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REPUBLIC OF KENYA



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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION- 2023

DEPARTMENTAL COMMITTEE ON TRANSPORT & INFRASTRUCTURE

REPORT ON CONSIDERATION OF THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 68 OF 2023)

CLERKS CHAMBERS  
DIRECTORATE OF COMMITTEE SERVICES  
PARLIAMENT BUILDINGS  
NAIROBI

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 21 FEB 2024	DAY: WED
TABLED BY:	Hon George Murugara, mp Chairperson, JTAC
CLERK-AT THE TABLE:	Muram Mado DECEMBER 2023

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## **CHAIRPERSON'S FOREWORD**

The Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bills No. 68 of 2023) was read a First Time on 15<sup>th</sup> November, 2023 and was subsequently committed to respective Departmental Committees for consideration and facilitation of public participation pursuant to Standing Order 127. The Bill seeks to, among other Statutes; amend the Traffic Act (Cap.403) and the Civil Aviation Act, 2013 (No. 21 of 2013).

The Clerk of the National Assembly placed adverts in the print media on 22<sup>nd</sup> November, 2023 seeking for comments from the public on the Bill pursuant to Article 118 of the Constitution. The Committee also wrote to the Attorney General, the Cabinet Secretary for the Roads and Transport, the National Transport and Safety Authority and the Kenya Civil Aviation Authority and the Kenya Law Reform Commission, vide a letter Ref.NA/DDC/TI/2023/ (103) dated 23<sup>rd</sup> November, 2023. The Committee received memoranda/ submissions from two (2) stakeholders, namely; the National Transport and Safety Authority and the Kenya Civil Aviation Authority.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee, Committee Secretariat and all those who responded to the National Assembly's advert inviting the public to present their views on the Bill.

On behalf of the Committee and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the report of the Committee on its consideration of the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bills No. 68 of 2023).

**HON. G.K. GEORGE KARIUKI, M.P**

## EXECUTIVE SUMMARY

The Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bill No. 68 of 2023) was Read a First Time on 15<sup>th</sup> November, 2023 and thereafter committed to respective Departmental Committees for consideration and facilitation of public participation pursuant to Standing Order 127. The Departmental Committee on Transport and Infrastructure considered amendments to the Traffic Act (Cap. 403) and the Civil Aviation Act, 2013 (No. 21 of 2013).

In order to fulfill the requirements of Article 118 of the Constitution, the Clerk of the National Assembly placed an advertisement in the print media on 22<sup>nd</sup> November, 2023 requesting for comments from the general public on the Bill.

The Committee received memoranda from the National Transport and Safety Authority and the Kenya Civil Aviation Authority.

The Committee observed that with regard to the proposed amendments to the Traffic Act, the proposed amendments are substantive in nature and not just clean ups of the Traffic Act; the amendments fundamentally depart from the operation of the current Act, in consequence therefore, the amendments should be considered through introduction of a separate amendment Bill that will comprehensively consider the implications of enhancing the penalties in the Act;

Further, besides the extensive nature of the proposed amendments to the Traffic Act (Cap. 403), the draconian increase in penalties to minor traffic offences will have far reaching effects not only to individuals but also to the entire transport sector; therefore, there is need for extensive public participation before the amendments are passed by the House;

As regards the proposed amendments to the Civil Action Act, 2013, the Committee observed that the amendment to clean up the definition of publications is proper. However, the Committee rejected the amendment to section 34 of the Act that seeks to revise the period within which the Kenya Civil Aviation Authority should prepare their financial reports, from three (3) months to six (6) months. Timely preparation and submission of annual reports is critical to allow Parliament to consider them.

In view of the above the Committee makes the following recommendations:-

- (1) The proposed amendment to section 117 (3) of the Traffic Act as contained in the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023) be rejected;**
  
- (2) The proposed amendment to section 117(8) of the Traffic Act as contained in the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023) be rejected;**

- (3) The proposed amendment to section 117(9)(a) of the Traffic Act as contained in the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023) be rejected;
- (4) The proposed amendment to section 117(10) of the Traffic Act as contained in the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023) be rejected;
- (5) The proposed amendment to section 2(1) paragraph ( e ) of the Civil Aviation Act, 2023 be adopted as as contained in the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023); and
- (6) The Proposed amendment to Section 34 of the Civil Aviation Act, 2013 as contained in the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023) be rejected.

## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

1. The Departmental Committee on Transport and Infrastructure is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -
  - i. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
  - ii. study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
  - iii. on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
  - iv. study and review all legislation referred to it;
  - v. study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
  - vi. investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
  - vii. vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
  - viii. examine treaties, agreements and conventions;
  - ix. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
  - x. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
  - xi. examine any questions raised by Members on a matter within its mandate.

### **1.2 Committee Subjects**

2. The Committee is mandated to consider the following subjects:
  - i. Transport, including non-motorized transport;
  - ii. Construction and maintenance of roads;
  - iii. Rails, air and marine transport; Seaports and national integrated infrastructure policies and
  - iv. programmes; and
  - v. Transport safety

### **1.3 Oversight**

- 3 The Committee oversees the Ministry of Roads and Transport which has two state departments namely
  - i State department for Roads
  - ii State department for Transport
- 4 Further, Committee oversees the State Department for Shipping and Maritime Affairs which is under the Ministry of Mining, Blue Economy, and Maritime Affairs

#### 1.4 Committee Membership

5. The Committee membership comprises: -

The Hon. G.K George Kariuki, M.P – **Chairperson**

M.P for Ndia Constituency

**United Democratic Alliance Party**

The Hon. Mutua Didmus Wekesa Barasa, M.P- **Vice- Chairperson**

M.P. for Kimilili Constituency

**United Democratic Alliance Party**

The Hon. Arama Samuel, M.P

M.P for Nakuru Town West Constituency

**Jubilee Party**

M.P for Jomvu Constituency

**Orange Democratic Movement Party**

The Hon. Naicca, Johnson Many, M.P

M.P for Mumias East Constituency

**Orange Democratic Movement Party**

The Hon. Abdul Rahim Dawood, M.P.

M.P for North Imenti Constituency

**Independent**

The Hon. Francis, Kajwang' Tom Joseph, M.P.

M.P for Ruaraka Constituency

**Orange Democratic Movement Party**

The Hon. Elsie Muhanda, M.P.

M.P for Kakamega County

**Orange Democratic Movement Party**

The Hon. Kiaraho, David Njuguna, M.P.

M.P for Ol Kalao Constituency

**Jubilee Party**

The Hon. Chege John Kiragu, M.P.

M.P for Limuru Constituency

**United Democratic Alliance Party**

The Hon. Kiunjuri Festus Mwangi, M.P.

M.P for Laikipia East Constituency

**The Service Party**

The Hon. Abdirahman, Husseinweytan Mohamed, M.P.

M.P for Mandera East Constituency

**Orange Democratic Movement Party**

The Hon. Bady, Bady Twalib, M.P.

The Hon. Komingoi Kibet Kirui, M.P.

M.P for Bureti Constituency

**United Democratic Alliance Party**

The Hon. Saney Ibrahim Abdi, M.P

M.P for Wajir North Constituency

**Orange Democratic Movement Party**

The Hon. Jhanda Zaheer, M.P

M.P for Nyaribari Chache Constituency

**United Democratic Alliance Party**

#### **1.4 Committee Secretariat**

6. The Committee Secretariat comprises

Ms. Tracy Chebet Koskei  
Senior Clerk Assistant  
**Lead Clerk**

Mr. Abdinasir Y. Moge  
**Fiscal Analyst**

Mr. Mohamednur M. Abdullahi  
**Clerk Assistant**

Ms. Clare Chopper Doye  
**Clerk Assistant**

Mr. Erick Kariuki  
**Research Officer**

Mr. Josphat Bundotich  
**Senior Serjeant-at-Arms**

Mr. Mabuti Mutua  
**Legal Counsel**

Ms. Ivy Maritim  
**Media Relations Officer**

Mr. Eugene Luteshi  
**Audio Officer**

## 2.0 INTRODUCTION

### 2.1 Background Information

7. The Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2022 (National Assembly Bill No. 68 of 2023) was Read a First Time on 15<sup>th</sup> November, 2023 and thereafter committed to respective Departmental Committees for consideration and facilitation of public participation pursuant to Standing Order 127. The Departmental Committee on Transport and Infrastructure considered amendments to the Traffic Act (Cap , and the Civil Aviation Act, 2013 (No. 21 of 2013).

### 2.2 The Traffic Act (Cap.403)

8. The Bill proposes to amend the Section 117 of the Traffic Act (Cap 403) to primarily achieve two objectives. First, to include service through electronic devices and secondly to enhance the prescribed penalties for commission of minor offenses.

9. In this respect, the Bill proposes to amend section 117 (3) of the Traffic Act which provide as follows —

*117(3) "Notwithstanding any provision contained in this or any other Act, it shall be lawful for any police officer to serve, either personally or by affixing the same prominently to the vehicle concerned, upon the owner or person in charge of any motor vehicle who is reasonably suspected of having committed any of the scheduled minor offences, a police notification of a traffic offence in the prescribed form charging such person with having committed the offence or offences indicated in the notification and requiring such person to attend court to answer such charge or charges, at such time (which if the police notification is served personally on the owner or person in charge of the motor vehicle, may be within forty-eight hours of such service; or if the police notification is affixed prominently to the vehicle concerned, shall not be sooner than seven days after the date of such service) as is shown on such notification."*

10. The Bill also amends section 117(3) by inserting the words "or **through the use of any electronic or mobile communication technology**" immediately after the words "vehicle concerned". Therefore, the section if amended would read that— ... Notwithstanding any provision contained in this or any other Act, it shall be lawful for any police officer to serve, either personally or by affixing the same prominently to the vehicle concerned or through the use of any electronic or mobile communication technology... The effect of this amendment will be that police officers will be able to effect service through electronic medium. i.e. WhatsApp, Short Messaging Service.
11. Additionally, the Bill amends section 117(3) by inserting the words "**either pay the fine or**" immediately after the words "requiring such persons to". Consequently, if this section is

amended as proposed then it would read that... Notwithstanding any provision contained in this or any other Act, it shall be lawful for any police officer to serve, either personally or by affixing the same prominently to the vehicle concerned or through the use of any electronic or mobile communication technology, upon the owner or person in charge of any motor vehicle who is reasonably suspected of having committed any of the scheduled minor offences, a police notification of a traffic offence in the prescribed form charging such person with having committed the offence or offences indicated in the notification and requiring such person to either pay the fine or to attend court to answer such charge or charges ...

12. The effect of this amendment will be that police officers will have powers to require persons to pay fines for commission of the scheduled minor traffic offenses without necessarily having to appear before court.
13. Further, the Bill proposes to amend section 117(3) by inserting the words “**or through the use of electronic or mobile medium**” immediately after the words “served personally”. Consequently, if this section is amended as proposed then it would read that ...

*“Notwithstanding any provision contained in this or any other Act, it shall be lawful for any police officer to serve, either personally or by affixing the same prominently to the vehicle concerned or through the use of any electronic or mobile communication technology, upon the owner or person in charge of any motor vehicle who is reasonably suspected of having committed any of the scheduled minor offences, a police notification of a traffic offence in the prescribed form charging such person with having committed the offence or offences indicated in the notification and requiring such person to either pay the fine or to attend court to answer such charge or charges at such time (which if the police notification is served personally or through the use of electronic or mobile medium on the owner or person in charge of the motor vehicle, may be within forty-eight hours of such service; or if the police notification is affixed prominently to the vehicle concerned, shall not be sooner than seven days after the date of such service) as is shown on such notification”*

14. The effect of this amendment will be that service by electronic mean is equated to being served personally. In this regard, once a person is served by electronic means they will have only forty-eight hours to show cause. (Either pay the fine or appear in Court)
15. Finally, regarding the amendments to the Traffic Act, the Bill seeks to amend sections 117(8), 117(9)(a), and 117(10) to enhance the penalties prescribed under the Act for commission of minor traffic offenses. In this regard the Bill proposes to amend the three sections as follows–
16. It seeks to amend section 117(8) to enhance the penalty for failure to appear in court or pay a fine from the current two hundred shillings to two hundred thousand shillings. The Bill does not amend the corresponding penalty for imprisonment term.
17. It seeks to amend section 117(9)(a) to enhance the penalty for removing a notification affixed by a police officer to a vehicle associated with the commission of an offence from the current two hundred shillings and for subsequent offender five hundred shillings to two hundred thousand shillings and for subsequent offender five hundred thousand shillings.

18. Finally, the Bill Seeks to amend section 117(10) to enhance the penalty for failure to report within two days, a police notification of a traffic offence, that is or has been defaced or torn to make it illegible from the current one hundred shillings to one hundred thousand shillings.

### **2.3 The Civil Aviation Act, 2013 (No. 21 of 2013)**

19. In this regard, the Bill proposes to amend section 2(1) paragraph (e) in respect to the definition of the term "publications" which currently reads as follows—  
"publication" includes information given in any of the following publications issued, whether before or after the commencement of this Act—
- (a) notices to airmen;
  - (b) aeronautical information publications;
  - (c) notices to licensed aircraft maintenance engineers and to owners of civil aircraft; civil aviation publications;
  - (e) aeronautical information circulars for aviation meteorology;
  - (f) manuals of procedures;
  - (g) advisory circulars and orders; and
  - (h) technical standards.
20. The amendment seeks to delete the words "*for aviation meteorology*" contained in paragraph (e).
21. Secondly the Bill seeks to also proposes to amend section 34 of the Civil Aviation Act 2013 to increase the timelines within which the Director General of the Authority shall prepare annual financial statements and submit to the National Assembly through the Cabinet Secretary.
22. The effect of this amendment is to extend the period within which the Director General is required to prepare and table the Financial Statements of the Authority.

### **3.0 PUBLIC PARTICIPATION IN THE REVIEW OF THE BILL**

23. Article 118 (1) (b) of the Constitution of Kenya provides as follows: -

*“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees”*

Standing Order 127(3) provides as follows-

*“The Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its recommendations to the House”*

24. In line with the Constitution and Standing Orders, the National Assembly placed an advert in the local daily newspapers of 22<sup>nd</sup> November, 2023 (Annex II). The Committee further invited relevant stakeholders to make submissions vide a letter Ref: NA/DDC/TI/2023/103 dated 23<sup>rd</sup> November, 2023 (Annex III) of the report.

25. The Committee received memoranda from the following stakeholders:

1. The National Transport and Safety Authority
2. Kenya Civil Aviation Authority

26. The stakeholders submitted as follows:

#### **3.1 The Traffic Act (Cap. 403)**

27. Following the request for Memoranda, the Committee received only one submission; from the National Transport and Safety Authority whose details are outlined below:

##### **3.1.1 The National Transport and Safety Authority**

28. The Director General for the National Transport and Safety Authority in a letter dated 27<sup>th</sup> November, 2023 Submitted that it supported the proposed amendments. The Authority added that to achieve the second objective of enhancing the fine for non-attendance to court or non-payment of the fine within a stipulated period pursuant to the service of notice, we would propose the below amendment to section 117(8):

*(8) If any person having been served with a notification issued under this section fails either to pay the statutory maximum penalty within 14 days of service he may be brought before the court either by summons or by warrant and, unless he shows good cause to the contrary, shall be guilty of an offence*

*and liable forthwith by order of the court to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one month.*

### **3.2 The Civil Aviation Act, 2013 (No. 21 of 2013)**

29. Following the request for Memoranda, the Committee received only one submission on the proposed amendments. The Committee received submissions from the Kenya Civil Aviation Authority (KCAA). The details of the submissions are outlined below:

#### **3.2.1 Submission by the Kenya Civil Aviation Authority**

30. In their submission, KCAA gave a justification in respect to the amendment to delete '*aviation meteorology*' from the definition of publication and stated that Aeronautical Information Circular covers a wide scope of information in compliance with the International Civil Aviation Organization Standards and recommended practices, therefore making reference to aviation meteorology limits the type of information that may be published.

31. As regards, the amendment to extend the period within which the Director General is required to prepare and table the Financial Statements of the Authority from three months to six months, the Authority submitted that the extra three months is to provide time to the Office of the Auditor General to audit the Authority's annual accounts so that the annual report submitted to the Cabinet Secretary shall include audited annual statements.

#### 4.0 COMMITTEE OBSERVATIONS

32. The Committee while considering the Bill made the following observations;

##### **Proposed Amendments to the Traffic Act (Cap. 403)**

The Committee rejected the proposed amendments to the Traffic Act, and observed that—

- (1) The proposed amendments are substantive in nature and not just clean ups of the Traffic Act; the amendments fundamentally depart from the operation of the current Act, in consequence therefore, the amendments should be considered through introduction of a separate amendment Bill that will comprehensively consider the implications of enhancing the penalties in the Act;
- (2) Besides the extensive nature of the proposed amendments to the Traffic Act (Cap. 403), the draconian increase in penalties to minor traffic offences will have far reaching effects not only to individuals but also to the entire transport sector; therefore, there is need for extensive public participation before the amendments are passed by the House;
- (3) The proposal to amend the Act to make provision for service through electronic and mobile devices is a timely one but should be done through a Traffic (Amendment) Bill that comprehensively addresses the manner of effecting service electronically;
- (4) Empowering the police to impose on-spot fines at the commission of the offence needs to be considered carefully against the constitutional rights of an accused person; further, the fines should not be excessively punitive.

##### **Proposed Amendments to the Civil Aviation Act, 2013**

- (5) The Committee observed that the amendment to clean up the definition of publications is proper. However, the Committee rejected the amendment to section 34 of the Act that seeks to revise the period within which the Kenya Civil Aviation Authority should prepare their financial reports, from three (3) months to six (6) months. Timely preparation and submission of annual statements is critical to allow Parliament to consider them.

## 5.0 COMMITTEE RECOMMENDATIONS

38. The Committee, having considered the Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2023 (National Assembly Bills No. 68 of 2023) and the submissions from members of the public and stakeholders, **recommends that the House approves the Bill with amendments to the provisions relating to the Traffic Act (Cap. 403) and the Civil Aviation Act, 2013 as proposed in the Schedule of Amendments.**

SIGNED  \_\_\_\_\_

DATE 6/12/2023

**HON. G.K. KARIUKI, MP  
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRANSPORT AND  
INFRASTRUCTURE**

## SCHEDULE OF PROPOSED AMENDMENTS

The Committee proposes the following amendments to be considered by the House in the Committee Stage

### **SCHEDULE**

**THAT**, the Schedule to the Bill be amended in the proposed amendments to **Traffic Act, Cap 403**—

- (a) by deleting the proposed amendments to Section 117(3) of the Act;
- (b) by deleting the proposed amendments to Section 117(8) of the Act;
- (c) by deleting the proposed amendments to Section 117(9) of the Act;
- (d) by deleting the proposed amendments to Section 117(10) of the Act.

### **Justification**

The proposed amendments to the **Traffic Act Cap 403** are substantive amendments that will have far reaching effect on the transport sector; the penal system and should be proposed through a separate **Amendment Bill** and not the **Statute Law Miscellaneous (Amendment) Bill**.

**THAT**, the Schedule to the Bill be amended in the proposed amendments to the **Civil Aviation Act, 2013** by deleting the proposed amendments to section 34 of the Act.

### **Justification**

The timely submission of annual reports by state agencies is critical to allow parliament to consider the reports in time. There is no sufficient justification for the extension of the period from three to six months.

**Annexure 1:** Signed list of Members who attended the sitting that considered and adopted the report



REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY

13<sup>TH</sup> PARLIAMENT - SECOND SESSION - 2023

DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

MEMBERS ATTENDANCE SCHEDULE

DATE: 5<sup>TH</sup> DECEMBER 2023 START: 9:50am END: 11:50am

VENUE: 2<sup>ND</sup> Floor Continental House

AGENDA: Consideration & Adoption of the Statute Law No. 2 of 2023

NO.	NAME	SIGNATURE
1.	The Hon. GK George Kariuki, MP – Chairperson	
2.	The Hon. Didmus Barasa, MP- Vice Chairperson	
3.	The Hon. Kiunjuri, Festus Mwangi, MP	
4.	The Hon. Abdul Rahim Dawood, MP	
5.	The Hon. Arama Samuel, MP	
6.	The Hon. Bady, Bady Twalib, MP	
7.	The Hon. Francis, Kajwang' Tom Joseph, MP	
8.	The Hon. Kiaraho, David Njuguna, MP	
9.	The Hon. Naicca, Johnson Many, MP	
10.	The Hon. Chege, John Kiragu, MP	
11.	The Hon. Elsie Muhanda, MP	
12.	The Hon. Saney, Ibrahim Abdi, MP	
13.	The Hon. Hussein Weytan Mohamed, MP	
14.	The Hon. Jhanda Zaheer, MP	
15.	The Hon. Komingoi, Kibet Kirui, MP	

**Annexure 2** Minutes of the Committee on sittings considering  
the Bill and adoption of the report

**MINUTES OF THE FIFTY-THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE HELD ON TUESDAY 5<sup>TH</sup> DECEMBER, 2023 AT THE 2<sup>ND</sup> FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 9:30 A.M.**

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**MEMBERS PRESENT**

1. The Hon. GK George Kariuki, M.P. – **Chairperson**
2. The Hon. Mutua Didmus Wekesa Barasa, M.P. – **Vice-Chairperson**
3. The Hon. Francis, Kajwang' Tom Joseph, M.P.
4. The Hon. Johnson Many Naicca, M.P.
5. The Hon. Chege John Kiragu, M.P.
6. The Hon. Bady, Bady Twalib, M.P.
7. The Hon. Abdul Rahim Dawood, M.P.
8. The Hon. Samuel Arama, M.P.
9. The Hon. David Njuguna Kiaraho, M.P.
10. The Hon. Hussein Weytan Mohamed Abdirahman, M.P.

**APOLOGIES**

1. The Hon. Kiunjuri Festus Mwangi, M.P.
2. The Hon. Muhanda Elsie, M.P.
3. The Hon. Jhanda Zaheer, M.P.
4. The Hon. Komingoi Kibet Kirui, M.P.
5. The Hon. Saney Ibrahim Abdi, M.P.

**SECRETARIAT**

1. Mr. Sherrifsam Mwendwa- Director Litigation and Compliance Services
2. Ms. Tracy Chebet Koskei - Senior Clerk Assistant
3. Ms. Clare Choper Doye - Clerk Assistant III
4. Mr. Mohamednur Abdullahi - Clerk Assistant III
5. Mr. Mabuti Mutua - Legal Counsel II
6. Mr. Erick Kariuki - Research Officer
7. Mr. Eugene Luteshi - Audio Officer
8. Ms. Lilly Cherotich - Protocol officer

**MIN./NO./TI/2023/257:**

**PRELIMINARIES**

The meeting was called to order ten minutes to Ten O'clock (09:50am) with a word of prayer by The Hon. Tom Joseph Kajwang', M.P. The Agenda of the meeting was adopted having been

proposed and seconded by the Hon. Samuel Arama, M.P, and the Hon. Naicca Johnson Manya, M.P, respectively.

**MIN./NO./TI/2023/258: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

Minutes of the Fifty-First sitting of the Committee held on 9<sup>th</sup> November, 2023 were confirmed to be a true record having been proposed and seconded by the Hon. Samuel Arama, M.P, and The Hon. Abdul Rahim Dawood, M.P.

Minutes of the Fifty-Second sitting of the Committee held on 30<sup>th</sup> November, 2023 were confirmed to be a true record having been proposed and seconded by the Hon. Tom Joseph Kajwang', M.P, and The Hon. Samwel Arama, M.P.

**MIN./NO./TI/2023/259: BRIEF BY THE LEGAL CONSEL ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (No.2) (NATIONAL ASSEMBLY BILL NO.68 OF 2023)**

The Legal Counsel attached to the Committee briefed the Committee on the following statutes proposed to be amended in the Statute Law:

**The Traffic Act (Cap 403)**

The Legal Counsel informed the Committee that the Statute (Miscellaneous Amendment) Bill proposes to amend the Section 117 of the Traffic Act (Cap 403) to primarily achieve two objectives. First, to include service through electronic devices and secondly to enhance the prescribed penalties for commission of minor offenses.

In this respect the Bill proposes to amend section 117 (3) of the Traffic Act which provide as follows —

The Bill amends section 117(3) by inserting the words “or through the use of any electronic or mobile communication technology” immediately after the words “vehicle concerned”. Therefore, the section if amended would read that— ... *Notwithstanding any provision contained in this or any other Act, it shall be lawful for any police officer to serve, either personally or by affixing the same prominently to the vehicle concerned* or through the use of any electronic or mobile communication technology... The effect of this amendment will be that police officers will be able to effect service through electronic medium. i.e. *WhatsApp, Short Messaging Service*.

He also informed the Committee that, the Bill also amends section 117(3) by inserting the words “either pay the fine or” immediately after the words “requiring such persons to”. Consequently, if this section is amended as proposed then it would read that... *Notwithstanding any provision contained in this or any other Act, it shall be lawful for any police officer to serve, either personally or by*

*affixing the same prominently to the vehicle concerned or through the use of any electronic or mobile communication technology, upon the owner or person in charge of any motor vehicle who is reasonably suspected of having committed any of the scheduled minor offences, a police notification of a traffic offence in the prescribed form charging such person with having committed the offence or offences indicated in the notification and requiring such person to either pay the fine or to attend court to answer such charge or charges ...*

The effect of this amendment will be that police officers will have powers to require persons to pay fines for commission of the scheduled minor traffic offenses without necessarily having to appear before court.

Further, the Bill proposes to amend section 117(3) by inserting the words “or through the use of electronic or mobile medium” immediately after the words “served personally”. Consequently, if this section is amended as proposed then it would read that ... *Notwithstanding any provision contained in this or any other Act, it shall be lawful for any police officer to serve, either personally or by affixing the same prominently to the vehicle concerned or through the use of any electronic or mobile communication technology, upon the owner or person in charge of any motor vehicle who is reasonably suspected of having committed any of the scheduled minor offences, a police notification of a traffic offence in the prescribed form charging such person with having committed the offence or offences indicated in the notification and requiring such person to either pay the fine or to attend court to answer such charge or charges at such time (which if the police notification is served personally or through the use of electronic or mobile medium on the owner or person in charge of the motor vehicle, may be within forty-eight hours of such service; or if the police notification is affixed prominently to the vehicle concerned, shall not be sooner than seven days after the date of such service) as is shown on such notification...*

The effect of this amendment will be that service by electronic mean is equated to being served personally. In this regard, once a person is served by electronic means they will have only forty-eight hours to show cause. (Either pay the fine or appear in Court)

Finally, regarding the amendments to the Traffic Act the Bill seeks to amend sections 117(8), 117(9)(a), and 117(10) to enhance the penalties prescribed under the Act for commission of minor traffic offenses. In this regard the Bill proposes to amend the three sections as follows—

- a. It seeks to amend section 117(8) to enhance the penalty for failure to appear in court or pay a fine from the current two hundred shillings to two hundred thousand shillings. The Bill does not amend the corresponding penalty for imprisonment term.
- b. It seeks to amend section 117(9)(a) to enhance the penalty for removing a notification affixed by a police officer to a vehicle associated with the commission of an offence from the current two hundred shillings and for subsequent offender five hundred shillings to two hundred thousand shillings and for subsequent offender five hundred thousand shillings.

II.

- a. Finally, the Bill Seeks to amend section 117(10) to enhance the penalty for failure to report within two days, a police notification of a traffic offence, that is or has been defaced or torn to make it illegible from the current one hundred shillings to one hundred thousand shillings.

### ***SUBMISSIONS FROM STAKEHOLDERS***

The Legal Counsel also briefed the Committee on the submissions received from stakeholders including the National Transport Safety Authority and the Kenya Civil Aviation Authority.

The Committee received submissions from the National Transport and Safety Authority Act in respect to the Traffic Act, their submission was to the effect that the Bill replicates the provisions of the Act and does not capture the intended amendments, that is to give powers to the police to effect service of notices by electronic devices and to enhance penalties for minor traffic offenses. However, the Bill sufficiently captures the amendments as intended.

#### ***The Civil Aviation Act, 2013***

The Legal Counsel further briefed the Committee that the Bill also proposes to amend the Civil Aviation Act 2013 in the definition section, and in section 34 to increase the timelines within which the Director General of the Authority shall prepare annual financial statements and submit to the National Assembly through the Cabinet secretary.

In this regard, the Bill proposes to amend section 2(1) paragraph (e) in respect to the definition of the term “publications” which currently reads as follows—

"*publication*" includes information given in any of the following publications issued, whether before or after the commencement of this Act—

- (a) notices to airmen;
- (b) aeronautical information publications;
- (c) notices to licensed aircraft maintenance engineers and to owners of civil aircraft; civil aviation publications;
- (e) aeronautical information circulars for aviation meteorology;
- (f) manuals of procedures;
- (g) advisory circulars and orders; and
- (h) technical standards.

The Bill seeks to amend section 34 of the Civil Aviation Act, 2013. The Act provides as follows—

*34. Annual report by the Authority*

*The Director-General shall, within three months after the end of each financial year prepare a report of the operations of the Authority during that year and shall submit such report to the Cabinet Secretary, through the Board, who shall cause it to be presented to the National Assembly together with the report of the Auditor-General and certified copies of the accounts referred to in section 33(2).*

The Bill seeks to amend section 34 by deleting the word “three” and substituting with the word “six”.

The effect of this amendment is to extend the period within which the Director General is required to prepare and table the Financial Statements of the Authority.

He concluded his brief by notifying the Committee that, The Kenya Civil Aviation Authority in justifying the proposed amendment submits that the extra three months is to provide time to the Office of the Auditor General to audit the Authority’s annual accounts so that the annual report submitted to the Cabinet Secretary shall include audited annual statements.

The Committee while considering the Bill made the following observations;

#### **Proposed Amendments to the Traffic Act (Cap. 403)**

The Committee rejected the proposed amendments to the Traffic Act, and observed that—

- (1) The proposed amendments are substantive in nature and not just clean ups of the Traffic Act; the amendments fundamentally depart from the operation of the current Act, in consequence therefore, the amendments should be considered through introduction of a separate amendment Bill that will comprehensively consider the implications of enhancing the penalties in the Act;
- (2) Besides the extensive nature of the proposed amendments to the Traffic Act (Cap. 403), the draconian increase in penalties to minor traffic offences will have far reaching effects not only to individuals but also to the entire transport sector; therefore, there is need for extensive public participation before the amendments are passed by the House;
- (3) The proposal to amend the Act to make provision for service through electronic and mobile devices is a timely one but should be done through a Traffic (Amendment) Bill that comprehensively addresses the manner of effecting service electronically;
- (4) Empowering the police to impose on-spot fines at the commission of the offence needs to be considered carefully against the constitutional rights of an accused person; further, the fines should not be excessively punitive.

**Proposed Amendments to the Civil Aviation Act, 2013**

- (5) The Committee observed that the amendment to clean up the definition of publications is proper. However, the Committee rejected the amendment to section 34 of the Act that seeks to revise the period within which the Kenya Civil Aviation Authority should prepare their financial reports, from three (3) months to six (6) months. Timely preparation and submission of annual statements is critical to allow Parliament to consider them.

**MIN./NO./TI/2023/260: PRESENTATION BY THE DIRECTOR, LITIGATION AND COMPLIANCE SERVICES REGARDING THE PETITION FOR INCLUSION OF COUNTY GOVERNMENTS AS BENEFICIARIES OF THE RMLF for the FYs 2024/25 and 2025/26**

The Director appeared before the Committee to give a brief on the National Assembly's to Court on the petition contesting the House resolution regarding the inclusion of County Government as beneficiaries of the RMLF for the Financial years 2024/25 and 2024/26.

The Director brought to the attention of the Committee that there was no framework for inclusion of the County Government in the RMLF and the House was well within the Law in its resolution.

The Director submitted that in case the Court rules against the National Assembly, the Directorate will move to the Supreme Court.

The Director further informed the Committee that the Committee has an option to undertake a review of the Kenya Roads Board Act in respect to the formula setting out the allocations.

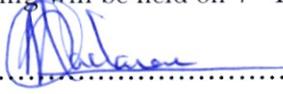
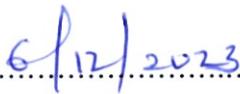
The Committee directed that the Director appears before the Committee again within seven days to brief on any update on the matter.

**MIN./NO./TI/2023/261: ANY OTHER BUSINESS**

The Vice Chairperson proposed that the Committee Secretariat makes arrangements virtual meetings to cater for Members who are unable to attend meetings physically. v

**MIN./NO./TI/2023/262: ADJOURNMENT/DATE OF THE NEXT MEETING**

There being no other business, the meeting was adjourned at Ten minutes to Noon (11:50am). The next meeting will be held on 7<sup>th</sup> December, 2023.

Signed..........Date..........

**HON. GK GEORGE KARIUKI, MP – CHAIRPERSON**

**Annexure 3: Correspondence to stakeholders requesting for submission of comments**



THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK

P. O. Box 41842-00100  
Nairobi, Kenya  
Main Parliament Buildings

Telephone: +254202848000 ext. 3300  
Email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)  
[www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)

When replying, please quote

Ref: NA/DDC/TI/2023/103

23<sup>rd</sup> November, 2023

**Eng. Joseph M. Mungai, MBS**  
Principal Secretary  
State Department for Roads  
Ministry of Roads and Transport  
Transcom House, Ngong Road  
**NAIROBI**

**Mr. Emile N. Arao**  
Director-General  
Kenya Civil Aviation Authority (KCAA)  
Jomo Kenyatta International Airport  
P.O. Box 30163-001000  
**NAIROBI**

**Mr. Mohamed Daghar**  
Principal Secretary  
State Department for Transport  
Ministry of Roads and Transport  
Transcom House, Ngong Road  
**NAIROBI**

**Hon. Shadrack J. Mose**  
Solicitor General  
State Law Office  
Sheria House, Harambee Avenue  
**NAIROBI**

**Mr. George Njao**  
Managing Director  
National Transport and Safety Authority  
Upper Hill Chambers, 2 nd Ngong Avenue  
P.O. Box 3602-00506  
**NAIROBI**

**Mr. Joash Dache**  
Secretary /Chief Executive Officer  
Kenya Law Reform Commission  
(K.L.R.C)  
P.O. BOX 34999-00100.  
**NAIROBI**

Dear

**RE: INVITATION TO SUBMIT VIEWS ON THE STATUTE LAW  
(MISCELLANEOUS AMENDMENTS) (No. 2) BILL (NATIONAL ASSEMBLY  
BILL No. 68 OF 2023)**

The Departmental Committee on Transport and Infrastructure is established under National Assembly Standing Order 216 and is mandated to, amongst others, "*study and review all legislation referred to it*".

Article 118(1)(b) of the Constitution and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

The Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No. 68 of 2023) sponsored by the **Leader of Majority Party, Hon. Kimani Ichung'wah, MGH, MP**, seeks to make amendments to various statutes. It is in keeping with the practice of making minor amendments which do not merit the publication of several separate Bills.

The Omnibus Bill contains proposed amendments to the following statutes and Acts under the purview of the Committee:-

**1. The Traffic Act (Cap.237)**

The Bill proposes to amend the Traffic Act (Cap. 237) to incorporate the use of technology in the management of minor traffic offences and to enhance the maximum fine that may be imposed for failure to attend court pursuant to a notification; unauthorized removal of a notification affixed on a motor vehicle; and failure to report to a police station in relation to a defaced notification.

**2. The Civil Aviation Act, 2013 (No. 21 of 2023)**

The Bill proposes to amend the Civil Aviation Act, 2013, to include aviation information circulars in the definition of "publication"; and, to increase the period within which the Director - General is required to submit an annual report to within six months after the end of the financial year.

The Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No. 68 of 2023) was Read a First Time on 15<sup>th</sup> November 2023. The Bill was subsequently referred to the relevant Departmental Committees to conduct stakeholders' engagement and to make submissions on the Bill, pursuant to Standing Order 127(1).

In this regard, the Committee requests you to present your written submissions in a matrix format that indicates the Section of the Act, specific clause, proposed amendment and justification on the amendment.

You are requested to provide twenty (20) copies of your submissions and send a soft copy to the office of the Clerk via email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke) by **1<sup>st</sup> December, 2023**.

Enclosed find a copy of the Bill for reference.

Our contact persons on this subject are **Ms. Tracy Chebet Koskei** who may be contacted on tel. no. **0726416794** or email: [tracy.koskei@parliament.go.ke](mailto:tracy.koskei@parliament.go.ke) and **Mr. Mohamednur M. Abdullahi** on tel. **0720928507** or email: [mohamednur.abdullahi@parliament.go.ke](mailto:mohamednur.abdullahi@parliament.go.ke).

Yours

**JEREMIAH W. NDOMBI, MBS**  
**For: CLERK OF THE NATIONAL ASSEMBLY**

*Copy to:*

**Hon. Kipchumba Murkomen, E.G.H**  
Cabinet Secretary  
Ministry of Roads and Transport  
Transcom House - Ngong Road  
**NAIROBI**

**Hon. Justin B. N. Muturi, EGH**  
Attorney General of the Republic of Kenya  
Office of the Attorney General and Department of Justice  
Sheria house  
Harambee Avenue  
**NAIROBI**

**Annexure 4: Newspaper advertisement inviting the public to submit memoranda on the Bill**



**REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT- SECOND SESSION (2023)**

**IN THE MATTER OF ARTICLE 118 (1)(b) OF THE CONSTITUTION  
AND**

**IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE STATUTE LAW  
[MISCELLANEOUS AMENDMENTS] (No. 2) BILL [NATIONAL ASSEMBLY BILLS NO. 68 OF 2023]**

**INVITATION TO SUBMIT MEMORANDA**

**WHEREAS**, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

**AND WHEREAS**, the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023) was read a First Time on **Wednesday, 15<sup>th</sup> November, 2023** and thereafter referred to the relevant Departmental Committees for consideration and reporting to the House;

**IT IS NOTIFIED** that the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bills No. 68 of 2023) sponsored by the **Leader of the Majority Party, the Hon. Kimani Ichung'wah, MGH, MP** seeks to make amendments to various statutes. It is in keeping with the practice of making various amendments that do not merit the publication of separate Bills into one Bill. The Bill contains proposed amendments to the following statutes—

**(1) The Oaths and Statutory Declarations Act (Cap. 15)**

The Bill proposes to amend the Oaths and Statutory Declarations Act to provide that an advocate who has been appointed as a commissioner for oaths shall sign the roll kept by the Chief Registrar of the Judiciary; and that the Registrar or Deputy Registrar of a superior court or subordinate court may administer an oath or affirmation or take an affidavit or statutory declaration under the Act.

**(2) The Advocates Act (Cap. 16)**

The Bill proposes the amendment of the Advocates Act to provide that the Registrar responsible for keeping the Roll of Advocates shall be the Chief Registrar of the Judiciary. Further, the Bill proposes to amend the Act to provide that the Council of the Society may, with the approval of the Chief Justice, make rules for the admission of advocates.

**(3) The Notaries Public Act (Cap. 17)**

The Bill proposes to amend the Notaries Public Act to provide that the Chief Registrar of the Judiciary shall be responsible for enrolling notaries public in the book kept for that purpose; granting new certificates to newly enrolled notaries public; and removing from the roll any person whose appointment as a notary public has been revoked under the Act.

**(4) The Civil Procedure Act (Cap. 21)**

The Bill proposes to amend the Civil Procedure Act to reduce the members nominated by the Law Society of Kenya to three to improve decision-making within the Rules Committee and reduce the cost of facilitating its work.

**(5) The Public Holidays Act (Cap. 110)**

The Bill proposes to amend the Public Holidays Act to remove *Utamaduni Day* as a public holiday.

**(6) The Trustees (Perpetual Succession) Act (Cap. 164)**

The Bill proposes to amend the Trustees (Perpetual Succession) Act to empower the Registrar of Companies to register trusts and issue of Certificates of Incorporation; process applications for incorporation; prescribe the form of an application; keep and maintain a register; conduct searches; and prescribe Regulations.

**(7) The Industrial Training Act (Cap. 237)**

The Bill proposes to amend the Industrial Training Act to harmonize the date for remitting the training levy with the period within which PAYE is required to be remitted to the Kenya Revenue Authority.

**(8) The Traffic Act (Cap. 403)**

The Bill proposes to amend the Traffic Act to incorporate the use of technology in the management of minor traffic offences and to enhance the maximum fine that may be imposed for failure to attend court pursuant to a notification; unauthorized removal of a notification affixed on a motor vehicle; and failure to report to a police station in relation to a defaced notification.

**(9) The Sexual Offences Act, 2006 (No. 3 of 2006)**

The Bill proposes to amend the Sexual Offences Act, 2006, to replace the Registrar of the High Court with the Chief Registrar of the Judiciary as the custodian of the register of convicted sexual offenders.

**(10) The Employment Act, 2007 (No. 11 of 2007)**

The Bill proposes to amend the Employment Act, 2007, to exempt the National Intelligence Service from the application of the Act in the same manner as other national security organs.

**(11) The Veterinary Surgeons and Veterinary Paraprofessionals Act, 2011 (No. 29 of 2011)**

The Bill proposes to amend the Veterinary Surgeons and Veterinary Paraprofessionals Act, 2011 to make minor corrections to the provisions relating to the definition of "animal", "animal resource industry", "annual license", "private practice", "register" and "veterinary medicine" and grammatical errors in other provisions of the Act.

**(12) The Public Finance Management Act, 2012 (No. 18 of 2012)**

The Bill proposes to amend the Public Finance Management Act, 2012 to delete an inconsistency in the Act relating to the submission of the legislative proposal containing revenue raising measures for the national government. Section 38A of the Act already exhaustively provides for the manner of the introduction, consideration and passage of the legislative proposal.

**(13) The Universities Act, 2012 (No. 42 of 2012)**

The Bill proposes to amend the Universities Act, 2012 to provide for the declaration of technical universities under section 25(1) of the Act in respect of public institutions that are or were national polytechnics and possess the facilities and human resource necessary to operate as a technical university. It further proposes to amend section 56(1) of the Act to require the Board of the Kenya Universities and Colleges Central Placement Service to place both privately sponsored and government sponsored students in universities and colleges.

**(14) The Office of the Attorney-General Act, 2012 (No. 49 of 2012)**

The Bill proposes to amend the Office of the Attorney-General Act, 2012 to remove inconsistencies in the operational framework of the Office of the Attorney-General in line with Article 156 of the Constitution that establishes the Office of the Attorney General as an independent office.

**(15) The Civil Aviation Act, 2013 (No. 21 of 2013)**

The Bill proposes to amend the Civil Aviation Act, 2013, to include aviation information circulars in the definition of "publication"; and to increase the period within which the Director-General is required to submit an annual report to within six months after the end of the financial year.

**(16) The Value Added Tax Act, 2013 (No. 35 of 2013)**

The Bill proposes to amend the Value Added Tax Act, 2013 to re-classify the supply of gas meters under tariff number 9028.10.00 and the supply of denatured ethanol under tariff number 2207.20.00 as exempt and zero-rated, respectively.

**(17) The Privatization Act, 2023 (No. 11 of 2023)**

The Bill proposes to amend the Privatization Act, 2023 to delete the preparation of a long-term divestiture sequence plan as a role of the Privatisation Authority. This cures an inconsistency between the role of the Authority and the Cabinet Secretary.

**NOW THEREFORE**, in compliance with Article 118(1)(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bill for consideration by the respective Departmental Committees of the National Assembly set out in the schedule below—

ACT PROPOSED FOR AMENDMENT	COMMITTEE
1. The Oaths and Statutory Declarations Act (Cap. 15) 2. The Trustees (Perpetual Succession) Act (Cap. 164) 3. The Advocates Act (Cap. 16) 4. The Notaries Public Act (Cap. 17) 5. The Civil Procedure Act (Cap. 21) 6. The Sexual Offences Act, 2006 (No. 3 of 2006) 7. The Office of the Attorney-General Act, 2012 (No. 49 of 2012)	Justice and Legal Affairs
1. The Public Finance Management Act, 2012 (No. 18 of 2012) 2. The Value Added Tax Act, 2013 (No. 35 of 2013) 3. The Privatization Act, 2023 (No. 11 of 2023)	Finance and National Planning
1. The Traffic Act (Cap. 403) 2. The Civil Aviation Act, 2013 (No. 21 of 2013)	Transport and Infrastructure
The Public Holidays Act (Cap. 110)	Administration and Internal Security
The Industrial Training Act (Cap. 237)	Trade, Industry and Cooperatives
The Employment Act, 2007 (No. 11 of 2007)	Labour
The Veterinary Surgeons and Veterinary Paraprofessionals Act, 2011 (No. 29 of 2011)	Health
The Universities Act, 2012 (No. 42 of 2012)	Education

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings and on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to [cna@parliament.go.ke](mailto:cna@parliament.go.ke) to be received on or before **Friday, 1<sup>st</sup> December, 2023 at 5.00 p.m.**

**S. NJOROGE  
CLERK OF THE NATIONAL ASSEMBLY  
22<sup>nd</sup> November, 2023**

**Annexure 5: Written submissions received from stakeholders**



# National Transport and Safety Authority

Telephone: +254-(020) 6632000  
Website: www.ntsa.go.ke

Office of the Director General  
316 Upper Hill Chambers  
2<sup>nd</sup> Ngong Avenue  
9<sup>TH</sup> FLOOR  
P.O. Box 3602-00506  
NAIROBI

NTSA/C/FIN/007 Vol. I (82)

27<sup>th</sup> November 2022

The Clerk of The National Assembly  
Main Parliament Building  
P.O. Box 41842-00100  
NAIROBI

*Tracy chebet*  
*to facilitate*  
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*4/12/23*  
*DDC*  
*8*  
*4/12*

Dear *STN,*

**RE: INVITATION TO SUBMIT VIEWS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO 2) BILL (NATIONAL ASSEMBLY BILL NO 68 OF 2023)**

Reference is made to the above matter and letter Ref **NA/DDC/II/2023/103** dated **23<sup>rd</sup> November 2023**.

Having perused the Draft Bill we note that the same does not contain the proposed amendment and only contains a replication of Section 117(3) as is currently contained in the Traffic Act. To achieve the first objective of incorporation of technology in instant fines we would propose that the amendment required should read as below: -

*(3) Notwithstanding any provision contained in this or any other Act, it shall be lawful for any police officer, the Authority or persons authorized by the Authority to serve, either electronically through the use of mobile or other technology or personally or by affixing the same prominently to the vehicle concerned, upon the owner or person in charge of any motor vehicle who is reasonably suspected of having committed any of the scheduled minor offences, a police notification of a traffic offence in the prescribed form charging such person with having committed the offence or offences indicated in the notification and requiring such person to attend court to answer such charge or charges, at such time (which if the police notification is served personally on the owner or person in charge of the motor vehicle, may be within forty-eight hours of such service; or if the police notification is affixed prominently to the vehicle concerned, shall not be sooner than seven days after the date of such service) as is shown on such notification.*

04 DEC 2023

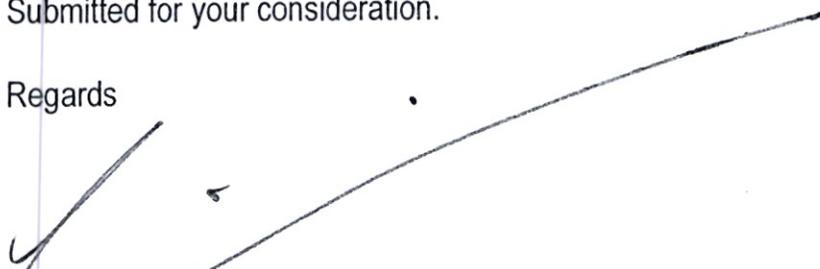
**NATIONAL ASSEMBLY  
RECEIVED  
04 DEC 2023  
CLERK'S OFFICE  
P. O. Box 41842, NAIROBI**

To achieve the second objective of enhancing the fine for non-attendance to court or non-payment of the fine within a stipulated period pursuant to the service of notice, we would propose the below amendment to section 117(8):

*(8) If any person having been served with a notification issued under this section fails either to pay the statutory maximum penalty within 14 days of service he may be brought before the court either by summons or by warrant and, unless he shows good cause to the contrary, shall be guilty of an offence and liable forthwith by order of the court to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one month.*

Submitted for your consideration.

Regards

  
George Njao, EBS  
**DIRECTOR GENERAL**

Copy to: **Mr. Mohamed Daghar**  
Principal Secretary  
State Department of Transport  
Ministry of Roads and Transport  
Transcom House  
P.O. Box 52692-00200  
**NAIROBI**



REPUBLIC OF KENYA  
MINISTRY OF ROADS AND TRANSPORT  
STATE DEPARTMENT FOR TRANSPORT

*Office of the Principal Secretary*

Telegram: "TRANSCOMS", Nairobi  
Telephone: (020) 2729200  
Email: [ps@transport.go.ke](mailto:ps@transport.go.ke)  
Website: [www.transport.go.ke](http://www.transport.go.ke)  
When replying please quote

TRANSCOM BUILDING  
NGONG ROAD  
P.O. Box 52692 - 00100  
NAIROBI

MOT&I/C/ADM/034/7/2 VOL.I (94)

4<sup>th</sup> December, 2023

**Mr. Samuel Njoroge**  
The Clerk of the National Assembly  
Parliament Buildings  
**NAIROBI**

**SUBMISSION OF VIEWS ON THE STATUTE LAW (MISCELLANEOUS  
AMENDMENTS) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 68 OF 2023)**

Reference is made to a letter of Ref: No. NA/DDC/TI/2023/103 dated 23<sup>rd</sup> November 2023 on the above subject.

Attached hereto, please find twenty (20) copies of the submissions with regards to the Ministry's views on the proposed amendments of the Civil Aviation Act, 2013 (No. 21 of 2023) as requested by the Departmental Committee on Roads and Infrastructure.

Submitted for your further action.

  
I.M. Abdi, HSC

**FOR: PRINCIPAL SECRETARY**

## KENYA CIVIL AVIATION AUTHORITY SUBMISSIONS

Written Law	Provision	Amendment	Justification
Civil Aviation (Amendment) Act, No. 42 of 2016	s.2(1)(c)	Delete the words " ...for aviation meteorology..." when making reference to an Aeronautical Information Circular under the definition of a Publication.	The Aeronautical Information Circular covers a wide scope of information in compliance with the International Civil Aviation Organization Standards and Recommended practices. Hence making a reference to aviation meteorology limits the type of information that may be published by the Kenya Civil Aviation Authority hence the need of the amendment.
Civil Aviation Act, 2013	s.34	Delete the word " <i>three</i> " and substitute therefor the word " <i>six</i> "	The extra three months is to provide time for the Office of the Auditor General to audit the Authority's annual accounts so that the Annual Report submitted to the Cabinet Secretary shall be inclusive of the audited annual accounts.
The Value Added Tax Act, 2013	Second Schedule, Part A	Insert a new number 23. " <i>Provision of Air Navigation Services by KCAA to international and domestic flights</i> "	Currently only provision of Air Navigation Services to International flights is zero rated. Provision of Air Navigation Services to Domestic flights are subject to 16% VAT. There is need to zero rate provision of Air Navigation Services to domestic flights. Charging VAT: <ul style="list-style-type: none"> <li>- makes Domestic flights costly</li> <li>- Makes Nairobi as an aviation hub uncompetitive because it increases the airlines operational costs.</li> <li>- Discourages local tourism due to expensive local travel charges by airlines. This also applies to international flights terminating in Nairobi but with tourists visiting attraction sites outside Nairobi.</li> </ul>
The Air Passenger Service	s. 3(3)	Delete section 3(3) and insert the following:	This will minimize risks associated with discretionary considerations and decisions.

<p>Charge Act CAP 475</p>	<p>s.6A</p>	<p>The proceeds of the charge collected under section 3(1) of the Act shall be apportioned among the Kenya Airports Authority, the Kenya Civil Aviation Authority and the Tourism Promotion Fund as follows -  (a) in the case of the charge collected under paragraph (a) - sixty percent thereof to the Kenya Airports Authority, twenty percent to the Kenya Civil Aviation Authority and twenty percent to the Tourism Promotion Fund; and  (b) in the case of the charge collected under paragraph (b) - fifty percent thereof to the Kenya Airports Authority;  - thirty percent to the Kenya Civil Aviation Authority,  And  - twenty percent to the Tourism Promotion Fund.</p> <p>Insert "...and the Kenya Civil Aviation Authority designated bank account, respectively,..." immediately after the name Kenya Airports Authority.</p>	<p>This will also enable the Authority to plan and budget with certainty as far as APSC revenue is concerned.</p> <p>Currently KCAA portion of the Air Passenger Service Charge (APSC) comes through KAA since after collection by KRA the funds are deposited into a KAA Fund. This has led to:</p> <ul style="list-style-type: none"> <li>- Inordinate delay in remittance of funds by KAA to KCAA. KAA does not disclose when they get money from KRA. There is a high risk of loss of revenue due to this non-disclosure.</li> </ul>
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The Kenya Airport Authorities Act, CAP 395	s. 17C (b)	Delete " <i>(b) monies for the expenditure of the Kenya Civil Aviation Authority in accordance with section 3(3) of the Air Passenger Service Charge Act.</i> "	Deletion of this section will remove conflicting positions in two Acts of Parliament on the same subject matter, ie, portion of APSC belonging to KCAA. This section of the KAA Act will no longer be necessary if the proposed changes to the APSC Act are adopted and effected.