

Roads Board Act

July 2002

NEPAL GAZETTE

Published by His majesty's Government

Vol. 52, Kathmandu, July 8, 2002 (Ashar 24, 2059 BS) Extraordinary 30 (Ka)

Part 2

His Majesty's Government
Ministry of Law, Justice and Parliamentary Affairs

The following Act enacted by Parliament in the first year of reign of His Majesty King Gyanendra Bir Bikram Shah Dev has been published for the notice of public in general.

Act No 25 of the year 2002/2003 (2059B.S.)

An Act to provide for the Roads Board

Preamble: Whereas, it is expedient to make necessary provisions on repair and maintenance of roads, minimizing the expenditures to be incurred in repairing and maintaining the roads and making transparent and effective the repairing and maintaining works of the roads.

Be it enacted by Parliament in the first year of reign of His Majesty King Gyanendra Bir Bikram Shah Dev.

CHAPTER – 1

Preliminary

1. Short title and commencement: (1) This Act may be called the Roads Board Act, 2002
(2) This Act shall come into force on such date as His Majesty's Government may, by a notification in the Nepal Gazette, appoint.
2. Definitions: (1) In this Act, unless the subject or context otherwise requires: -
 - (a) "Road" means the public roads as referred to in (the) Public Roads Act, 1974.
 - (b) "Board" means the Roads Board established under Section 3.
 - (c) "Toll" means the toll imposed under Section 6.
 - (d) "Motor Vehicle" means a motor vehicle to be plied on the road by mechanical power.
 - (e) "Repair and maintenance" means repair and maintenance works of the road in conformity with the standards specified by the Board.
 - (f) "Road related agency" means an agency carrying out repair and maintenance works and also includes a local body.
 - (g) "Fuel" means the petrol and diesel to be used in the motor vehicle and also includes gas or other fuel.
 - (h) "Committee" means the Executive Committee formed under Section 8.
 - (i) "Executive Director" means the Executive Director of the Board appointed under Section 21.
 - (j) "Ministry" means the Ministry of Physical Planning and Works of His Majesty's Government.
 - (k) "Fund" means the fund of the Board referred to in Section 24.
 - (l) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules or By-laws framed under this Act.

CHAPTER – 2

Establishment of the Board and Functions, Duties, and Power

3. Establishment of the Board: (1) The Roads Board has been hereby established to carry out routine, recurrent, periodic, and emergency repair and maintenance works of the road and to make an arrangement for imposition on and collection of tolls from the motor vehicles plying on the road.
(2) The central office of the Board shall be located in the Kathmandu valley and the Board may, as per the necessity, open branch office or the contact office within the kingdom of Nepal.
4. Board to be an autonomous body: (1) The Board shall be an autonomous body corporate having perpetual succession.
 - (2) The Board shall have a seal of its own for its activities.
 - (3) The Board may, like an individual, acquire, use, dispose of or otherwise manage movable and immovable property.
 - (4) The Board may, like an individual, sue by its own name and be sued by the same name.

5. Functions, duties, and powers of the Board: The functions, duties, and powers of the Board shall be as follows:
- (a) To cause to carry out repair and maintenance of the road,
 - (b) To collect the toll additional charges leviable for the use of roads and to recover penalties under this Act.
 - (c) To recommend to His Majesty's Government on the matters of fixation of the road toll or fuel levy to be collected under this Act, additional charges and fines to be collected for plying the motor vehicle contravening to the specified standards.
 - (d) To make a suggestion to His Majesty's Government on fixation of toll.
 - (e) To formulate integrated annual plan for repair and maintenance of the road.
 - (f) To provide funds to the road related agency for the repair and maintenance of the road.
 - (g) To disburse the toll amount at the prescribed rate to repair and maintenance of such a road from where such amount was collected as toll under this Act.
 - (h) To cause to reconstruct, rehabilitate, and upgrade the road as prescribed.
 - (i) To prepare, in order to minimize the expenditures on repair and maintenance of roads, an action plan related thereto.
 - (j) To cause to safeguard the road having selected it on the prescribed basis.
 - (k) To bear the expenditure required by His Majesty's Government, pursuant to agreement concluded between His Majesty's Government and an agency or organization with a provision that such an agency or organization and His Majesty's Government would bear the funds required for the repair and maintenance of the road.
 - (l) To make effective the repair and maintenance works of the road.
 - (m) To approve annual budget and programme of the Board.
 - (n) To do or cause to do such other works as may be prescribed.
6. To Levy toll: (1) His Majesty's Government may by a notification published in the Nepal Gazette levy such toll as may be prescribed in such a notification on the motor vehicle making use of the road prescribed in the said notification.
- (2) The Board shall collect or cause to collect the following toll prescribed by His Majesty's Government by a notification published in the Nepal Gazette.
- a. Toll for using the road.
 - b. Toll levied on the fuel to be used by the motor vehicle
 - c. Toll levied on vehicle having been registered.
 - d. Toll levied in the motor vehicle having been registered abroad entering into the kingdom of Nepal.
7. To collect tolls: (1) The Board shall collect the toll levied under Section 6.
- (2) The procedures relating to the collection of toll under sub-section (1) shall be as prescribed.
- (3) Notwithstanding anything contained in sub-section (1), the Board may, if it deems proper, collect the tolls referred to in sub-section (1) and clauses

(b) and (d) of sub-section (2) of Section 6 through any person or organization.

CHAPTER -3

Provisions concerning Formation and Meeting of Executive Committee

8. Formation of Executive Committee: (1) An Executive Committee shall be formed to properly carry out the functions of the Board required to be carried out under this Act.
- (2) The Committee shall comprise the following members:
- (a) Secretary, Ministry of Physical Planning and Works
- Chairperson
 - (b) Representative, (Gazetted First class), Ministry of Finance
- Member
 - (c) Representative, (Gazetted First class), Ministry of Local Development
- Member
 - (d) Representative, (Gazetted First class), Ministry of Industries, Commerce and Supplies
- Member
 - (e) Director General, Department of Roads
- Member
 - (f) Representative, Federation of Village Development Committees
- Member
 - (g) Representative, Association of Municipalities
- Member
 - (h) Representative, Federation of Nepal Chamber of Commerce and Industries
- Member
 - (i) Representative, Nepal Engineers Association
- Member
 - (j) One person nominated by the Board in a manner to represent the organizations related to transport entrepreneurship
- Member
 - (k) One person nominated by the Board in a manner to represent the organizations related to consumers
- Member
 - (l) One person nominated by the Board from amongst the persons having acquired outstanding experience in the field of road transport
- Member
 - (m) One person nominated by the Board from amongst the professional farmers
- Member
- (3) The term of office of nominated members of the Board shall be of three years.

- (4) The Committee may invite any expert in the field of road and transport and any office-bearer or employee of the road related agency to participate as an observer at its meeting.
 - (5) The Executive Director shall act as the Secretary of the Committee.
 - (6) The Chairperson and members of the Committee shall receive such meeting allowances as may be prescribed for participating in the meeting of the committee.
9. Circumstances where the office of member falls vacant: (1) The position of any nominated member of the Committee shall be deemed to be vacant in the following circumstances: -
 - a. If he tenders resignation from his post before the nominating agency.
 - b. If his term of office expires.
 - c. If he becomes insolvent.
 - d. If he is convicted by the court of any criminal offence.
 - e. If he remains absent in three consecutive meetings of the Committee without a notice and without any adequate and reasonable ground.
 - f. If he dies.
10. Filling vacancy: If then position of any nominated member of the Committee falls vacant for any reason whatsoever, the vacancy shall be filled by nomination in the same manner as he was originally nominated, for the remaining term.
11. Meeting and decision of the Committee: (1) The Committee shall meet on such date and in such place and time as may be specified by the Chairperson.
 - (2) The Committee shall meet at least once in three months.
 - (3) Notwithstanding anything contained in sub-section (2), if at least one-third members of the Committee request in writing for convening a meeting of the Committee, the Chairperson of the Committee shall have to convene a meeting within fifteen days.
 - (4) The Secretary of the Committee shall have to provide the agenda of the meeting to the members at least three days prior to the meeting.
 - (5) If more than fifty percent of the total number of members of the Committee are present, it shall be deemed to constitute a quorum for the meeting of the Committee.
 - (6) The Chairperson of the Committee shall preside over the meeting of the Committee and in his absence, a member chosen by the members of the Committee from amongst themselves shall preside over the meeting.
 - (7) The majority opinion shall prevail at the meeting of the Committee and the person presiding over the meeting shall, in case of a tie, exercise the casting vote.
 - (8) The Secretary of the Committee shall authenticate the decision of the Committee.
 - (9) Other procedures related to the meeting of the Committee shall be as determined by the Committee itself.

12. Prohibition on participation in the meeting of the Committee: If any member of the committee is directly or indirectly involved in any matter to be discussed at the meeting of the Committee, such a member shall not be allowed to participate in the meeting of the Committee discussing on such a matter.
13. Power to form sub-committees: (1) The Committee may, as per necessity, form sub-committee to carry out its functions under this Act.
(2) The functions, duties, powers and procedures of the sub-committee formed under sub-section (1) shall as specified by the Committee.
14. Annual program on repair and maintenance of the road to submit: The road related agency has to submit to the Board an annual program on repair and maintenance of the road it intends to repair and maintain in each year setting out the funds required therefore, and providing such other details as prescribed, within the prescribed time limit.
15. Integrated annual plan to formulate: The Board shall, as per necessity, review the annual programs obtained under Section 14 and formulate an integrated annual program for the repair and maintenance of road, and shall inform of such a program to the Ministry.
16. To provide fund for the repair and maintenance of the roads: The Board shall provide fund to the road related agencies to repair and maintain the road included in the integrated annual program prepared in accordance with Section 15.
17. To specify quality standards on repair and maintenance of road: The Board shall, having categorized the roads on the prescribed grounds, and specify the quality standards to be maintained in repairing and maintaining the road.
18. Supervision may be carried out: (1) The Board shall supervise as to whether the road related agency has repaired and maintained the road in conformity with the quality standards as specified under Section 17.
(2) If, during the course of supervision carried out in accordance with sub-section (1), it appears that the road related agency has not repaired and maintained the road in conformity with the quality standards as specified in Section 17, the Board shall write to such an agency to get the road repaired and maintained in conformity to the quality standards, and the road related agency shall have to repair and maintain the road according to the written communication of the Board.
(3) If the road related agency fails to repair and maintain the road in accordance with sub-section (2), the Board may withhold the funds remaining to be released to such an agency.
19. May ask to furnish details: The Board may, at any time, require the road related agency to furnish details of the activities carried out in respect of the repair and maintenance of road and the expenditures incurred in such repair and maintenance, and it shall be the duty of the concerned road related agency to furnish such details.

20. To submit completion details: On completion of repair and maintenance of the road, the road related agency shall have to prepare all details related thereto in the prescribed format and submit such details to the Board.

CHAPTER – 5

Provisions concerning Executive Director and Employees

21. Executive Director: (1) The Committee shall appoint a person who having done Master's Degree in Highway Engineering or Management has gained at least ten years of experience in the related field in the position of the Executive Director through open competition in order to carry out day-to day business as the administrative chief of the Board.
- (2) The term of the office of the Executive Director shall be of four years and he may be reappointed as the Executive Director for another one term.
- (3) Notwithstanding anything contained in sub-section (2), if the Executive Director carries out any act against the interest of the Board or fails to perform the business in conformity with the policy and direction of the Committee, the Committee may, at any time, remove him from the office of the Executive Director having followed prescribed procedures.
- Provided, that prior to do so removing him from the office, he shall not be deprived of an opportunity to defend himself.
- (4) The remuneration, facilities and other conditions of the service of the Executive Director shall be as prescribed.
22. Functions, duties, and powers of the Executive Director: The functions, duties, and powers of the Executive Director shall be as follows: -
- (a) To implement or cause to implement the decisions and directions of the Committee.
- (b) To prepare or cause to prepare short term and long term plans, annual programs and budget of the Board.
- (c) To implement or cause to implement the plans and programs approved by the Committee.
- (d) To appoint employees required for the Board.
- (e) To submit the Board the proposals to be approved by the Committee.
- (f) To carry out such other functions as may be prescribed.
23. Provision concerning employees: (1) The Board shall have employees in required numbers.
- (2) The appointment, remuneration, facilities and conditions of service of the employees appointed under sub-section (1) shall be as prescribed.

CHAPTER 6

Fund and Audit

24. Fund: (1) The Board shall have a separate fund of its own.

- (2) The fund referred to in sub-section (1) shall consist of the following amounts: -
 - (a) Amounts received as grants from His Majesty's Government,
 - (b) Amounts received under Section 6,
 - (c) Amounts received as grant or loan from foreign governments or international organizations,
 - (d) Amounts obtained from other sources,
 - (3) Prior to obtaining the amounts referred to in clause (c) of sub-section (2), the Board shall have to obtain prior approval of His Majesty's Government.
 - (4) All expenditures to be made on behalf of the Board shall have to be borne from the fund.
 - (5) The amount collected from the fund shall be deposited with account opened in any commercial bank specified by the Committee.
 - (6) Operation of the account of the fund shall be as prescribed
25. Use of the amount obtained in the fund: (1) The amounts received in the fund shall be disbursed for the following business: -
- (a) For repair and maintenance of road.
 - (b) For repair and maintenance of district and urban roads on a cost sharing basis as determined by the Board.
 - (c) For sharing the amount to be borne by His Majesty's Government for a donor financed road repair and maintenance project.
 - (d) For disbursement on selected road safety project as determined by the Board.
 - (e) For enforcement of prescribed standards in regard to pay load capacity and per axle load of the motor vehicle.
 - (f) For research in regards to repair and maintenance of the road.
 - (g) For administrative expenditure concerning implementation of functions, duties of the Board and management of the fund.
- Provided that such administrative expenditure shall not exceed four percent of the total income or estimated total income in each fiscal year.
- (2) A balanced amount after allocation for the business as referred to in section (1), which shall not exceed not exceed fifteen percent of total or total estimated income, may be used to upgrade the existing road or to carryout minor road related activities, as the Board may prescribe based on recommendation of the road related agency.
26. May invest in debentures or securities: If the balanced amount in the fund is not to be expended in the Board's business for the time being, the Board may, with prior approval of His Majesty's Government invest such amounts in debentures or securities issued by His Majesty's Government or Nepal Rastra Bank, as the case may be.

27. Accounts and audit: (1) The accounts of the Board shall be maintained in accordance with the laws in force.
(2) The accounts of the Board shall be audited by the Auditor General.

CHAPTER – 7

Punishment, Appeal, and other Provisions

28. Punishment: The Board may impose a fine which may not exceed one thousand rupees on any person plying a motor vehicle without paying the toll. The Board may, if such a person again plies the motor vehicle without paying the toll, impose a fine on him which may not exceed five thousand rupees for each instance.
29. Use of motor vehicle may be forbidden: If any person fails to pay the toll to be paid under this Act and the fine as referred to in Section 28 within the prescribed time-limit, The Board may ask in writing to the concerned agency to prohibit the use of motor vehicle by such a person in respect of such toll or fine, as the case may be, which has not been paid until the payment of such toll or fine, as the case may be.
30. Request for withholding or suspending registration certificate license or driving license may be made: The Board may, if any person fails to pay the fine imposed under Section 28, may request the concerned agency to withhold the registration certificate or license of the such motor vehicle or suspend the driving license, as the case may be and the concerned agency shall, upon such request, withhold the registration certificate or the license of such motor vehicle or suspend the driving license, as the case may be.
31. Motor Vehicle may be auctioned: The Board may, if any person fails to pay the toll or fine to be paid under this Act within the time-limit, recover the toll or fine due and payable by such a person by auctioning the motor vehicle of such a person in a manner as may be prescribed.
32. Appeal: A person who is not satisfied with the decision made by the Board under Section 28 or 29, may appeal to the Ministry within thirty five days of such a decision

CHAPTER – 8

Miscellaneous

33. To render assistance: If the Board asks for any assistance in the course of operation of its business, the concerned agency has to render necessary assistance to the Board.
34. Special power of the Board: The Board may demand necessary details, concerning expenditure of the amounts released by it, from the road related agency to which the Board has provided amounts for repair and maintenance of the road.

35. Working procedure to be transparent: (1) The Board's activities, accounts and matters concerning financial administration should be transparent.
- (2) Matters relating to purchase sell or procurement of contract to be made by the Board shall have to be through a public bidding having followed competitive process.
- (3) If any person desires to obtain the statement of income and expenditure, balance sheet and annual report of the Board, he may obtain copies thereof on payment of charges as prescribed by the Board, therefore.
36. To obtain Approval: The Board shall have to obtain prior approval of His Majesty's Government to dispose of any immovable property that belongs to the Board.
37. Annual report to submit: (1) The Board shall have to prepare an annual report of the activities carried out by it throughout the year and submit it to the Ministry within three months from the date on which the fiscal year ends.
- (2) The Board shall have to publish the annual report prepared under sub-section (1) in any national level newspaper for information of the general public.
38. Delegation of power: (1) The Board may, as per necessity, delegate any of the power conferred on it under this Act, to Chairperson of the Committee, Executive Director or any officer level employee of the Board.
- (2) The Executive Director may, as per necessity, delegate any of the power conferred on him, to any employee of an officer level under him.
39. His Majesty's Government may issue direction: His Majesty's Government may, in order to make effective the road repair and maintenance works, give necessary direction to the Board and it shall be the duty of the Board to follow such direction.
40. Liaison with His Majesty's Government: The Board shall, in making contact with His Majesty's Government, do so through the Ministry of Physical Planning and Works.
41. Power to make Manuals: The Committee may, in order to regulate and manage the activities of the Board, frame necessary manuals, subject to this Act and Rules and Bye-laws frame hereunder and it shall be the duty of all to follow such manuals.
42. Power to frame rules: (1) The Board may, in order to implement the objective of this Act, frame necessary rules and such rules shall come into force after the approval by His Majesty's Government.
- (2) Without prejudice to the generality of the sub-section (1), the Board may frame rules on the following matters: -
- (a) Appointment, remuneration, facilities and condition of service of the Executive Director and employees of the Board.
- (b) Use and operation of the proceeds of the fund.

- (c) Releasing the fund for the road repair and maintenance activities, and related to the financial procedures of the fund.
 - (d) Modality to be followed in carrying out the Board's activities, accounts and fiscal administration and road repair, maintenance and other activities.
 - (e) Other related necessary matters.
43. Power to frame bye-laws: The Board may frame necessary bye-laws, subject to this Act and Rules framed hereunder.
44. Repeal and saving: (1) (The) Public Road Improvement Tolls Fund Act, 1995 has been hereby repealed.
- (2) Acts done under (the) Public Road Improvement Tolls Fund Act, 1995 shall be deemed to have been done under this Act.

Date of Royal Assent: Monday, July 8, 2002 (2058.03.24.2)

Signed by Deputy Director of Law Books Management Board,
Ministry of Law Justice and Parliamentary Affairs,
His Majesty's Government of Nepal on 25th September 2002

Note: This is printed form of the Roads Board Act 2002 from the electronic copy of the official legal translation of the Nepali text of the Roads Board Act 2002 into the English text. The translation was carried out and by the Law Books Management Board, Ministry of Law Justice and Parliamentary Affairs, His Majesty's Government of Nepal.