

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE NATIONAL ROADS
AUTHORITY LAW (2006 REVISION) TO MAKE PROVISION FOR THE
CHANGE IN FUNDING ARRANGEMENTS FOR THE NATIONAL
ROADS AUTHORITY BY PROVIDING FOR TWO DIRECT REVENUE
STREAMS TO SERVE AS THE PRIMARY SOURCES OF FUNDING
THE AUTHORITY'S OPERATING COSTS; AND FOR INCIDENTAL
AND CONNECTED PURPOSES**

THE NATIONAL ROADS AUTHORITY (AMENDMENT) BILL, 2015

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to change the current funding arrangements for the National Roads Authority (“the Authority”) by providing direct funding to the Authority using two direct revenue streams, specifically, payments collected from customs duties on gasoline and diesel, and fees from motor vehicle drivers’ licences.

The Bill provides for the revenue collected from customs duties on gasoline and diesel, along with motor vehicle drivers’ licence fees for the current financial year, beginning on 1st July, 2014 and ending on 30th June, 2015, to be used as the primary source of funding the operating costs of the National Roads Authority, specifically for the construction, upgrading, rehabilitation and maintenance of public roads.

The revenue will be collected by the Treasury and transferred to the Authority via the Road Fund, for the purpose of providing the primary source of funding for the Authority’s operating costs for the current financial year.

Clause 1 of the Bill provides the short title and commencement of the proposed legislation.

Clause 2 of the Bill inserts into the principal Law, a definition of the words “driver’s licence” and provides an updated reference to the Constitution in the definition of “Minister”.

Clause 3 of the Bill amends section 18 of the principal Law by removing the Road Fund from the discretionary reserve in the financial statements of core government to reflect the change with respect to the funding of the Authority’s operating costs.

Clause 4 of the Bill repeals and replaces section 19 of the principal Law and provides for revenue not exceeding the amount approved by Cabinet to be transferred to the Authority from the two direct revenue streams via the Road Fund and to be used for the purpose of funding the operating costs of the Authority.

The amendment makes provision for the Cabinet to vary the amount of revenue transferred to the Authority via the Road Fund, or to vary the sources of revenue which are used to fund the Authority’s operating costs.

In addition, clause 4 provides that whenever revenue generated from the two direct sources of funding for the Authority's operating costs exceeds the revenue approved by the Cabinet to fund the Authority's operating costs, the excess revenue in the Road Fund will be transferred from the Road Fund to the general revenue of the Islands.

Clause 5 of the Bill repeals and replaces section 20 of the principal Law to facilitate direct funding arrangements between the Government and the Authority, using the revenue streams set out in the proposed section 19, to fund the Authority's operating costs. The clause further provides for the retroactive application of the transfer of those funds.

Clause 6 of the Bill amends the wording in section 23 of the principal Law to accord with the wording in section 19, as amended by clause 4.

Clause 7 of the Bill provides for the validation of the transfer of funds to the Authority.

THE NATIONAL ROADS AUTHORITY (AMENDMENT) BILL, 2015

ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Amendment of section 2 of the National Roads Authority Law (2006 Revision) - definitions
3. Amendment of section 18 - discontinuance of Roads Development Fund and establishment of Road Fund
4. Repeal and substitution of section 19 - revenue to be placed into Road Fund
5. Repeal and substitution of section 20 - utilisation of Road Fund
6. Amendment of section 23 - revenue and resources of Authority
7. Validation of transfer of funds to the Authority

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ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the National Roads Authority (Amendment) Law, 2015. Short title and commencement
- (2) This Law is deemed to have come into force on 1st July, 2014.
2. The National Roads Authority Law (2006 Revision), in this Law referred to as the "principal Law", is amended in section 2 as follows - Amendment of section 2 of the National Roads Authority Law (2006 Revision) - definitions
 - (a) by inserting, after the definition of the word "director", the following definition -
" "driver's licence", has the meaning assigned to it by section 2 of the Traffic Law, 2011 (Law 26 of 2011);"; and
 - (b) by deleting the definition of the word "Minister" and substituting the following definition -

“ “Minister” means the Member of Cabinet for the time being charged with responsibility for Infrastructure in accordance with section 54 of the Constitution;”.

Amendment of section 18 - discontinuance of Roads Development Fund and establishment of Road Fund

3. The principal Law is amended in section 18(2) by deleting the words “which shall be accounted for as a discretionary reserve in the financial statements of the core government in accordance with the Public Management and Finance Law (2005 Revision)”.

Repeal and substitution of section 19 - revenue to be placed into Road Fund

4. The principal Law is amended by repealing section 19 and substituting the following section -

“Revenue to be placed into Road Fund and transferred to the Authority to fund its operating costs”

19. (1) The Cabinet shall authorise the transfer of revenue, not exceeding ten million dollars, to the Authority, via the Road Fund, for the purpose of funding the Authority’s annual operating costs, in particular, the construction, upgrading, rehabilitation and maintenance of public roads.

(2) The revenue, referred to in subsection (1), shall be comprised of -

(2014 Revision)

- (a) one hundred per cent of the fuel import duty charged, collected and paid under the Customs Tariff Law (2014 Revision), on gasoline and diesel used by motor vehicles (excluding fuel import duties for diesel consumed by Caribbean Utilities Company); and
- (b) one hundred per cent of the fees collected and paid under the Traffic Regulations, 2012, on motor vehicle drivers’ licences,

and, upon being collected by the Government, the revenue shall be transferred to the Authority via the Road Fund.

(3) The Cabinet may by Regulations, amend -

- (a) subsection (1) (in respect of the limit on the amount of revenue to be transferred to the Authority from the two sources of revenue referred to in subsection (2));
- (b) subsection (2) (in respect of the sources from which the amount of revenue referred to in subsection (1) will be derived); or
- (c) both subsections (1) and (2).

(4) Regulations made under subsection (3) are subject to negative resolution of the Legislative Assembly.

(5) Where the Cabinet varies the revenue referred to in subsection (1), by Regulations made under subsection (3), the increase or decrease in revenue, shall be transferred in accordance with subsections (6) or (7) respectively.

(6) Where the variation of revenue by the Cabinet, referred to in subsection (5), results in an increase in the revenue referred to in subsection (1), the increase in revenue shall be transferred to the Authority via the Road Fund.

(7) Where the variation of revenue by the Cabinet, referred to in subsection (5), results in a decrease in the revenue referred to in subsection (1), any excess revenue shall be transferred from the Road Fund to the general revenue of the Islands.

(8) Where the revenue in the Road Fund, generated from the two direct sources of funding for the Authority's operating costs referred to in subsection (2), exceeds the revenue approved by the Cabinet for the purpose set out in subsection (1), the excess revenue shall be transferred from the Road Fund to the general revenue of the Islands."

5. The principal Law is amended by repealing section 20 and substituting the following section -

Repeal and substitution
of section 20 - utilisation
of Road Fund

“Utilisation
of Road
Fund 20. (1) The Road Fund shall be used by the Cabinet to transfer the revenue referred to in section 19(1) to the Authority to fund the Authority's annual operating costs and to be applied in particular to the construction, upgrading, rehabilitation and maintenance of public roads.

(2) The Road Fund shall be used for any other purpose provided for under this Law and approved by the Cabinet, the Legislative Assembly, or both, including the purposes referred to in section 23, without prejudice to the prescribed use of the Road Fund in subsection (1).

(3) The revenue collected from fuel import duties on

gasoline and diesel used by motor vehicles and the fees from motor vehicle drivers' licences, for the period commencing on 1st July, 2014 and ending on 30th June, 2015, inclusive, shall be allocated to the Road Fund and transferred to the Authority in monthly installments, with payments commencing from September, 2014, for the purpose specified in subsection (1).”.

Amendment of section 23 - revenue and resources of Authority

6. The principal Law is amended in section 23 by deleting the words “shall comprise” and substituting the words “shall be comprised of”.

Validation of transfer of funds to the Authority

7. The transferral to the Authority of payments collected from customs duties and fees (in respect of fuel import duties and motor vehicle drivers' licences) prior to the date of publication of this Law in the Gazette, in purported exercise of powers conferred by sections 19 and 20 of the principal Law (as substituted by sections 4 and 5 of this Law), is validated and is to be taken to have been lawfully transferred.

Passed by the Legislative Assembly the day of 2015.

Speaker.

Clerk of the Legislative Assembly.