

CHAPTER 4.

ROADS TRUST FUND

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An Act to establish a Trust Fund for the maintenance of roads, and for related matters. [This Chapter was “Reserved” in the 98 Revision, hereby assigned to this Act. Section numbering style modified to conform to new Code format (Rev.2003)]

Commencement: March 24th, 1999
 Source: P.L. 1999-87

PART I -PRELIMINARY

§401. Short title.

This Act may be cited as the Roads Trust Fund Act of 1999. [P.L. 1999-87, §1.1.]

§402. Purposes of Act.

The purposes of this Act are to:

- (a) secure a sustainable source of funding for road maintenance financed from road user charges; and
- (b) secure a level of funding for road maintenance consistent with the objective of minimizing costs for the road system as a whole; and

(c) improve the efficiency and accountability of road maintenance operations. [P.L. 1999-87, §1.2.]

§403. Interpretation.

As used in this Act, unless the context requires otherwise:

(a) “Annual Maintenance Plan” means the plan prepared under section 416.

(b) “Fund” means the Marshall Islands Roads Trust Fund established by section 404.

(c) “fuel” means automotive diesel and gasoline used to power motor vehicles.

(d) “Long-Term Maintenance Projection” means the Long-Term Maintenance Projection prepared under section 415.

(e) “maintenance”, in relation to a road, means activities carried out in relation to the road to:

(i) restore the road to a previous condition; or

(ii) slow the rate of deterioration of the road;

but does not include:

(i) major capital works; or

(ii) other activities that raise the road’s geometric or structural capacity; or

(iii) work required to be done to rectify serious or unusual damage due to natural causes.

(f) “Minister responsible for roads” means the Minister appointed by the Government of the Republic to carry responsibility for road maintenance.

(g) “vehicle” has the same meaning as in the Motor Traffic Act (Title 13 Ch. 1).

(h) “periodic maintenance” means maintenance activities carried out in response to the condition of the road in order to restore the road to a previous condition, such as re-graveling, resealing, pavement rehabilitation, major drainage works and road furniture replacement.

(i) “road” means any way or place of whatever nature open to the use of the public, as a matter of right, for purposes of vehicular travel, and includes:

(i) roadside shoulders, verges and footpaths; and

(ii) median strips; and

(iii) side and cross drains; and

(iv) bridges and culverts; and

(v) pavement markings; and

(vi) signs, lights and signals.

(j) “road damage charge” means the charge fixed by the Minister for Finance under Section 408

(k) “road use charge” means the charge fixed by the Minister for Finance under Section 408.

(l) “road user cost” means the total cost of operating a motor vehicle on a road, including:

(i) fuel and oil consumption, tire wear, vehicle depreciation, interest charges on the vehicle and maintenance costs; and

(ii) any other costs associated with running the vehicle, such as wages and salaries.

(m) “routine maintenance” means maintenance activities carried out on a regular frequent cycle in order to slow the rate of deterioration of a road, such as regrading and reshaping, pothole repairs, edge patching, crack resealing, grass cutting, drainage clearance, line marking and road furniture repair. [P.L. 1999-87, §1.3 subsections and paragraphs re-numbered to conform with the format of the Code]

PART 2 - ESTABLISHMENT OF ROADS TRUST FUND

§404. Marshall Islands Roads Trust Fund.

- (1) The Marshall Islands Roads Trust Fund is established.
- (2) For the purposes of Article VIII of the Constitution:
 - (a) the Fund is established for the purposes of maintaining roads in the Republic;and
 - (b) the Fund is a fund other than the General Fund.
- (3) The Fund is to be administered by the Minister of Finance. [P.L. 1999-87, §2.1.]

§405. Payments into the Fund.

The following moneys must be paid into the Fund:

- (a) money appropriated by the Nitijela for payment into the Fund;
- (b) road damage charges;
- (a) road use charges. [P.L. 1999-87, §2.2.]

§406. Road damage charge and road use charge.

- (1) Road damage charge and road use charge is payable in accordance with this Act.
- (2) These charges are imposed in respect of all motor vehicles, including those owned by the Government of the Republic or a local government. [P.L. 1999-87, §2.3.]

§407. Road damage charge.

- (1) Road damage charge is levied on the registration of motor vehicles and is to be paid each time a motor vehicle is registered.
- (2) The Minister for Finance may from time to time fix the amount of road damage charge, having regard to:
 - (a) the average annual costs of maintaining roads on a sustainable basis set out in the current Long-Term Maintenance Projection; and
 - (b) the portion of those costs that are attributable to the weight of vehicles using the road.
- (3) The road damage charge imposed on a motor vehicle:
 - (a) is to be based on the kind of vehicle and its weight; and
 - (b) is to reflect the relative damage to the road pavement caused by the vehicle when fully laden to its maximum permitted weight.
- (4) In this section, “maximum permitted weight” means the maximum weight set by the manufacturer for the vehicle.
- (5) The Minister of Justice must pay to the Minister for Finance, before the tenth of each

month, an amount equal to the road damage charge collected on vehicles registered in the previous month. [P.L. 1999-87, §2.4.]

§408. Road use charge.

(1) Road use charge is levied on fuel imported into the Republic for use in powering motor vehicles.

(2) The Minister for Finance may from time to time fix the amount of road use charge, having regard to the need to achieve an equitable allocation among kinds of vehicles of the remaining amount expected to be required for road maintenance.

(3) In subsection 408(2), “remaining amount” means the amount left after deducting the annual amount estimated to be received from the road damage charge from the average yearly amount estimated to be required for road maintenance, according to the Long-Term Maintenance Projection.

(4) The Minister of Finance must pay into the Fund, before the tenth of each month, the amount of road use charge paid during the previous month. [P.L. 1999-87, §2.5.]

§409. Publication of amount of charge.

After he has fixed each charge, the Minister for Finance must publish notice of the amount of each charge:

- (a) in the next issue of the Gazette; and
- (b) in a newspaper circulating in the Republic. [P.L. 1999-87, §2.6.]

§410. Date of effect of charge.

A charge takes effect on the date specified by the Minister. This date must be a date after notice of the charge is published in the newspaper. [P.L. 1999-87, §2.7.]

§411. Expenditure of the Fund.

(1) Money in the Fund may only be used:

- (a) for the maintenance of roads in the Republic; and
- (b) with the agreement of the Minister of Finance.

(2) Before agreeing to the expenditure of money in the Fund, the Minister of Finance satisfy himself that the expenditure:

- (a) does not exceed the revenue in the Fund; and
- (b) is in accordance with the Annual Maintenance Plan. [P.L. 1999-87, §2.8.]

§412. Accounts and records.

(1) The Minister for Finance must maintain proper accounts and records of

- (a) moneys in the Fund; and
- (b) the disposition of moneys paid out of the Fund. [P.L. 1999-87, §2.9.]

§413. Audit.

(1) The accounts and records of the Fund must be audited annually by an independent auditor.

(2) The Minister for Finance, Minister responsible for roads and any other person holding

records relating to the Fund or to road damage charges and road use charges must ensure the auditor has full access to those records.

- (3) In this section, “independent auditor” means a person who:
- (a) has qualifications recognized in the Republic authorizing him or her to perform audits; and
 - (b) is not a member of the public service of the Republic. [P.L. 1999-87, §2.10.]

§414. Investment.

Money in the Fund that is not immediately required for the purposes of the Fund may be invested by the Minister for Finance on deposit or call with a financial institution in the Republic. [P.L. 1999-87, §2.11.]

PART 3-MAINTENANCE OF ROADS

§415. Long-Term Maintenance Projection.

(1) The Minister responsible for roads must prepare a Long-Term Maintenance Projection of road maintenance over the next 20 years.

(2) This must set out the average annual costs of maintaining the roads on a sustainable basis, having regard to:

- (a) the condition and rate of deterioration of the roads; and
- (b) the amount of materials, equipment and labor needed to repair the damage; and
- (c) the estimated weight of vehicles using the roads; and
- (d) the expected amount of traffic using the roads; and
- (e) the need to reduce to a minimum the costs of maintaining roads and operating vehicles on roads.

(3) The Projection must also identify the part of those costs that is attributable to the weight of vehicles using the road.

(4) The Minister responsible for roads must prepare a revised Projection every 4 years. [P.L. 1999-87, §3.1.]

§416. Annual Maintenance Plan.

(1) The Minister responsible for roads must prepare and adopt an Annual Maintenance Plan before the start of each financial year for that financial year.

(2) The Plan must set out:

- (a) the Fund’s projected revenue for the financial year; and
- (b) the amount proposed to be spent on maintenance during the financial year; and
- (c) details of the amount proposed to be spent on periodic maintenance during the financial year; and
- (d) details of the amount proposed to be spent on routine maintenance during the financial year; and
- (e) details of the amount and location of each of those types of maintenance works.

(3) The Plan must also set out reasons why the proposed expenditure is justified, having regard to the expected impact on road conditions and road user costs. [P.L. 1999-87, §3.2.]

§417. Consultation.

Before finalizing a Plan, the Minister responsible for roads must consult persons in the community who represent major road users. [P.L. 1999-87, §3.3.]

PART 4- MISCELLANEOUS**§418. Annual report.**

(1) The Minister responsible for roads must prepare a report, not later than 3 months after the end of each financial year, on the maintenance of roads during the financial year.

(2) The report must include:

(a) details of the amount spent on maintaining roads during the financial year; and

(b) details of the maintenance that had been proposed in the Annual Maintenance Plan for the financial year and, if that maintenance was not carried out, the reasons for this; and

(c) an assessment of the impact of the maintenance on road user costs.

(3) The Minister must:

(a) present the annual report to the Nitijela one week after the start of the next sittings; and

(b) ensure that copies of the report are available to members of the public within one week after presenting the report to the Nitijela. [P.L. 1999-87, §4.1.]

§419. Regulations.

The Minister for Finance may make regulations, not inconsistent with this Act, prescribing all matters necessary to give effect to this Act. [P.L. 1999-87, §4.2.]

§420. Effective date.

This Act shall take effect upon certification in accordance with Article IV, Section 21 of the Constitution. [P.L. 199-87, §4.3.]