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NATIONAL TRANSPORT FUND ACT 2009
(No. 3 of 2009)

National Transport Fund (Fund Management) Regulations 2010

IN exercise of the powers conferred upon me by section 7 of the National Transport Fund Act 2009, I make these Regulations –

PART 1 - PRELIMINARY

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| Citation | 1. These Regulations may be cited as the National Transport Fund (Fund Management) Regulations 2010. |
| Interpretation | <p>2. In these Regulations, unless the contrary intention appears –</p> <p>“authorised purpose” means any of the purposes for which monies of the Fund may be expended in accordance with section 5(1) of the Act;</p> <p>“Board” means the National Transport Fund Board established by regulation 3;</p> <p>“Chairperson” means the chairperson of the Board;</p> <p>“Head of the Secretariat” means the person currently appointed to be Head of the Secretariat under regulation 9(2);</p> <p>“professional Fund Management Controller” means any person or entity appointed by the Board to assist it to invest the monies of the Fund, and to otherwise manage and account for the monies of the Fund;</p> <p>“proposal” means any proposal, submitted to the Secretariat by the Ministry responsible for Infrastructure Development or the Ministry responsible for Aviation, for the Board to determine as a qualifying project;</p> |

“qualifying project” means any project which is consistent with section 5 of the Act, and which has been identified in a proposal endorsed by the Board and approved by Cabinet for funding from the Fund;

“Secretariat” means the Secretariat of the Fund established under regulation 9.

PART 2 - ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL TRANSPORT FUND BOARD

3. (1) This regulation establishes the National Transport Fund Board consisting of the following members – Membership of the Board

- (a) the Permanent Secretary responsible for Finance or his nominee, as Chairperson;
- (b) the Permanent Secretary responsible for Infrastructure Development or his nominee, as Deputy Chairperson;
- (c) the Permanent Secretary responsible for Aviation or his nominee;
- (d) the Permanent Secretary responsible for Development Planning and Aid Coordination or his nominee;
- (e) the Permanent Secretary responsible for Provincial Government or his nominee; and
- (f) a member nominated in accordance with subregulation (4) or his nominee.

(2) A nominee may only attend meetings if the member is unable for any reason to attend a meeting of the Board.

(3) If the nominee of the Permanent Secretary responsible for Finance attends a meeting of the Board, the Deputy Chairperson shall preside.

(4) The international banks and development agencies which make contributions to the Fund may, in writing, nominate one representative as a member of the Board, and the nominated representative shall be a member of the Board on the date the Chairperson receives the written nomination.

(5) The Board may invite representatives of international banks and development agencies that are contributors to the Fund or other persons to attend Board meetings, but the invited representatives or persons do not have any rights to vote on a matter for deliberation by the Board.

Functions of the Board

4. (1) The Board shall be responsible for all aspects of the management of the Fund and shall ensure that the Fund is managed in accordance with any requirements under the Act, its regulations or any other written law.

(2) Without limiting the generality of subregulation (1), the Board shall have responsibility for --

- (a) ensuring that the monies held by the Fund are invested strictly in accordance with the requirements of regulation 15, and that there are sufficient monies held to effectively implement qualifying projects approved by the Board in accordance with these Regulations;
- (b) receiving and considering proposals submitted by the Ministry responsible for Infrastructure Development and the Ministry responsible for Aviation for qualifying projects to be funded from the Fund, and ensuring that each proposal is in accordance with the requirements of regulation 10(3);
- (c) subject to Cabinet approval, endorsing submissions from the Ministry responsible for Infrastructure Development and the Ministry responsible for Aviation for proposed qualifying projects, and determining the amount of funds available for such projects, and the time frame such approved expenditures;

for

- (d) determining and applying arrangements for the payment of monies from the Fund for the implementation of qualifying projects;
- (e) ensuring that Annual Plans, with monthly cash forecasts, and estimates of anticipated receipts from donors, investment earnings and approved expenditures, are prepared for consideration by the Board;
- (f) ensuring that the planning and financial management and accounting procedures applied by the Fund are consistent with the Government budgeting and financial management processes;
- (g) determining that adequate arrangements are in place to ensure the proper financial management of the monies paid out of the Fund, so that the monies are applied to the intended and lawful purposes;
- (h) considering reports presented by the Secretariat relating to progress of projects funded from the Fund, and taking such action as the Board deems necessary;
- (i) ensuring that Cabinet approval is sought in relation to proposals for qualifying projects, and for their funding and implementation in accordance with the Act, and any requirement imposed from time to time by Cabinet.

5. (1) The Board shall meet at least once every three months at such places determined by the Chairperson, unless the Chairperson is satisfied that it is implacable to convene a meeting, in which case he shall give at least five working days' notice to cancel the meeting.

Meeting of the Board

(2) Notification of all meetings of the Board shall be circulated to its members, together with a meeting agenda, and all draft resolutions prepared for consideration by the Board in accordance with regulation 7.

(3) The following four members constitute the quorum of a meeting of the Board, otherwise the meeting shall be postponed if there is no quorum –

- (a) the Chairperson or the Deputy Chairperson;
- (b) two members appointed under regulation 3(1)(c), (d) or (e); and
- (c) the member nominated under regulation 3(1)(f).

Proceedings at
Board meetings

6. (1) All proceedings of the Board must be held in accordance with these Regulations and with any applicable Financial Instructions, but in all other respects the Board may determine its own procedures.

(2) Subject to regulation 7, all resolutions of the Board in relation to the Fund shall be determined by consensus of all members for approval of projects and for other administrative matters of the Board by an absolute majority.

(3) For the purposes of this regulation, an absolute majority of votes is recorded if more than one-half of the total number of members voted in favour of a resolution.

Approval of
circular resolutions

7. (1) To facilitate the procedures of the Board and to ensure that all Board members are given an opportunity to consider all matters put to the Board for decision, the Head of the Secretariate shall circulate all Board Papers to each Board member, together with a draft resolution for signature by the members.

(2) The members of the Board may, instead of attending a meeting of the Board, indicate their consent to a proposal by signing a draft resolution submitted in accordance with this regulation.

(3) The signed draft resolutions shall be sent to the Head of the Secretariat by facsimile or electronic mail submission at any time within seven days prior to the holding of a meeting of the Board.

(4) Signed resolutions in the affirmative shall be counted together with votes recorded at the meeting of the Board (if any) in favour of the resolution for the purposes of determining the outcome in accordance with regulation 6.

8. (1) The Board may, in consultation with the Minister responsible for Finance, appoint one or more members of the Board or a specialist as the fund manager for the purposes of section 5(4) of the Act.

(2) The provisions of these Regulations on the functions and powers of the Board apply to the fund manager as if the references to the Board in those provisions refer to the fund manager, subject to necessary adaptation and modifications and directions of the Board.

PART 3 - SECRETARIAT OF THE FUND

9. (1) The Chairperson and the Deputy Chairpersons shall – Secretariat

(a) approve arrangements for the provision of secretariat services and support necessary for proper management of the Fund; and

(b) make available any other personnel and resources of their Ministries as they determine to be necessary to support the effective operation of the Fund, and to meet the needs and requirements of the Board.

(2) The Chairperson shall appoint a public officer of Under Secretary level in the Ministry responsible for Finance or the Ministry responsible for Infrastructure Development to be the Head of the Secretariat to the Fund.

(3) The Head of the Secretariat of the Fund shall be responsible for the following –

(a) calling meetings of the Board when required to do so by the Chairperson;

- (b) circulating Board Papers and draft resolutions in accordance with regulation 5(2) for consideration by the Board;
- (c) receiving proposals for qualifying projects to be funded from the Fund, and --
 - (i) identifying available funds for proposed projects;
 - (ii) ensuring that proposed projects are consistent with the requirements stated in the Act, and with the National Transport Plan;
 - (iii) evaluating proposed financial management arrangements and identifying an acceptable project management account to receive and disburse payments for the implementation of qualifying projects; and
 - (iv) evaluating proposed reporting formats and schedules in relation to the implementation of qualifying projects;
- (d) ensuring that a preliminary report is prepared for presentation to the Board in relation to each submission from the Ministry responsible for Infrastructure Development or the Ministry responsible for Aviation for approval of qualifying projects;
- (e) keeping a record of proceedings of the Board, and all approved resolutions of the Board;
- (f) notifying the members of the Board of the outcome of all resolutions made by the Board;

- (g) preparing Cabinet Submissions to obtain necessary approvals from Cabinet in accordance with the Act, and any requirement imposed from time to time by Cabinet;
- (h) otherwise ensuring that the resolutions of the Board are implemented;
- (i) ensuring that all necessary accounts and reports are prepared on behalf of the Fund, and approved by the Board, in accordance with all applicable lawful requirements;
- (j) receiving copies of project implementation reports conforming to requirements imposed by the Board for each qualifying project, and ensuring that the Board is advised on any implications arising from such reports that may affect the status of a qualifying project;
- (k) otherwise ensuring that the Fund is managed in accordance with the requirements of the Act and these Regulations.

PART 4 - MANAGEMENT OF THE FUND

10. (1) The Board has authority to endorse any project proposed by the Ministry responsible for Infrastructure Development or the Ministry responsible for Aviation as a qualifying project, and all such decisions are subject to the approval of Cabinet.

Submissions for approval as qualifying projects

(2) All submissions to the Board for the endorsement of qualifying projects must have been prepared by the Ministry responsible for Infrastructure Development or the Ministry responsible for Aviation, and must be submitted under the signature of the relevant Minister.

(3) No endorsement may be given by the Board for any proposed qualifying project unless the Head of the Secretariat certifies that –

- (a) the project is specified in the National Transport Plan, or is consistent with a clear statement of policy in the National Transport Plan;
- (b) where the project is not specified in the National Transport Plan but consistent with the clear statement of policy in the National Transport Plan, the project is consistent with such policy, subject to assessment of compatibility and relative priority with other project specified in the National Transport Plan;
- (c) the nature of the project is consistent with one or more of the purposes stated in section 5(1) of the Act;
- (d) there are sufficient funds held in the Fund to cover the full amount of the proposed funding for the project for the entire period of its implementation; and
- (d) the proposed expenditure of the monies held in the Fund for the proposed project is consistent with any conditions attached by all donors of the funds to be utilised.

(4) All projects endorsed by the Board under this regulation are subject to the approval of Cabinet, and upon such approval the proposed project shall be a qualifying project.

Additional
requirements

11. (1) The Board may, from time to time, determine additional requirements for submissions seeking approval for qualifying projects.

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(2) Without limiting the generality of subregulation (1), the Board may require the appraisal for proposed projects, and such appraisals may be required to include detailed assessments of the following –

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(a) the adequacy of financial management arrangements for the proposed project, including the nomination of an acceptable project management account to receive and disburse funds for the implementation of the proposed project;

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(b) reporting formats and schedules to enable effective monitoring of the use of funds by the proposed projects;

(c) proposed draw-down methods and schedules for each proposed project, which identify the arrangements for making payments from the Fund to the approved project management account for the duration of the project, or for any other period which may be determined and approved by the Board;

(d) any other matter required by the Board or by Cabinet.

12. (1) Subject to regulation 13, the Chairperson may approve the establishment of one or more bank accounts for the purposes of managing the monies held by the Fund, and every such bank account shall include the name of “The National Transport Fund”.

Approved bank
accounts

(2) Subject to subregulation (3), payments approved by the Board from the accounts maintained in accordance with subregulation (1) shall require the signatures of persons determined by the Chairperson.

(3) A donor to the Fund may impose a condition that the relevant account applying to its monies in the Fund shall be kept under the signature of the Chairperson, the Accountant-General and one person designated by the donor.

(4) All payments from the Fund must be made in accordance with subregulation (2), and may only be made into an approved project management account for a qualifying project.

(5) Payments made in accordance with subregulation 94) must be based upon a draw-down method and schedule approved by the Board in relation to the qualifying project.

(6) The exercise of powers and functions by the Chairperson under this regulation shall be exercised after consulting the Board.

Payment of monies into the Fund

13. (1) All contributions made to the Fund by development banks and external donor agencies, and which are held by the Central Bank of Solomon Islands, may be paid into a nominated account held in the name of the Fund on the written authority of the Chairperson.

(2) The Chairperson may do anything necessary to create accounts with the Central Bank of Solomon Islands if these are necessary for handling monies provided by development banks and donor agencies and which are intended to be managed and expended through the Fund.

(3) If payments under the Fund are made through another ministry or agency other than through the Ministry responsible for Finance, that other Ministry or agency shall submit a monthly report (or other period as the Chairperson may determine) to the Ministry responsible for Finance within two weeks after the end of the month or period before any acquittal and approval of next payments from the account created under subregulation (2) to the account of the Fund kept at a commercial bank.

Donors conditions to be fully complied with

14. (1) The Board shall ensure that any conditions placed on a contribution to the Fund made by any donor or development agency shall be complied with when those monies are applied in accordance with these Regulations for any purpose consistent with the Act.

(2) The Board may direct that any monies contributed to the Fund by a donor or development agency be held in a separate account maintained by the Fund so that those monies will be expended only for any purpose designated by the contributor to the Fund.

15. (1) Subject to subregulation (2), the Board may, from time to time, approve an investment policy for the Fund, and may delegate powers over the investment of monies held by the Fund to a fund manager approved by the Board.

(2) Monies held by the Fund shall only be invested in bank accounts held by licensed banks within Solomon Islands, and only in Solomon Islands currency.

Made at Honiara this first day of June, 2010.

FRANCIS BILLY HILLY
Minister of Finance and Treasury

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