

**SUBSIDIARY LEGISLATION**

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**THE ROAD AND FUEL TOLLS REGULATIONS, 2016**

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*Regulation*

*Title*

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THE ROAD AND FUEL TOLLS ACT,  
(CAP 220)

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**REGULATIONS**

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*(Made Under Section 16)*

THE ROAD AND FUEL TOLLS REGULATIONS, 2016

PART I  
PRELIMINARY PROVISIONS

|                |                                                                                                                                                                                                                              |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Citation       | <b>1.</b> These Regulations may be cited as the Road and Fuel Tolls Regulations, 2016.                                                                                                                                       |
| Interpretation | <b>2.</b> In these Regulations unless the context requires otherwise-                                                                                                                                                        |
| Cap 220        | “Act” means the Roads and Fuel Tolls Act;                                                                                                                                                                                    |
|                | “administrative costs” means the share of the total office running costs that are directly related to road works in terms of stationeries, consumables, maintenance and repair of office equipment and supervision vehicles; |
| Cap 220        | “Board” means the Roads Fund Board established under the Act;                                                                                                                                                                |
|                | “directors has meaning prescribed to it under the Local Government Authorities Act;                                                                                                                                          |
|                | “contingency costs” means any amount of money budgeted for any unforeseen activities;                                                                                                                                        |
| Cap.63         | “debris” means any loose fragments or material;                                                                                                                                                                              |
|                | “registered engineer” has the meaning ascribed to it under the Engineers Registration Board Act;                                                                                                                             |
|                | “implementing agency” means TANROADS or a road agency which receives funds from the Board to undertake road activities;                                                                                                      |
|                | “force account” has the meaning prescribed to it under the Public Procurement Act;                                                                                                                                           |

“ monitoring” means examining and verifying that the road works are being executed in accordance with the performance agreement;

“supervision costs” means travel expenses, per-diems, allowances and costs related to supervision of road works’;

“TANROADS” has a meaning ascribed to it under the Act.

PART II

ROADS MAINTENANCE AND DEVELOPMENT

Roads asset  
management  
system

**3.-(1)** An implementing agency shall in consultation with the Board develop the road asset management system.

(2) Subject to sub regulation (1) an implementing agency shall implement the road asset management system within the time frame as may be determined by the Board.

(3) The road asset management system shall include a-

(a) road maintenance management system;

(b) bridge maintenance management system;

(c) pavement management system;

(d) traffic management system; and

(e) any other road management system to be prescribed by the Board.

(4) The Board shall not issue funds to an implementing agency that contravenes this regulation.

Design for road  
works

**4.-(1)** An implementing agency shall design road maintenance works in accordance with the road maintenance manuals or guidelines as may be prescribed by the roads Minister.

(2) An implementing agency shall carry out major maintenance works in accordance with the appropriate design and drawings.

(3) For the purposes of this regulation major maintenance works includes-

(a) periodic maintenance

(b) spot improvement; and

(c) bridge major repairs;

- (4) The appropriate designs in sub regulation (2) shall be in accordance with-
  - (a) the pavement and material design manuals;
  - (b) the field test manual;
  - (c) the laboratory testing manual; and
  - (d) any other equivalent engineering standards which may be approved by roads Minister .
- (5) An implementing agency shall not carry out any road development work unless:
  - (a) a proper feasibility study is conducted;
  - (b) proper designs and drawings are prepared in accordance with engineering standards as may be prescribed by the roads Minister.

Road  
maintenance  
operational  
plan

Cap.167

5.-(1) An implementing agency shall prepare a road maintenance operational plan and submit it to the Board for approval.

(2) Roads that are not *Gazetted* under the Roads Act shall not be included in the maintenance plan.

(3) An implementing agency shall use the roads maintenance management systems in preparing maintenance operational plan and budget.

Road  
development  
operational  
plan

6.-(1) An implementing agency shall prepare a road development operational plan and submit to the Board for approval.

(2) In preparing the road development operational plan, an implementing agency shall take into account the existing short, medium and long term government policies, strategies and plans.

(3) The funds allocated for road maintenance shall not be used for carrying out developments works.

Preparation of  
roads works

7.-(1) Every implementing agency shall, for the purposes of carrying out any road works, prepare appropriate drawings, specifications, bill of quantities and the contract.

(2) The bill of quantities and contract prepared under sub-regulation (1) shall not include contingency and supervision costs.

|                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                     | <p>(3) An implementing agency shall apply the most effective approach that may include framework, performance based maintenance management of roads, force account and any other appropriate approach for maintenance of works.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Procurement of works, goods and services<br>Cap 410 | <p><b>8.</b> Unless otherwise it has been expressly provided, procurement of works, goods and services by an implementing agency shall be in accordance with the Public Procurement Act.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Performance agreement                               | <p><b>9.-(1)</b> Pursuant to the provisions of the Act, the Board shall, in every financial year enter into a performance agreement with an implementing agency.</p> <p>(2) The performance agreement referred to under sub regulation (1) shall be signed before the first release of funds in a particular financial year.</p> <p>(3) The performance agreement shall consider –</p> <ul style="list-style-type: none"><li>(a) Labour based Technology Policy;</li><li>(b) National Women and Gender Development Policy;</li><li>(c) Environmental Protection Policy,</li><li>(d) Road Safety Policy</li><li>(e) the HIV/AIDS Policy; and</li><li>(f) any other national policy.</li></ul> <p>(4) The Board may, where it is satisfied, suspend the disbursement of funds to an implementing agency which breaches the terms of the performance agreement for such a period until the default has been rectified.</p> |
| Functions of the implementing agency                | <p><b>10.-(1)</b> Functions of an implementing agency shall be to:-</p> <ul style="list-style-type: none"><li>(a) execute road works in accordance with the signed performance agreement</li><li>(b) carry out quality control for all road works carried out within its jurisdiction in accordance with the laboratory and field test manuals approved by the Roads Minister and keep quality control test results in the respective project files.</li><li>(c) ensure that any planned work is executed within the time, cost and quality stipulated in the relevant contract.</li></ul>                                                                                                                                                                                                                                                                                                                              |

- (d) approve the contractors' valuations after-
    - (i) verifying that the work has been executed as per the contract; and
    - (ii) work measurement have been taken and recorded in the measurement sheets;
  - (e) keep and maintain the following project files-
    - (i) contract file; and
    - (ii) force account.
  - (f) issue and keep a record of substantial, final completion certificates and final accounts of the project for the executed road works
  - (g) carry out spot improvements on short road sections that are in poor conditions for the purposes of maintaining accessibility to such roads; and
  - (h) use the percentage of funds to be allocated by the Board to cover road related administrative costs which shall include-
    - (i) supervision costs;
    - (ii) administration costs ;and
    - (iii) any other related costs to be determined by the Board.
- (2) The measurement sheets provided in sub-regulation (1) (d) (ii) shall include drawings or sketches, calculations and locations of pay item and shall, together with quality control test results, be attached to the payment certificate.
- (3) The contract project file provided in sub regulation (1) (e)(i) shall contain the following-
- (a) copies of procurement documents;
  - (b) site photographs;
  - (c) site instructions;
  - (d) minutes of site meetings;
  - (e) a copy of the contract agreement;
  - (f) payment certificates; and
  - (g) any other relevant correspondences for inspection and audit.

Roads works to be outsourced

**11.** Road works shall be outsourced to promote efficiency and force account may be used to the extent as prescribed in the Performance Agreement.

Responsibilities  
of chief  
Executive and  
directors

**12.** Chief Executive and council directors shall be responsible for the day to day supervision of road works in their respective areas of jurisdiction and where need arises consultants may be employed to enhance the supervision capacity.

Photographs  
for road works

**13.-(1)** In carrying out their supervisory roles, the Chief Executive and Council Directors shall take photographs for roads works before, during and after an intervention.

(2) The photographs referred to under sub regulation (1), shall form part of the progress report whose copies shall be kept in the respective project files.

Monitoring of  
roads works by  
Board

**14.-(1)** The Board shall monitor the use of funds disbursed to TANROADS or roads agencies for the purpose of the objectives of the Fund.

(2) In carrying out monitoring of utilisation of funds, the Board shall appoint an agent for that purpose.

(3) The Chief Executive Officer shall be responsible for monitoring road works executed by regional managers and prepare a report on such monitoring to be submitted to the Board.

(4) Where monitoring is carried out under sub regulation (1), the implementing agency concerned, within seven days from the date of notice of monitoring shall make available to the monitoring team, the following-

- (a) Books of Accounts;
- (b) Bank Reconciliation Statement
- (c) records and other documents;
- (d) Correspondence;
- (e) statements and information relating to goods, works and services financed by the Fund; and
- (f) any other information as the Board may determine.

Provided that –

- (i) the books, accounts, records and other documents shall not, in the course of inspection, be removed from the premises at which they are produced,
- (ii) the monitoring team may make copies of any books, accounts records and other documents required for the purposes of its report; and
- (iii) all information obtained in the course of the

monitoring shall be treated as confidential and used solely for the purposes of the Act.

(5) Where monitoring is under special audit, the implementing agency shall avail the information in sub regulation (4), upon immediate request of the monitoring team.

(6) An implementing agency that contravenes sub regulation (4), commits an offence and is liable to a suspension of disbursement of funds until it complies with the requirements.

Provided that a person who furnishes or makes a statement which he knows to be false or misleading commits an offence.

Monitoring by  
Ministry  
responsible for  
local  
government

**15.** Without prejudice to provisions of regulations 14, the Permanent Secretary of the Ministry responsible for local government shall monitor all road works executed by local government authorities and prepare a report to be submitted to the Board.

### PART III

#### MANAGEMENT AND CONTROL OF ROADS FUND

Collection and  
transfer of  
funds

**16.-(1)** The Board may appoint and enter into contract with an agent for the collection of revenue from sources other than fuel levy and transit charges.

(2) Subject to provisions of sub regulation (1), the agent shall remit such revenue collected directly to the Board's bank account on a monthly basis.

(3) The agent shall submit monthly returns to the Board.

Operational  
plans

**17.-(1)** An implementing agency shall prepare the following plans containing information to be prescribed by the Board;

- (a) an annual operational plan;
- (b) a three year medium term operational plan at least three months before the commencement of a financial year; and
- (c) a five year strategic operational plan at least three months before the commencement of a financial year.

(2) The operational plans in sub regulation (1) shall contain information to be prescribed by the Board.

(3) The plans prepared under sub regulation(1), shall be reviewed and approved by the Board for the purposes of determining-

- (a) the affordability of the plans; and
- (b) the appropriateness of the amounts of money allocated in the plans.

(4) In preparing an operational plan and budget, an implementing agency shall consider:

- (a) the road inventory;
- (b) the condition of roads and traffic within its jurisdiction; and
- (c) any other economic or social factors.

(5) The midterm review shall be conducted on plans prepared under sub regulation (1).

(6) An implementing agency that contravenes the provisions of sub regulation (1) commits an offence and shall be liable for a suspension of disbursement of funds for such period until it complies.

Books of  
accounts

**18.**-(1) Every implementing agency shall keep and maintain separate books of accounts in relation to road fund activities.

(2) The books of accounts in sub regulation (1) shall be-

- (a) cash receipt and payment books;
- (b) journal books;
- (c) ledger accounts; and
- (d) asset register book.

(3) The books of accounts kept and maintained under this regulation shall be made available to the Board for monitoring.

(4) The Board shall suspend disbursement of the funds to an implementing agency which contravenes the provisions of this regulation.

Records  
Cap 348

**19.** Every implementing Agency shall keep record of all transactions in accordance with the Public Finance Act.

Collection of  
information

**20.** The Board may require any implementing agency to submit to it any information it may require for proper discharge of its functions.

Technical and

**21.**-(1). The Board shall regularly conduct a technical

- financial audit      and financial audit as part of its monitoring function.
- (2) In conducting the audit under sub regulation (1), the Board may engage an independent technical auditor to audit road works carried during a particular period.
- (3) Without prejudice to the provision of sub regulation (2), the Board may conduct a preventive technical audit on ongoing road works projects.
- Special audit      **22.**-(1) Any person may lodge to the Board a complaint(s) or allegation(s) of misuse of funds against any implementing agency.
- (2) Without prejudice to sub regulation (1) the Board may, where it is satisfied, on the complaint lodged against any implementing agency, shall conduct a special audit for determination of such complaint(s) or allegation(s).
- (3) Notwithstanding sub regulation (1) the Board may on its own motion conduct a special audit where it has reason to believe that there is a misuse of funds by an implementing agency.
- Duties of  
implementing  
agencies      **23.** Notwithstanding any obligation imposed on an implementing agency under these Regulations, an implementing agency shall, for the purposes of utilising funds received from the Fund-
- (a) maintain, rehabilitate and develop the categories of roads within its own jurisdiction;
  - (b) develop and operationalise a road asset management system;
  - (c) prepare operational plans;
  - (d) open a dedicated bank account into which all monies received from the Fund shall be kept;
  - (e) submit various reports;
  - (f) utilise disbursed funds according to the performance agreement;
  - (g) put in place and implement quality control and quality assurance system;
  - (h) manage road reserve;
  - (i) supervise and monitor road works;
  - (j) perform any other duties as the Board may direct;

- (k) ensure the proper cleaning of roads and drainage systems; and
- (l) Ensure that in cleaning roads and drainage systems, the debris and solid waste are not dumped on the road shoulders, drainage systems and road reserve areas.

Implementing  
report

**24.** The Board shall for the purposes of carrying out its functions, require the implementing agency to submit a report on-

- (a) misappropriation of funds by an officer of the implementing agency where that implementing agency failed to report the incident to the relevant authority;
- (b) reallocation of funds without an approval by the Board;
- (c) a disclaimer or an adverse opinion by the Controller and Auditor General;
- (d) failure to utilise or commit a percentage of the disbursed funds ,as may be stated in the performance agreement, by the implementing agent;
- (e) physical and technical evidence that, the money spent by an implementing agency does not commensurate with the work done;
- (f) professional engineer who has been employed by the implementing agency for the purposes of supervising road works funded by the Board;
- (g) proper cleaning of the urban roads and drainage system; or
- (h) debris and solid waste are dumped on the road shoulders, drainage systems and the road reserve area.

PART IV  
DISBURSEMENT OF FUNDS

Allocation of  
funds

**25.-(1)** The Board shall, with the approval of the Roads Minister, prescribe for allocation of funds to implementing agencies.

(2) In determining the allocation of funds for road maintenance the Board shall consider the –

- (a) condition of the roads;

- (b) length of the road network;
  - (c) relevant volume of traffic;
  - (d) Needs derived from an approved management tool; and
  - (e) Any other factors which the Board may determine.
- (3) In determining the allocation for roads development the Board shall consider the following:-
- (a) Economic factors;
  - (b) Social factors;
  - (c) Technical criteria; and
  - (d) Any other factors which the Board may determine.
- (4) An implementing agency shall, when allocating funds to activities within its jurisdiction, be guided by the allocation formula to be prescribed by the Board.

Use of roads  
funds

**26.-(1)** The money deposited in the Fund shall be used for-

- (a) roads maintenance and related administrative costs, such as:
  - (i) routine maintenance;
  - (ii) periodic maintenance;
  - (iii) spot improvement;
  - (iv) bridge preventive maintenance;
  - (v) bridge major repairs;
  - (vi) emergency maintenance;
- (b) development and related administrative costs, such as:-
  - (i) upgrading;
  - (ii) rehabilitation;
  - (iii) reconstruction;
  - (iv) new construction; and
  - (v) Feasibility studies.
- (c) roads related administrative costs, such as:-
  - (i) compensation;
  - (ii) supervision;
  - (iii) weighbridge maintenance, operations and improvements;
  - (iv) administration;
  - (v) research and development;

- (vi) road safety;
- (vii) road and bridge management systems;
- (viii) road reserve management; or
- (ix) any other activities which may be proposed by the implementing agency and determined by the Board.

(2) Funds allocated to the implementing agencies shall not be used for any purposes, other than those provided under these regulations.

(3) The implementing agency shall employ such number of engineers for purposes of management of roads to ensure effective utilisation of the funds in accordance with the performance agreements.

(4) The Board shall suspend fund disbursements to the implementing agency that contravenes these regulations.

Disbursement  
of funds

**27-(1)** The Board shall disburse funds to the implementing agencies according to the performance agreements and the approved operational plans.

(2) The implementing agencies that transfer funds for purposes other than those provided in these regulations and the performance agreement, shall have its subsequent disbursements withheld until the full amount of the transferred funds has been remitted back to the dedicated bank account for the Roads Fund.

Suspension of  
disbursement

**28.-(1)** The Board shall suspend disbursement of funds to an implementing agency where there is no-

- (a) quarterly progress reports;
- (b) annual reports;
- (c) reports on maintenance needs by December of each year;
- (d) reports on road asset value;
- (e) a written acknowledgement of receipt of the funds; and
- (f) any other report as the Board may direct.

(2) The implementing agencies shall, in submitting the reports referred to under subregulation (1), abide by the dates specified in the performance agreements or as required by the Board.

PART V  
GENERAL PROVISIONS

Payment  
procedures  
Cap. 348  
Cap 290

**29.-(1)** All payments under these Regulations shall be made in accordance with the provisions of the Public Finance and the Local Government Finance Acts.

(2) The implementing agencies shall make payments for certificates substantiated by relevant documents that include site works measurement sheets, materials and quality control test results in accordance with the specifications in the contracts.

(3) The proper documentation of the use of materials, labour and equipment including supervision costs for roads works by force account shall be maintained as proof of payments.

Guidelines,  
Operations  
Manual and  
Instructions

The Board may issue guidelines, operation Mannuals and Instructions for the better carrying out of the provisions of the Act.

Dar es Salaam,  
05<sup>th</sup> February, 2016 2016

PHILIP I. MPANGO,  
*Minister for Finance and Planning*