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

ENACTED by the House of the Representatives of Zanzibar.
PART ONE
PRELIMINARY PROVISIONS

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

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

   “Agency” means the Zanzibar Roads Agency as established under section 3 (1) of this Act;
   
   “Board” means an Advisory Board of the Agency established under section 7 (1) of this Act;
   
   "Chairperson" means the chairperson of the Board appointed under section 14 of this Act; and includes any person who perform the functions of the chairperson;
   
   “Executive Director” means a Executive Director of the Agency appointed under the provisions of section 15(1) of this Act;
   
   “Government” means the Revolutionary Government of the Zanzibar;
   
   “Minister” means the Minister for the time being responsible for roads;
   
   “President” means the President of Zanzibar and Chairman of the Revolutionary Council;
   
   “Public road” has meaning as ascribed under section 2 of the Roads Decree Cap 134;
   
   “road facilities” includes bridges, road furniture or any other structures situated or crossed to the public road;
   
   “Road maintenance” means all works required to preserve and to sustain the condition of the road;
   
   “Road network” means the system of all roads maintained by the Agency;
   
   “Road” has meaning as ascribed under section 2 of the Roads Decree Cap 134.
PART TWO
ESTABLISHMENT OF ZANZIBAR ROADS AGENCY

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

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

(a) acquire, hold, purchase or dispose any movable and immovable property;

(b) enter into any contract or transaction in accordance with the existing laws;

(c) borrow any such sum of money from any financial institution in accordance with the provisions of Public Finance Management Act; and

(d) perform or do any act or thing which an Agency of its nature may by law, entitle to perform or do.

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

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

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

5. The objectives of the Agency shall:

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

(c) ensure the road services are accessible to the community;

6. The functions of the Agency shall be to:

(a) construct a new roads and maintain the existing roads within the road network;

(b) supervise the consultants who construct the roads;

(c) prepare and implement short and long term road maintenance programmes;

(d) develop, maintain and update Zanzibar road maintenance management systems (RMMS);

(e) plan, design and develop public roads in Zanzibar to ensure that such roads are in good and better condition at all time;

(f) undertake research in collaboration with any institution with a view to facilitating road planning, development and maintenance;

(g) establish, develop and maintain vehicle over loading system to control the use of roads for sustainable roads;

(h) advise the Minister on the aspect of roads management;

(i) prepare guidelines, design standards and specifications for road works and for monitoring its performance;

(j) approve drawings and design and ensure the roads are constructed in accordance with design standards and quality;

(k) promote and foster capacity building in road sector including involvement of private sector in development, conservation and management of roads;
(l) oversee and monitor road construction and maintenance activities including road safety and environmental issues;

(m) oversee and monitor encroachment on roads reserve and destruction of roads furniture;

(n) liaise with the road safety authorities on matters relating to safety of nature of the persons and animals on public roads; and

(o) perform any other functions which may be assigned to it by the Minister or necessary for achieving the purposes of this Act.

PART THREE
ADMINISTRATION AND MANAGEMENT OF THE AGENCY

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

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

(2) Save for a Chairperson and ex-officio members, other members shall be appointed by the Minister upon consultation with the respective institution based on experience and professionalism.
(3) The provisions relating to tenure of the member, quorum, decision of the meeting and other proceedings of the Board shall be as prescribed in the Schedule of this Act.

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

8. The functions of the Board shall be to:

(a) advise the Minister on road related policy and strategic issues;

(b) advise on formulation and review the operating plans, budgets, reports and audit financial statements of the Agency;

(c) advise on the implementation of:
   (i) the strategic plan of the Agency;
   (ii) the annual plan of the Agency; and
   (iii) any performance agreement;

(d) propose the organization structure, salary structures of the employees and other benefits;

(e) recommend on the establishment of departments, units or sections within the Agency in accordance with Public Service Commission; and

(f) perform any other functions conferred by this Act or which may be necessary for achieving the purposes for which the Agency is established.

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

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

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

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

   (a) is inability to perform the functions of his office;

   (b) is convicted of a criminal offence involving fraud, dishonesty or moral turpitude; or

   (c) absents from three consecutive meetings of the Board without the leave of the Chairperson.

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

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

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

   (a) dies;

   (b) fails to attend three consecutive meetings of the Board without the leave of the chairperson;

   (c) resigns or becomes in any manner disqualified from membership of the Board; or

   (d) fails to perform his duties by reasons of physical or mental health.

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

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

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

(a) the accurate minutes of meetings of the Board are properly taken;
(b) the correct and sufficient records of the Board are properly maintained;
(c) proper notifications of the meetings of the Board are given to the members;
(d) he provides the correct advice to the Board when so needed; and
(e) he performs any other matter as the Board may, from time to time, direct.

16.—(1) There shall be a Chairperson who shall be appointed by the President.

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

(a) is a Zanzibari;
(b) has at least first degree in the field of engineering, law, general management, public service or any other related field from the recognized institution;
(c) has a working experience of not less than ten (10) years in the public service; and
(d) has high level of competence to manage efficiently and effectively the affairs of the Agency.
PART FOUR
THE EXECUTIVE DIRECTOR AND
OTHERS STAFF OF THE AGENCY

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

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

(a) is a Zanzibari;

(b) has at least first degree in the field of engineering relating with roads from the recognized institution;

(c) has a working experience of not less than ten (10) years in the field of engineering relating with roads; and

(d) has high level of competence to manage efficiently and effectively the affairs of the Agency.

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

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

(a) supervise all technical and professional roads matters of the Agency;

(b) be accountable for all income and expenditure of the Agency in accordance with the relevant laws;

(c) manage the affairs of the Agency in an efficient and cost reflective manner;

(d) ensure all staff are adequately trained to perform their responsibilities and operational in an ethical and responsible manner;
(e) supervise the disciplinary matters for the employee of the Agency;

(f) report on activities of the Agency to the Board;

(g) ensure that the objectives of the Agency are achieved;

(h) oversee and promote the performance of Agency in all its functions:

(i) the administration of the day to day operation of the Agency; and

(ii) the management of the funds, properties and business of the Agency; and

(iii) perform any other duty necessary for the implementation of the provisions of this Act or as may be directed by the Minister.

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

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

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

(2) Heads of departments shall be appointed by the Minister and the heads of units shall be appointed by the Executive Director following the recommendations of the Board in such terms and conditions and subject to the provisions of the Public Service Act.

(3) The heads of departments and units shall be answerable to the Executive Director.
PART FIVE
FINANCIAL PROVISIONS

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

(a) money as may be approved by the House of Representatives;

(b) such fees or charges payable to the Agency for services rendered;

(c) money received from Zanzibar Roads Fund for road maintenance;

(d) such donations, grants or bequests as may be received from any institution or organization; and

(e) any other monies that may vest or legally acquired by the Agency.

23. The Agency may retain certain percentage of monies collected from services rendered upon approval of the Minister responsible for finance.

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

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

26.- (1) The Agency shall keep and properly maintain books of accounts which includes all financial records and transactions for each financial year.
(2) The Executive Director shall, at the end of each financial year, prepare or cause to be prepared:

(a) a statement of income and expenditure during such financial year;

(b) a statement of the assets and liabilities of the Agency on the last day of that financial year which submitted and audited by the Controller and Auditor General or any other Auditor appointed by the Controller and Auditor General; and

(c) any other financial reports as may be required in accordance with provisions of Public Finance Management Act.

(3) Copies of the statements or reports referred to in subsection (1) of this section and a copy of the auditor's report if any, shall be submitted to the Minister together with a report on the activities of the Agency during that financial year, and upon receipt, the Minister shall lay before the House of Representatives.

Annual Report.

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

(a) a copy of the audited accounts of the Agency, together with the auditor's report on those accounts;

(b) a report on performance against key targets and any other related information;

(c) a report on the operations of the Agency during that financial year; and

(d) such other information on the activities of the Agency as the Minister may require.
28.-(1) A person employed in the execution of any duty under this Act, who:

(a) by virtue of such employment becomes possessed of any information and uses such information for his interests or business transaction which might influence or affect security, interest or business transaction for personal gain;

(b) knowingly complies for issue, distorts or provides false information for his personal gain,

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

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

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

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

PART SEVEN
MISCELLANEOUS PROVISIONS

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

30.-(1) The Minister may make regulations for the better carrying out of the provisions of this Act.

(2) Notwithstanding the provisions of sub section (1) of this section, the Minister may make regulations by prescribing:

(a) use, safety and maintenance of public roads;

(b) erection of structures on, near, along or under public roads;

(c) fees to be charged under this Act;

(d) removal, demolition or alteration of any projection or structures, trees obstructing a public road or likely to cause danger or inconvenience to users of public road.

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

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

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

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

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

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

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

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

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

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

Quorum of meeting.

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

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

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

7. The Chairperson and other members of the Board shall be entitled to be paid such allowances in accordance with Public Service Act, it’s Regulations or it's Guidelines.
OBJECTS AND REASONS

The object of this Bill is to enact law which will provide for the establishment of the Zanzibar Road Agency. The Agency shall be the Government entity working under the Ministry responsible for Roads in Zanzibar. Before this enactment, roads works stipulated under this bill were undertaken by the Road Construction and Maintenance Department.

Bases on desirous of improving the management and operational of Road services in Zanzibar Road network made the UUB to be re-organization. The re-organization is expected to be formed Zanzibar Road Agency which is responsible for constructing and maintain roads network in Zanzibar. The overall objective of this Bill is to empower the Zanzibar Road Agency for making roads services safer and more economical.

The Agency shall have Executive Director as the chief executive officer to be appointed by the President. The Executive Director shall be responsible for day to day functions of the Agency. In addition to that, there are departments and units within the structure of the Agency. All such departments and units shall be headed by person to be appointed subject to the provisions of the Public Service Act, No. 2 of 2011. All heads shall be responsible to the Executive Director in their daily activities.

This Bill is divided into Seven Parts.

*Part One* is about Preliminary Provisions provides for short title and commencement and interpretation of words used therein.

*Part Two* is for the Establishment of Zanzibar Roads Agency, which provides the establishment of the Agency, acronym, seal and logo, objectives of the Agency, and functions of the Agency.

*Part Three* is about Administration and Management of the Agency which inter alia provide for establishment of board, functions of the board, delegation of the functions of the board, conflicting of interest, co-option, termination or suspension of the member of the board, committees of the board, vacancy of the member, secretary of the board and appointment and qualification of chairperson.
Part Four is about Executive Director and other Staff of the Agency which provides Appointment of Executive Director, Qualification of the Executive Director, duties of the Executive Director, Staff of the Agency, and departments and units of the Agency.

Part Five for is about Financial Provisions provides funds and recourses of the Agency, retention of monies, budget, opening of bank account, account and audit and annual report.

Part Six provides for Offences and Penalties which provides offences and penalties.

Part Seven miscellaneous provisions which is about vesting of assets and liabilities, powers of the Minister to make Regulations and saving.

(DR. SIRA UBWA MAMBOYA)
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ZANZIBAR

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