

ACT NO. 16 OF 2010

The Roads Directorate Act, 2010

An Act to make provision for the establishment of the Roads Directorate as a body responsible for the planning, development and maintenance of roads as defined in the regulations and carrying out of quality assurance for all roads.

Enacted by the Parliament of Lesotho.

Short title and Commencement

1. This Act may be cited as the Roads Directorate Act, 2010 and shall come into operation on the date of its publication in the Gazette

Interpretation

2. In this Act unless the context otherwise requires-

“best practice” means a desirable and appropriate standard, process, procedure, method or system in relation to the delivery process and in the life cycle of fixed assets;

“Board” means the Board of Directors established under section 5;

“contractor” means a person or body of persons who undertakes or which undertake to execute and complete construction works;

“Director-General” means the Director-General appointed under section 10 (1);

“Directorate” means the Roads Directorate established under section 3;

“financial year” means a period beginning 1st April of each year and ending on 31st March of the following year;

“Minister” means the Minister responsible for public works and transport;

“Principal Secretary” means the Principal Secretary for the ministry responsible for public works and transport;

“register” means a register of contractors referred to under section 4 (1)(1);

“senior staff” means any officer above the manager’s level;

“support staff” means any officer from the manager’s level down;

Establishment of the Roads Directorate.

3. (1) There is established a body known as the Roads Directorate.

(2) The Roads Directorate -

- (a) is a body corporate with perpetual succession;
- (b) shall have power to enter into contracts;
- (c) shall sue or be sued in its corporate name;
- (d) may acquire, hold and dispose of movable and immovable property;
- (e) may do or perform any such acts as are necessary or incidental to the achievement of the purposes of the Directorate; and
- (f) may perform any other duty imposed on it and exercise any other power conferred on it under this Act.

(3) The Directorate shall have a common seal which shall be kept in the custody of the Director-General.

Functions of the Directorate

4. (1) The Directorate shall -
- (a) implement government policy on roads-related issues;
 - (b) plan, develop and maintain all roads under its jurisdiction and carry out quality assurance for all roads;
 - (c) prepare proposals and designs for construction and upgrading of all roads under its jurisdiction;
 - (d) plan, design and implement road maintenance programs for all roads under its jurisdiction;
 - (e) procure and manage contracts for development and maintenance of projects;
 - (f) carry out traffic counts and monitor road conditions on any road, as and when necessary;
 - (g) prepare strategic road network development plans;
 - (h) set and enforce road standards across the country and carry out technical and performance audits for all roads;
 - (i) promote and support the development of the road construction industry in Lesotho;
 - (j) promote, establish and endorse uniform and ethical standards that regulate actions, practices and procedures of parties engaged in road development and maintenance contracts;
 - (k) determine and establish best practices that promote-
 - (i) improved industry performance, efficiency and effectiveness;
 - (ii) improved public sector delivery management;

- (iii) procurement and management reform;
- (iv) social and economic objectives, including -
 - (aa) development of small and large scale road contractors;
 - (bb) labour absorption in the road construction industry;
- (l) undertake assessment and classification of road construction contractors and maintain a register of categorised contractors;
- (m) provide technical training in equipment-based and labour-based methods of road construction and maintenance;
- (n) acquire and protect land earmarked for road network development;
- (o) determine and make recommendations to the Minister on the need to declare road reserves and building restrictions along any road;
- (p) determine and make recommendations to the Minister on the need to declare corridors for road network as selected development areas;
- (q) identify and select a suitable place on land from which to source material such as quarry necessary for construction and maintenance of roads under its jurisdiction and request a relevant authority to set aside such land for that purpose;
- (r) ensure mitigation of negative environmental impacts from road construction and rehabilitate affected areas, in accordance with environmental guidelines;

- (s) recommend to the Minister the tolling of any road referred to in paragraph (b);
- (t) protect all roads and road furniture and ensure cost recovery from offenders who damage road furniture;
- (u) implement the provisions of the Roads Act, 1969.

(2) The Directorate shall, in carrying out its functions under this Act, take into consideration the provisions of the Roads Act, 1969.

The Board of Directors

5. (1) The Directorate shall be governed by a Board of Directors.
- (2) The Board shall consist of-
 - (a) the Principal Secretary for the Ministry responsible for public works and transport who shall be a chairperson.
 - (b) the Director-General of the Roads Directorate who shall Be the secretary of the Board;
 - (c) the Principal Secretary for the Ministry of Local Government;
 - (d) the Principal Secretary for the Ministry of Finance and Development Planning;
 - (e) the Executive Secretary of the Road Fund; and
 - (f) four representatives of the private sector nominated by the private sector;
- (3) Members referred to in subsection (2) (f) shall hold office for a period of three years.
- (4) A member of the Board shall vacate office if he-

- (a) becomes bankrupt;
- (b) becomes so physically or mentally disabled that his disability renders him incapable of discharging his duties as the member of the Board;
- (c) has neglected his duties under this Act;
- (d) has been convicted of a criminal offence and sentenced to imprisonment without an option of a fine;
- (e) has been absent, without leave of the Board, from three consecutive meetings of the Board;
- (f) voluntarily resigns his office by a written notice to the Minister; or
- (g) dies.

(5) The Minister may terminate the nomination of a member referred in subsection (2) (f) if it is necessary in the interest of the effective performance of the functions of the Directorate under this Act.

(6) Where a nominated member vacates office in accordance with this section before his term in office expires, an organisation shall nominate another person to fill the vacancy for the remaining term.

Meetings of the Board

6. (1) The Board shall meet at least four times a year and whenever the business of the Directorate may require.

(2) The Chairman shall preside at all meetings of the Board, and in his absence, other members present shall elect from amongst themselves a person who shall preside.

(3) Any issue before the Board in its meeting shall be decided by a majority of votes of the members present and voting.

(4) A presiding member shall have a deliberative vote and in the event of equality of votes, he shall have a casting vote.

(5) The quorum at a meeting of the Board shall be two thirds of the members of the Board.

(6) Subject to this Act, the Board may regulate its own procedure.

Functions of the Board

7. (1) The functions of the Board shall be to –

- (a) oversee the implementation of government policy on roads related issues;
- (b) monitor the activities of the Road Directorate;
- (c) formulate, for the Minister's approval, strategies for the road network;
- (d) set priorities for road maintenance and approve road maintenance programmes;
- (e) ensure implementation of approved road standards;
- (f) advise the Minister on policy issues in the road sector, maintenance and development planning;
- (g) submit proposals for road investments on all roads of national importance;
- (h) appoint senior management of the Roads Directorate.

Allowances and expenses of Members of the Board

8. Members of the Board shall be paid such allowances or expenses as may be determined by the Minister in consultation with the Minister responsible for finance.

Disclosure of Interest

9. (1) A member of the Board who has an interest in a matter being considered by the Board shall, as soon as possible after the commencement of a meeting, disclose to the Board the nature of the interest and such disclosure shall be recorded in the Minutes of the Board.

(2) A member who has any interest pursuant to subsection (1) shall recuse himself from the deliberations or decisions of the Board with respect to that matter.

(3) A member who fails to disclose his interest pursuant to this section commits an offence and is liable on conviction to a fine not exceeding ten thousand Maloti or imprisonment for a period not exceeding two years or both.

Appointment of the Director-General

10. (1) There shall be a Director-General who shall be appointed by the Minister on the advice of the Board.

(2) The Director-General shall, in performing his duties under this Act, be answerable to the Board.

(3) The Director-General shall hold office for a period of three years.

(4) The Director-General shall have such training and experience as the Minister may prescribe with the advice of the Board.

(5) The Director-General may resign from holding office by giving three months notice, in writing, to the Minister.

(6) The Minister may terminate the appointment of the Director-General on the advice of the Board for -

- (a) gross misconduct; or
- (b) inability to discharge his functions under this Act due to the infirmity of mind or body.

Functions of the Director-General.

11. (1) The Director-General shall be responsible for the following:
- (a) overall control of technical, financial and administrative activities of the Directorate;
 - (b) planning, execution, monitoring and control of the Directorate operations;
 - (c) proper management of the Directorate's property,
 - (d) personnel management and discipline of employees of the Directorate;
 - (e) the preparation and submission of the corporate plans, strategic plans, business plans and associated budgets to the Road Directorate Board and the Minister for approval;
 - (f) the implementation of the approved plans, including the achievement of performance targets;
 - (g) entering into procurement contracts in accordance with internal procedures;
 - (h) organisation and management of the assets and resources allocated;
 - (i) the management, organisation, control and discipline of the Directorate's employees subject to strategic management by the Board;
 - (j) the management of the procurement of assets and services for the Directorate;
 - (k) ensuring that all aspects of the management and organisation are kept under review and that they enable best possible performance of the Directorate;

- (l) providing the Principal Secretary for the Ministry responsible for public works and transport and the Board with information to enable performance to be monitored;
- (m) liaising with the Board and other funding agencies in respect of any financial matter affecting the Directorate;
- (n) regular reporting to the Board and advising it upon request, with regard to any matter related to the management and administration of the Directorate;
- (o) preparation of an annual report and audited financial statements for submission to Parliament through the Minister responsible for public works and transport;
- (p) contributing to the development and formulation of policy and strategic plans for the road sector and ensuring that the Directorate is in a position to implement change expeditiously and efficiently;
- (q) promoting public confidence in the professionalism and quality of the Directorate's services and management of the road network; and
- (r) responsible for the day-to-day running of the Directorate.

Employment of staff.

12. (1) The Board may employ, on merit, any senior staff of the Directorate who shall be under the administration and control of the Director-General.

(2) The Director-General may appoint support staff for the effective and efficient operation of the Directorate.

(3) The Board shall, on the advice of the Director-General, determine the terms and conditions of service of the staff of the Directorate.

Directorate to keep proper books of accounts

13. (1) The Directorate shall keep proper books of accounts and records of assets, liabilities and any other transaction of the Directorate.

(2) The Director-General shall, within two months after the financial year, prepare and submit to the Minister, a financial report and a report on the operations and activities of the Directorate during that financial year.

(3) The Auditor-General or an auditor authorised by him under the Audit Act, 1973 shall audit books of accounts of the Directorate.

(4) A report prepared and submitted to the Minister in terms of subsection(2) shall be laid before Parliament three months after the close of the financial year.

Funds of the Directorate

14. Funds of the Directorate shall consist of the following-

- (a) monies appropriated by Parliament from the consolidated fund;
- (b) funds allocated from the Road Fund;
- (c) fees prescribed for services provided under the Act;
- (d) monies loaned, donated or granted to the Directorate by any International Organisation; and
- (e) any other monies that may be payable or vested in the Directorate in respect of any matter incidental to its purpose.

Regulations

15. (1) The Minister may make Regulations for the carrying into effect the provisions of this Act.

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

- (a) prescribe fees and levies to be charged under this Act;
- (b) prescribe forms;
- (c) provide for the declaration of road reserves and building restrictions on roads;
- (d) provide for methods or ways of carrying out technical and performance audits for all roads;
- (e) provide for the protection of all roads furniture; and
- (f) provide for the manner in which plans or designs for the roads construction and maintenance may be done.

Amendment of the Roads Act, 1969

16. The Roads Act, 1969 is amended –

- (a) by repealing the ``roads authority`` wherever it appears in the Act and substituting the following ``Roads Directorate``;
- (b) in section 3 by repealing subsection (1) and renumbering accordingly;
- (c) by repealing section 6; and
- (d) by repealing section 7.