicles or any other road users.

(3) Any person who fails to comply with the provisions of this section commits an offence.

Driving on public roads

34.-(1) Any driving and use of motorized or non-motorized vehicle on a public road shall be as prescribed in the regulations.

(2) Any person who contravenes the provision of subsection (1) commits an offence.

PART VI
ROAD OF ACCESS

Application to construct roads of access

35.-(1) Where the owner of land, in respect of land so situated in relation to a public road which is passable for vehicle traffic or to railway station, does not have reasonable access to such land, that owner may apply to the road authority for a permit to construct a road of access over any land lying between his land and such public road or railway station.

(2) An application submitted under subsection (1) shall be accompanied by a sketch or plan and shall be made on prescribed form.

(3) Where an applicant for a permit to construct a road of access is unable to make a sketch or plan of such road without entering upon private lands over which the road is to pass, he may apply to the road authority for permission to enter such lands and any permission so granted shall be binding on all interested parties in relation to such lands.

Notice to be served on holders of lands to be affected

36.-(1) Upon receipt of an application under section 35, the Road authority shall cause notice of such application to be given to the owner of any land over which the proposed road is to pass, calling upon him to show cause, within one month from the date of such notice, why the application should not be granted.

(2) The road authority shall upon receipt of any representations under subsection (1) fix a day for hearing the application and after such hearing may grant or refuse a permit to construct such road.

(3) Where a permit is granted under subsection (2), the road authority may attach such conditions as it may deem fit including the width of such road and the amount of compensation payable by the applicant for any crops or permanent improvements likely to be damaged or destroyed during construction.

Right of way over road of access

37.-(1) Where an application for a road of access has been granted, the applicant, his successor in title, and any person lawfully going to or from the applicant's land shall have a right at all times to such use of the road.

(2) Every road of access constructed pursuant to the provisions of this Act shall be kept in a good and efficient state of maintenance by the applicant to the satisfaction of the road authority having jurisdiction in the area where such road of access is situated.

(3) Where the owner of land over which such road of access is situated or any other person authorised by the road authority uses such road, he shall pay to the applicant a proportionate share of the cost of such maintenance as the road authority may determine.

Power of road authority to cancel or alter road of access

38.-(1) The road authority may, on a reasonable cause, order the cancellation or alteration of the alignment of a road of access after giving notice of fourteen days in writing to any person who is likely to be affected by such order.

(2) Any person affected by the order issued under subsection (1), may lodge within fourteen days an objection to the road authority and such objection shall be heard in a manner provided for under the Regulations.

Prohibition of certain classes of traffic

39. When it appears to the road authority that the prohibition of any particular traffic or class of traffic on a road of access is desirable in the public interest, the road authority may, by notice published in the *Gazette*, restrict the use of such road to such traffic or class of traffic only.

Appeals

40. Any person aggrieved by the decision of the road authority as to-

(a) an application to construct a road of access;
(b) the cancellation or alteration of alignment of any road of access;
(c) the apportionment of the cost of maintenance of a road of access,

may appeal to the Minister within sixty days or any such period as the Minister may determine.

PART VII
RESTRICTIONS ON USE OF ROADS

Restriction of traffic during repairs

41.-(1) Where the road authority is satisfied that traffic on any public road for the management of which it is responsible should be restricted or prohibited by reason of works of repair or reconstruction being required or being in progress on the road or for the purpose of preserving or protecting the surface of the road, it may temporarily restrict or prohibit the use of that road or any part thereof by vehicles of any particular class or description to such extent and subject to such conditions as it may consider necessary.

(2) The road authority shall, give reasonable public notice of its intention to restrict or prohibit traffic on a road or part thereof.

(3) The road authority shall have power to regulate or stop traffic in such manner by issuing warnings and directions either by written or printed notice displayed at some conspicuous place or by word of mouth or by erection of barriers or otherwise.

(4) No prohibition or restriction of traffic imposed under this section shall, without the approval of the Minister, continue in force for a longer period than three months and notice of such approval shall be published in the *Gazette*.

(5) Any person who uses or permits the use of a vehicle in contravention of any restriction or prohibition imposed under this section shall be liable in the case of a first conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding one month and in the case of a second or subsequent conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months.

Regulation of maximum weight, speed and dimensions

42.-(1) Notwithstanding anything contained in any other written law regulating the maximum weight, speed and dimensions to be carried on any public road, it shall be lawful for the purpose of safeguarding the safety of the public or of preserving the condition of a road, for the road authority to fix a limit to the maximum weight, speed or dimensions of vehicles which may lawfully be driven or hauled over any part of a road.

(2) In exercising the powers under subsection (1), a road authority shall place on or near such part of a road, a conspicuous notice denoting the maximum speed or to the effect that such part of the road is unsuited to carry traffic in excess of the weight specified in the notice.

(3) Any person who hauls or drives or is responsible for hauling or driving over such part of a public road a vehicle at a speed or of a weight in excess of that specified in the notice without the consent in writing of the road authority, commits an offence and upon conviction shall be liable to a penalty as prescribed in the Road Traffic Act, 1973.

Notice to remove obstruction

43.-(1) Where the road authority is satisfied that it is necessary to impose restrictions with respect to any land at or near any corner or bend in a road for the prevention of danger arising from obstruction to the view of persons using the road, road authority may serve notice-

(a) upon the owner or occupier of the land directing him to alter the height or character of any wall (not being part of a wall of a permanent structure), a fence or hedge thereon so as to cause it to conform with any requirements specified in the notice; or

(b) upon every owner of the land restraining them either absolutely or subject to such conditions as may be specified in the notice, from permitting any building, wall, fence or hedge to be erected or planted on the land provided that-

(i) there shall be annexed to any notice served under this section a plan or sketch showing the land to which the notice relates;

(ii) a notice restraining the erection of any building upon land situated within urban authority shall not be served except with the consent of such authority;

(iii) the owner of any land shall not be restrained from making any repairs or reconstruction which do not create new obstructions of the kind specified in this subsection.

(2) Restrictions imposed by notice under this section shall become effective upon the service of the notice to the person to whom it was served until withdrawn by the road authority; and such restrictions shall be binding upon any successor in title to the owner of the land to which the restrictions relate.

(3) Any person whom a notice has been served under subsection (1) may, within fourteen days after receipt of the notice, lodge an objection in writing to the road authority serving such notice objecting to any restrictions imposed by the notice.

(4) Any person dissatisfied with the decision of the road authority on an objection lodged to it may refer the matter by way of a civil suit to a court of competent jurisdiction.

(5) Any person upon whom a notice is served under this section shall have power, notwithstanding anything in any conveyance or lease or other agreement, to do all such things as may be necessary to comply with the requirements of the notice.

(6) Any person who fails to comply with a notice issued under this section commits an offence and upon conviction shall be liable to a fine of not less than fifty thousand shillings or to imprisonment for a term not exceeding six months or to both.

(7) Where any notice has been served upon any person under this section and that person fails to comply with the notice, the road authority may, with the consent of that person do on his behalf anything necessary for complying with the notice.

(8) Any person who suffers any loss or expense reasonably arising from or incurred in the course of complying with a notice served under this section, shall be entitled, within twelve months after service of the notice, to recover from the road authority serving the notice, compensation for such loss or expense.

(9) Compensation under subsection (8) shall be at such rates as may be specified in any law for the time being in force for that purpose and where no such law exists, at such rates as the Minister may specify by notice in the *Gazette*.

PART VIII
FINANCIAL PROVISIONS

Sources of Funds

44. The source of funds for road financing shall include-

(a) the sums as may be appropriated by Parliament;
(b) roads fund;
(c) the donations, loans, grants and bequests as may be received from any person or body of persons;
(d) private funding;
(e) local government revenue; and
(f) any other sources legally acquired.

Accounts and audit

45.-(1) The Ministry shall cause to be provided and kept proper books of accounts and records with respect to-

(a) the receipt and expenditure of money by, and other financial transactions of, the road authority;
(b) the assets and liabilities of the road authority;

and shall cause to be made out for every financial year and balance sheet showing the details of the income and expenditure of the road authority and all its assets and liabilities.

(2) Within six months of the close of every financial year, the accounts including the balance sheet of the road authority in respect of that financial year shall be audited by the Controller and Auditor General.

(3) As soon as the accounts of the road authority have been audited, and in any case not later than six months after the close of the financial year, the road authority shall submit to the Minister a copy of the audited statement of accounts, together with a copy of the report made by the auditors on the statement of accounts.

Annual report

46. The road authority shall, within six months after the close of the financial year, cause to be prepared and submitted to the Minister a report dealing generally with the activities and operations of the road authority during that financial year and accompanied by-

(a) a copy of the audited accounts of the road authority;
(b) a copy of the auditors' report on the accounts; and
(c) such other information as the Minister may direct.

Laying of accounts before National Assembly

47. The Minister shall, as soon as practicable after receiving the reports under section 45, lay before the National Assembly the audited accounts, together with the auditors' report on the accounts and the annual report of the road authority.

PART IX
OFFENCES, PENALTIES AND RECOVERY

Destroying bridges, etc

48. Any person who-

(a) destroys, pulls up, defaces, breaks or damages any milestone, lamp-post, or any bridge, arch, wall, dam, drain, sluice, lock or embankment, abutment, mound, post, lamp, traffic lights, railing, chain or fence, road reserve, edge markers, marker posts or another road furniture and facilities belonging to any public road or erected at or near any pit opened or used for getting road materials;
(b) removes any fence, post, stone, log or other thing laid or erected by the authority of the road authority, on or in any public road for the temporary prevention of the use of such road, or for preventing danger or injury to persons passing along the same while it is under repair;
(c) gathers, heaps up or takes away any stone, gravel, sand or other material, or any dirt or soil from any public road; and
(d) makes or causes to be made any dam, ditch, drain, water-course or speed hump upon or across, or otherwise breaks up or damage the surface of any public road; or
(e) constructs any house or other building which projects over or encroaches upon any public road,

commits an offence and upon conviction shall be liable to a fine of not less than five hundred thousand shillings or imprisonment for a term not exceeding two years or to both.

Causing damage to public roads

49. Any person who-

(a) drives a motor vehicle, trailer or engineering plant or conducts any business on the road shoulders or pedestrian walkways, leads or drives any animal from, on, off or into any public road in such manner as to cause damage to the road;

(b) obstructs or causes to be obstructed the passage of water from a public road or from any ditch or drain leading from such road;

(c) being the owner or occupier of any land adjacent or contiguous to a public road who permits any water, filth or other matter or thing to flow from such land into or upon the said public road or causes any accumulation of dirt or rubbish from his land to impede the flow of the water in any ditch or drain on such public road;

(d) hauls or draws upon any public road any timber, stone or other thing otherwise than wheeled vehicles or causes any timber, stone or other thing which shall be carried principally or in part upon wheeled vehicles to drag or trail upon such public road to damages such road;

(e) digs up, adds, removes or alters in any way the soil or surface of a road or of any road reserve at the side or sides thereof, or if done for the purpose of moving a vehicle is not immediately thereafter restored to its previous state; and

(f) spills any petroleum products or other substances to any paved public road which causes damage to any public road,

commits an offence and shall on conviction be liable to a fine of not less than one million shillings or to imprisonment for a term not exceeding three years or to both.

Obstructions on roads

50.-(1) Any person who-

(a) turns or permits to be turned loose any animal upon any public road;

(b) tethers or causes to be tethered any animal in, upon or near a public road so that any such animal causes obstruction or inconvenience to the passersby, unless such animal is so tethered during the time required for loading or unloading of the animal on or from any vehicle to which it may belong;

(c) slaughters on any public road any animal except such as may have met with an accident, or for public safety or other reasonable cause ought to be killed on the spot;

(d) places or throws any stones, bricks, sand, lime, dung, straw, rubbish or scouring on any ditch or drain, or other object or thing on or in any public road, and allows the same to remain there except for such a period as may be necessary for the removal thereof;

(e) encroaches on any public road by making or causing to be made thereon without proper authority any building, platform, hedge, ditch or fence or other obstruction;

(f) after having blocked or stopped any vehicle, causes or allows to be or remain on any public road the stone, timber or other thing with which such vehicle shall have been blocked or stopped;

(g) in any manner prevents any person or any vehicle from passing along any public road;

(h) obstructs free passage on a public road by exposing goods or carries on trade of any description thereon; or

(i) in any other manner obstructs the safe or convenient passage along a public road,

commits an offence and upon conviction shall be liable to a fine of not less than three hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

(2) For purposes of paragraph (i) of subsection (1), any projection erected or placed against or in front of any house or building which by reason of its being insecurely fixed or of defective construction or otherwise is a source of danger to persons lawfully using a public road shall be deemed to be an obstruction to the safe or convenient passage along a public road.

Nuisance on roads

51. Any person who, on public roads-

(a) plays any game to the annoyance or danger of persons using the road;

(b) pitches any tent, booth or stall without the permission of the Road authority;

(c) places any animal in such a manner as to cause danger or inconvenience to traffic;

(d) makes any fire without permission of the road authority;

(e) walks or causes another persons to walk along the road while under the influence of alcohol; or

(f) places himself on the road in such a manner as to cause danger or inconvenience to traffic,

commits an offence and shall on conviction be liable to a fine of not less than three hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Restriction on rails, pipes, etc. over public roads

52.-(1) Any person who fixes or places any overhead rail, beam, pipe, cable, wire or other similar apparatus over, along or across any public road without the consent of the road authority in writing, commits an offence.

(2) Nothing in this section shall extend to any works or apparatus fixed or placed under any statutory authority.

Stretching of ropes, etc over public roads

53. Any person who for any purpose, places or causes to be placed any rope, wire or other apparatus across a public road or any part thereof in such a manner as to be likely to cause danger to persons or vehicles using the road, unless he proves that he had taken all necessary means to give adequate warning of the danger, commits an offence.

Road authority may recover cost of damage to road

54.-(1) Where damage occasioned to a road or road furniture as a result of any contravention of the provisions of this Act, the road authority may make good such damage and recover the cost thereof from the person contravening the Act or, if the damage is attributable to a vehicle, the road authority may recover such cost from the owner of the vehicle.

(2) Where a person or the owner of the vehicle who has damaged a road or road furniture has been served with a written demand requiring him to pay the cost incurred by the road authority to reconstruct or repair the damaged road or road furniture as a result of that person or his vehicle contravening any provision of this Act or any other laws or regulations related to damage to roads or road furniture, fails to pay the cost after being duly informed of the cost, the road authority may apply to a court of competent jurisdiction for summary warrant in the form prescribed in the Third Schedule to this Act.

(3) When the application has been made under subsection (2), the court may grant a warrant upon the road authority producing the name and address of the person so in default, the amount due and a written demand showing the person has failed to make good the cost after being duly served with such demand.

(4) Recovery of any cost, where no application is made pursuant to subsection (2) may be effected by way of summary procedure as provided for under the Civil Procedure Code, or in case of a convicted person, the court may in addition to any other penalty order the payment to the road authority of such sum as the court deems fit to cover the damage caused to such road.

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(5) In any proceedings under this section for the recovery of the cost of making good damage to roads, a certificate under the hand of the Road authority as to the cost of making good such damage shall be *prima facie* evidence of the amount payable by the person liable.

Power to recover expenses of extraordinary traffic

55.-(1) Where it appears to the road authority that having regard to the average expenses of repairing public roads in the neighbourhood, extraordinary expenses have been incurred in repairing any such road by reason of the damage caused by excessive weight or speed or extraordinary traffic, the road authority may recover, by a suit in a court of competent jurisdiction from the person causing such damage, the amount of such expenses as may be proved to the satisfaction of the court to have been incurred by reason of the damage caused by such excessive weight or extraordinary traffic.

(2) Any person against whom costs are or may be recovered under this section may enter into an agreement with the Road authority for the payment of compensation in respect of damage caused to the road and thereupon the person so paying the same shall not be subject to any proceedings under this section.

Road authority not liable

56. The Government or any road authority shall not be liable for any loss or damage which may be caused to any person or property-

(a) as a result of the condition of a public road or the failure of such road to sustain the weight of a vehicle; or

(b) by reason of the placing, use or maintenance of anything on, under or over a public road if done under lawful authority.

Obstruction to officers

57. Any person who willfully-

(a) resists, obstructs, hinders or molests; or

(b) incites, assists or procures others to resist, obstruct, hinder or molest any person acting under the authority of this Act,

commits an offence and upon conviction shall be liable to a fine of not less than one million shillings or to imprisonment for a term not exceeding one year or to both.

General penalty

58. A person who contravenes any of the provisions of this Act for the breach of which no specific penalty is expressly provided for, upon conviction shall be liable to a fine of not less than three hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

PART X
MISCELLANEOUS PROVISIONS

Cap. 245 Disapplication of the Executive Agencies Act, 1997

59. The provisions of section 6 and 7 of the Executive Agencies Act, 1997 shall not apply to the TANROADS Board.

Indemnity

60. No act or thing done by any officer or employee of the road authority incharge of any work on a public road or any contractor under contract to the Road authority shall if done or omitted *bonafide* in the execution or purported execution of his duties as an officer or employee of the Road authority or contractor, subject him to any action, liability or demand of any kind.

Regulations

61.-(1) The Minister may make Regulations as may be necessary for the purposes of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), Regulations made under subsection (1) may provide for-

(a) the general control, use, management, survey, construction and repair of roads and bridges and for the prevention of obstruction thereof;

(b) lighting of roads;

(c) regulating, subject to any other written law, the laying of lines for trolleys, tramways, railways on roads and the construction of railway and tramway crossing over public roads;

(d) securing the safety of the public in the use of public roads crossed by any railway on the level;

(e) prescription and regulation of the fixing of mileposts or stones, road furniture, adverts and billboards on any public road;

(f) preventing and prohibiting, subject to any other written law, straying or being driven or ridden on any public road, and for the slaughter or destruction of all such animals found on any public road;

(g) the formation, construction, maintenance and repair of traces, tracks and other by-ways throughout the Mainland Tanzania after consultation with the Minister responsible for Lands;

(h) prescription of the width of any road or bridge or the area of the road reserve and the management therein;

(i) prescribing the maximum tare and gross weight of vehicles allowed on roads or any specified part of a road and the methods of ensuring that the weight is not exceeded;

(j) prohibiting any practice or activity which may cause obstruction or damage to roads and for preventing nuisance on roads;

(k) classifying roads and defining the boundaries of any class of roads;

(l) providing for the establishment of camps and places adjacent to roads and regulating the conditions under which such camps and places may be used;

(m) regulating and prescribing the procedure, powers and duties of road boards and road authorities;

(n) specifying any forms, permits, certificates or authorisations required under this Act;

(o) prescribing fees or charges payable in respect of any application, licence, permit or other document under this Act;

(p) prescribing procedures for the application to construct, operate, maintain and control of private roads;

(q) protection of the environment and promote sustainable development in the road sector;

(r) prescribing terms and conditions for promoting labour based technology on road development, maintenance and management in order to maximize the use of local resources;

(s) non-motorist transport;

(t) guidelines and regulations on the participation and management of Privately financed road infrastructure under Public-Private partnership.

(u) guidelines on technical classification and use of resources.

Repeal and Savings Cap.167

62.-(1) The Highways Act is hereby repealed.

(2) Notwithstanding the provisions of subsection (1)-

(a) all subsidiary legislation made under the Highways Act that are in force immediately prior to the coming into force of this Act shall continue to be in force until new subsidiary legislation are made under this Act;

(b) any person who was a member of any road board appointed under the repealed Highways Act shall continue to be a member of such board until his term expires or until a new board is constituted under the provisions of this Act;

(c) any declaration of roads made under section 10 of the Highways Act and which was in force immediately prior to the coming into force of this Act, shall continue to be in force until any new declaration is made under this Act;

(d) any order issued under the repealed Highways Act and in force immediately prior to the coming into force of this Act, shall continue to be in force as if it were an order issued under this Act; and

(e) any form used for the purposes of the repealed Highways Act, shall continue to be in force as if prescribed under this Act, until such time as other forms are prescribed.