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SPECIAL ISSUE

Kenya Gazette Supplement No. 3

26th January, 2018

(Legislative Supplement No. 1)

Process. cut

LEGAL NOTICE NO. 1

THE KENYA CITIZENSHIP AND IMMIGRATION ACT

(No. 12 of 2011)

IN EXERCISE of the powers conferred by section 59 of the Kenya Citizenship and Immigration Act, 2011, the Cabinet Secretary for Interior and Co-ordination of National Government makes the following Regulations—

THE KENYA CITIZENSHIP AND IMMIGRATION (AMENDMENT) REGULATIONS, 2018

1. These Rules may be cited as the Kenya Citizenship and Immigration (Amendment) Regulations, 2018. Citation.

2. The Ninth Schedule to the Kenya Citizenship and Immigration Regulations, 2012 is amended by inserting the following new paragraph immediately after paragraph (a)—

(aa) Fees on passports for Kenyans living abroad.

19/3/18
Hazel, Tabo
Time - 2018
base on
3 sets
L.N. 64/2012
regulation
page
19/11

Region.	Description of passport.	Amount charged.	Currency.
Americas and the Caribbean.	32 pages "series A".	80.	US Dollars.
	48 pages "series B".	110.	
	64 pages "series C".	140.	
	Diplomatic.	170.	
	Mutilated.	200.	
	Lost.	210.	
United Kingdom.	32 pages "series A".	45.	British Pounds.
	48 pages "series B".	60.	
	64 pages "series C".	90.	
	Diplomatic.	90.	
	Mutilated.	100.	
	Lost.	110.	
Africa, Australia and Asia.	32 pages "series A".	50.	US Dollars.
	48 pages "series B".	65.	
	64 pages "series C".	80.	
	Diplomatic.	80.	
	Mutilated.	110.	
	Lost.	130.	
European Union.	32 pages "series A".	60.	Euros.

<i>Region.</i>	<i>Description of passport.</i>	<i>Amount charged.</i>	<i>Currency.</i>
	48 pages "series B".	75.	
	64 pages "series C".	90.	
	Diplomatic.	90.	
	Mutilated.	130.	
	Lost.	150.	

Dated the 18th January, 2018.

FRED MATIANG'I,
Cabinet Secretary
for Interior and Co-ordination of National Government

LEGAL NOTICE No. 2

THE COMPANIES ACT

(No. 17 of 2015)

IN EXERCISE of the powers conferred by section 1022 of the Companies Act, 2015, the Attorney General makes the following Regulations—

THE COMPANIES (GENERAL) (AMENDMENT) REGULATIONS,
2018

1. These Regulations may be cited as the Companies (General) (Amendment) Regulations, 2018. Citation.

2. The Ninth Schedule of the Companies (General) Regulations, 2015, is amended by deleting Part I and substituting therefor the following new Part— L.N. 239/2015.

PART I

FEE PAYABLE IN RELATION TO LIMITED OR
UNLIMITED COMPANY HAVING SHARE CAPITAL

<i>Matter</i>	<i>Fee (KSh.)</i>
For registration of a company under sections 17 and 18 of the Act.	10,000
For registration of a conversion of a company under sections 70, 77, 82, 85 or 89 of the Act.	5,000

Dated 19th January, 2018.

GITHU MUIGAI,
Attorney- General.

LEGAL NOTICE No. 3

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT

(No. 33 of 2012)

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(OPERATION OF COMMERCIAL VEHICLES) REGULATIONS,
2018

Arrangement of regulations.

- 1—Citation.
- 2—Interpretation.
- 3—Application of these Regulations.
- 4—Safety responsibility.
- 5—Commercial vehicle to be licensed.
- 6—Application for a commercial vehicle licence.
- 7—Securing of cargo generally.
- 8—Securing of certain cargo.
- 9—Retro-reflective contour markings for commercial vehicles and trailers.
- 10—Parking.
- 11—Daily driving and on-duty time.
- 12—Mandatory rest time.
- 13—Daily log sheet.
- 14—Safety audits.
- 15—Record and reporting requirements.
- 16—Removal or towing of vehicles.
- 17—Revocation or suspension of commercial vehicle licence.
- 18—Power of the Authority to order inspection.
- 19—Insurance.
- 20—Appeals.
- 21—Offences and penalties.

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT

(No. 33 of 2012)

IN EXERCISE of the powers conferred by section 54 of the National Transport and Safety Authority Act, 2012, the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development, in consultation with the Board, makes the following regulations—

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(OPERATION OF COMMERCIAL VEHICLES) REGULATIONS,
2017

1. These regulations may be cited as the National Transport and Safety Authority (Operation of Commercial Vehicles) Regulations, 2017. Citation.
2. In these regulations, unless the context otherwise requires— Interpretation.
 - “Appeals Board” means the Transport Licensing Appeals Board established under section 39 of the Act;
 - “authorised officer” means
 - “Authority” means the National Transport and Safety Authority established under section 3 of the Act;
 - “Cabinet Secretary” has the meaning assigned to it under the Act;
 - “carrier” means a corporate body or an individual with operational responsibility over a commercial vehicle on a day to day basis either as the registered owner of the vehicle or pursuant to a contract or franchise agreement with the registered owner of the vehicle but does not include the driver of the vehicle;
 - “commercial vehicle licence” means a licence issued by the Authority under the Act, for the operation of a commercial vehicle;
 - “commercial vehicle” has the meaning assigned to it under the Traffic Act; Cap 403.
 - “corporate body” means a limited liability company registered under the Companies Act, and includes a cooperative society registered under the Cooperative Societies Act and a society registered under the Societies Act; No. 17 of 2015
Cap 490.
Cap 108.
 - “heavy commercial vehicle” has the meaning assigned to it under the Traffic Act; Cap 403.
 - “off-duty time” means any period other than on-duty time;
 - “on-duty time” means driving time;
 - “owner” means the registered owner of a commercial vehicle;
 - “public road” has the meaning assigned to it under the Public Roads and Roads of Access Act;
 - “retro-reflective marking material” means a surface or a device from which, when directionally illuminated, a relatively large portion of the incident radiation is retro-reflected; Cap 399.

“Third Party Motor Vehicle Insurance” means an insurance policy by that name issued in respect to a public service vehicle pursuant to the provisions of the Insurance (Motor Vehicle Third Party Risks) Act; and

Cap 405.

“urban area” has the meaning assigned to it under the Urban Areas and Cities Act.

No. 13 of 2011.

3. These regulations shall apply to any commercial vehicle—
- (a) whose tare weight is more than three thousand and forty eight kilograms; and
 - (b) operating on a public road in Kenya.

Application of these Regulations.

4. A carrier shall not operate a commercial vehicle if—

Safety responsibility.

- (a) the vehicle does not comply with these regulations;
- (b) the driver of the commercial vehicle fails or refuses to take any action required to be taken under these regulations;
- (c) the cargo transported by the commercial vehicle is not contained, covered, immobilized or secured in accordance with these regulations; or
- (d) the driver of the commercial vehicle is not licensed to drive a commercial vehicle.

5. (1) A carrier or a driver shall not operate a commercial vehicle without a valid commercial vehicle licence issued by the Authority in accordance with the provisions of regulation 6.

Commercial vehicle to be licensed.

(2) All commercial vehicles shall be fitted with a speed governor that conforms to the Kenyan Standard KS 2295 or as approved by the Authority.

(3) A commercial vehicle licence shall be valid for a period of one year and may be renewed annually.

6. (1) A carrier or a driver may apply for a commercial vehicle licence by submitting an application in the form set out in the First Schedule and the application shall be accompanied by—

Application for a commercial vehicle licence.

- (a) the prescribed fee as set out in the Second Schedule;
- (b) a certificate of incorporation if the applicant is a company incorporated under the Companies Act, 2015;
- (c) a certificate of registration if the applicant is a co-operative society registered under the Co-operative Societies Act;
- (d) a certificate of registration if the applicant is a society registered under the Societies Act;
- (e) a national identity card if the applicant is an individual;
- (f) the certificate of ownership or other evidence of ownership of the vehicle in the name of the applicant or a contract or franchise agreement between the owner and the carrier or intended carrier of the vehicle;

No. 17 of 2015.

Cap 490.

- (g) a valid certificate of roadworthiness issued by the Authority for each vehicle in respect to which an application is being made; Cap 108.
- (h) a valid insurance cover for the vehicle;
- (i) evidence showing that the commercial vehicle has been fitted with the prescribed speed governor; and
- (j) evidence of installation of a fleet management system accredited by the Authority for heavy commercial vehicles.

(2) The Authority may—

- (a) refuse to issue a commercial vehicle licence to an applicant who fails to comply with any of the requirements set out in subregulation (1); or
- (b) issue a licence on the condition that the applicant demonstrates compliance with the requirements set out in subregulation (1) within a stipulated period failure to which the licence shall be withdrawn upon the expiry of the stipulated period.

(3) The Authority shall make a decision on an application under this regulation within fourteen days of receiving the application.

7. A driver or a carrier shall ensure that any cargo transported by the commercial vehicle is contained, covered, immobilised or secured so that the cargo does not leak from, spill from, blow off, fall from, fall through or otherwise be dislodged from the vehicle. Securing of cargo generally

8. (1) Cargo that comprises of—

- (a) sand, gravel, crushed stone, ore or salt, or any mixture of sand, gravel, crushed stone, ore or salt or whole stones;
- (b) waste; or
- (c) shredded scrap metal, that is carried by a commercial vehicle on a public road and is not enclosed by the vehicle or a load container must be covered as provided for in subregulation (2). Securing of certain cargo.

(2) The covering referred to in subregulation (1) shall be—

- (a) made of tarpaulin, canvas, wire mesh, netting or other material capable of containing the load within the vehicle or load container; and
- (b) secured to the vehicle or load container in such a manner that it cannot become separate from the vehicle or load container.

(3) The carrier shall be responsible for any damage caused to a public road by spilled cargo that should have been enclosed or covered in accordance under subregulation (1) and shall be responsible for the cost of any repairs that may be needed to the public road.

9. (1) A commercial vehicle shall be required to have retro-reflective contour markings that conform to the standard KS 1820: Retro-reflective contour markings for commercial

- 2005, that identify as close as possible the entire length and width of the motor vehicle when viewed from the front, side or rear as illustrated in the Third Schedule. vehicles and trailers.
- (2) The minimum width of the retro-reflective contour markings should be two inches.
10. (1) A carrier or driver shall ensure that a commercial vehicle is not parked in an undesignated parking area including road sides, road reserves, road ways, bridges and tunnels. Parking.
- (2) A carrier or driver shall ensure that a commercial vehicle is parked at least five metres from the edge of the road so as not to block a pedestrian way, obstruct the view of other road users or affect the safe operation of the road.
11. (1) A carrier shall ensure that a commercial vehicle is not driven if— Daily driving and on-duty time.
- (a) the driver has accumulated eight hours of driving time within twenty four hours; or
- (b) has driven for a total of three hundred kilometres within a period of twenty four hours whichever is achieved first.
- (2) A carrier shall ensure that a commercial vehicle is operated by two drivers where the vehicle—
- (a) is to be driven for a distance of more than five hundred kilometres; or
- (b) is to be driven for more than eight hours.
12. (1) A driver of a commercial vehicle shall rest for a period of at least one hour for each period of continuous driving of four hours. Mandatory rest time.
- (2) A carrier shall ensure that every driver of a commercial vehicle rests as specified in subregulation (1).
13. (1) A driver of a heavy commercial vehicle shall prepare a daily log sheet accounting for the driver's on duty and off duty time in the form set out in the Fourth Schedule. Daily log sheet.
- (2) A carrier shall ensure that the driver of the heavy commercial vehicle has completed the daily log sheet for the preceding day before allowing the driver to drive the vehicle.
- (3) A driver shall—
- (a) not keep more than one daily log sheet in respect of any day;
- (b) keep in the vehicle, logs sheets for the preceding seven days; and
- (c) not enter inaccurate information in the daily log sheet.
- (4) An authorised officer from the Authority or a police officer may stop and inspect the daily log sheets and supporting documents of the commercial vehicles as stipulated in sub regulation (3).

(5) An authorized officer from the Authority or a police officer above the rank of superintendent of police may order the detention of the driver or the commercial vehicle where—

- (a) the driver refuses to produce the daily log sheet;
- (b) the driver has not completed the required log sheet; or
- (c) the officer suspects that a driver has entered inaccurate information in the daily log sheet.

14. (1) The Authority may conduct a safety audit of any carrier, owner or driver of a commercial vehicle. Safety audits.

(2) A safety audit shall include—

- (a) an examination of the qualification of the driver of the commercial vehicle;
- (b) an examination of the duty status of the driver of the commercial vehicle; and
- (c) an examination of the maintenance records of the commercial vehicle.

15. (1) A carrier or driver shall keep, in electronic or written format— Record and reporting requirements.

- (a) a maintenance record for a commercial service vehicle for a minimum period of one year;
- (b) the inspection report for the vehicle; and
- (c) a monthly record of the daily logs for a period of one year.

(2) A carrier shall—

- (a) where there has been an accident involving the vehicle that results in the death of a person, submit to the Authority within twenty-four hours a report of the accident which shall include the probable cause of the accident and any remedial action intended to be taken by the carrier; and
- (b) on the fifth day of each quarter beginning on the first day of January, submit to the Authority—
 - (i) a list of authorized drivers in the employment of the carrier; and
 - (ii) a copy of the monthly daily log sheets of each driver.

(3) The report under subregulation (2) (a) shall be in the form set out in the Fifth Schedule.

16. (1) The carrier or driver of a commercial vehicle shall—

- (a) in case of a break-down or stalling of the commercial vehicle, ensure that the commercial vehicle is removed from the road as soon as possible; and
- (b) in case of a break-down or stalling of a heavy commercial

Removal or towing of vehicles.

the vehicle, ensure that the vehicle is moved from the road within twenty four hours of the incident.

(2) The driver of a commercial vehicle shall, in case of a breakdown, immediately place on the road not less than fifty metres from the commercial vehicle, two red reflecting triangles of such construction and dimensions as may be prescribed, one ahead of the vehicle and one behind it so that each reflecting triangle is clearly visible to drivers of vehicles approaching the commercial vehicle from ahead or behind as the case maybe.

(3) Subject to subregulation (1), the Authority may tow or remove a commercial vehicle that has stalled or broken down on a road or arrange for a third party to tow or remove such a vehicle at the carrier's cost if in the opinion of the Authority such vehicle poses a risk to the safety of other road users.

(4) The cost referred to in subregulation (3) shall be recoverable as a civil debt:

Provided that the Authority shall ensure that any person engaged to tow or remove stalled commercial vehicles on the road shall charge a standard fee that is reasonable and based on the distance travelled from the place where the commercial vehicle broke down or stalled to the place directed for delivery by the Authority.

(5) The Authority may prescribe the fees to be charged for the purposes of this regulation.

17. (1) The Authority may suspend or revoke a commercial vehicle licence where the carrier—

- (a) fails to keep any of the records required to be kept in accordance with the provisions of these Regulations;
- (b) fails to submit the records required to be submitted under these regulations to the Authority;
- (c) fails a safety audit under regulation 14;
- (d) permits an unqualified driver to drive a commercial vehicle;
- (e) provides inaccurate information to the Authority;
- (f) fails or refuses to settle any towing charges imposed by the Authority;
- (g) fails to equip the vehicle with two red reflecting triangles of the approved construction and dimensions; or
- (h) fails to properly secure cargo as required under these Regulations.

(2) The Authority shall, before suspending or revoking a commercial vehicle licence, give the licensee a reasonable opportunity to present his or her case.

18. The Authority may order the inspection of any commercial vehicle to establish the road worthiness of the vehicle.

Revocation or suspension of commercial vehicle licence.

Power of the Authority to order

19. A carrier shall take out, at the minimum, third party insurance cover for each of its commercial vehicles. Insurance.

20. A person aggrieved by any decision made by the Authority under these regulations may, within fourteen days of being notified of the decision, appeal to the Appeals Board against the decision. Appeals.

21. Any person who contravenes any provision of these regulations commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or to both. Offences and penalties.

FIRST SCHEDULE

(r. 6(1))



APPLICATION FOR COMMERCIAL SERVICE LICENCE

FOR OFFICIAL USE

Application Number

A. APPLICANT'S INFORMATION

Name of Registered Owner: _____ Address: _____

E-mail address _____ Mobile No. _____

B. TYPE OF VEHICLE.

Tick the type of vehicle.

Commercial Vehicle

Heavy Commercial Vehicle

C. DOCUMENTATION REQUIRED. (Applicant MUST provide copies of the listed documents).

DOCUMENT REQUIRED	TICK IF PROVIDED	FOR OFFICIAL USE
Certificate of incorporation as a company under the Companies Act if the applicant is a company or certificate of registration if the applicant is a cooperative society under the Cooperative Societies Act or if the applicant is a society or national identification card if the applicant is an		

DOCUMENT REQUIRED	TICK IF PROVIDED	FOR OFFICIAL USE
The certificate of ownership or other evidence of ownership in the name of the owner of the vehicle or a contract or franchise agreement between the owner and the carrier or intended carrier of the vehicle.		
A valid certificate of roadworthiness issued by the Authority of each vehicle in respect to which an application is being made.		
Valid insurance cover.		
Evidence showing that all the commercial vehicles have been fitted with the prescribed speed governor.		
Evidence of installation of a fleet management system accredited by the Authority (for heavy commercial vehicles only).		

D. DECLARATION.

I declare that I have read all the answers I have given to the questions in this application and that the answers given by me are complete, true and correct in every detail.

I understand that if I have stated anything that is false or misleading, the licence granted to me as a result of this application may be absolutely void and have no legal effect whatsoever.

I understand that I may be prosecuted for giving or stating facts or misleading information or documents.

I also declare that I have read and understood the general duties and responsibilities of a transport operator and hereby agree to be bound by them.

Applicants' signature

Date _____

SECOND SCHEDULE

(r. 6 (1) (a))

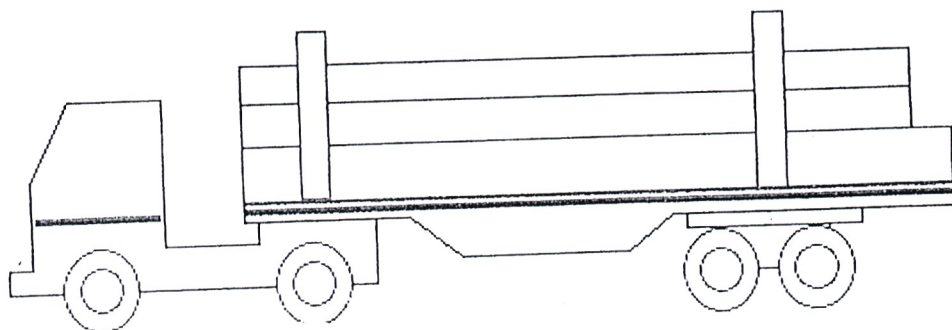
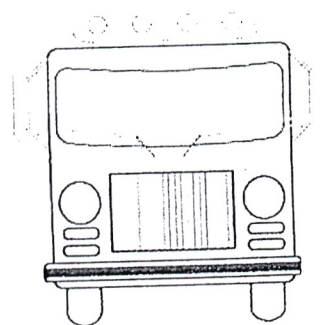
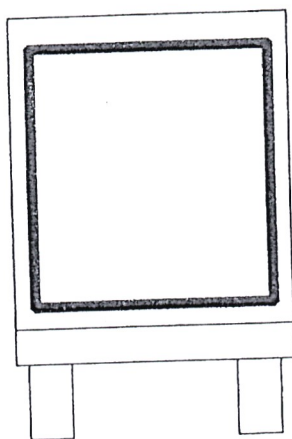
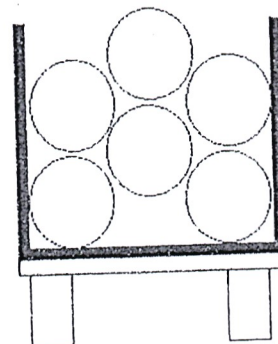
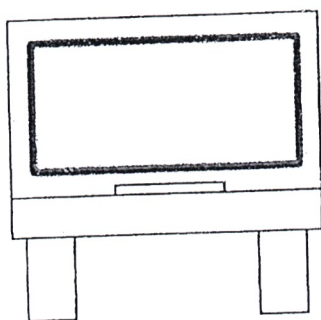
FEES

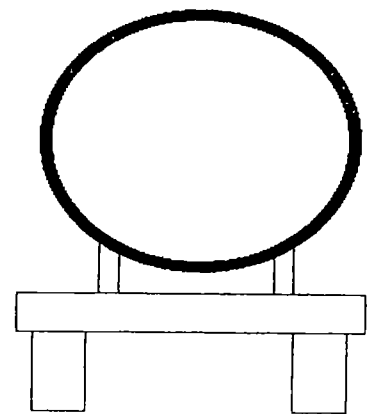
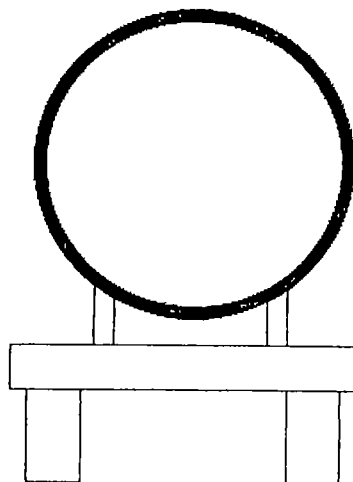
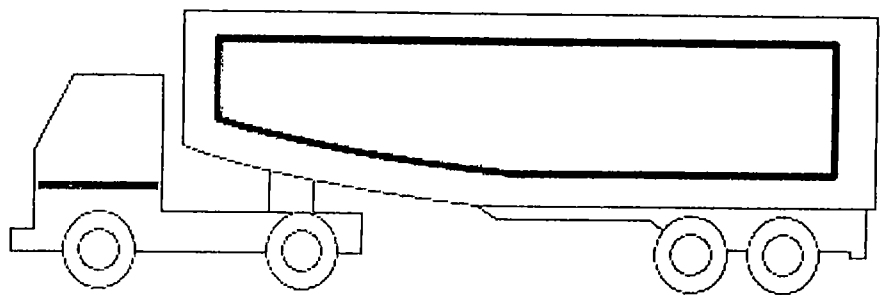
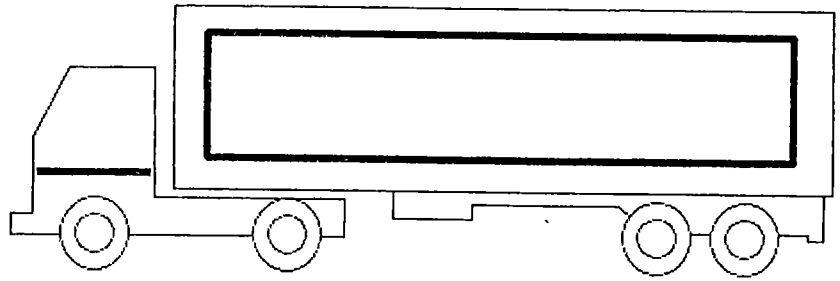
Application fee for a commercial licence (per vehicle).....	Kshs 2,000.
Renewal of licences.....	Kshs 1,500.
Replacement of damaged or lost licence.....	Kshs 1,500.

THIRD SCHEDULE

(r. 9 (1))

RETRO-REFLECTIVE MARKING FOR COMMERCIAL VEHICLES AND THEIR TRAILERS





FOURTH SCHEDULE

(r. 13(1))

DAILY LOG

DATE	START OF DRIVING TIME	END OF DRIVING TIME	REST PERIODS TAKEN (TIME)	LOCATION OF VEHICLE AT START OF JOURNEY AND MILEAGE READING	LOCATION OF VEHICLE AT END OF JOURNEY AND MILEAGE READING

Driver's name

Signature.....

Vehicle Registration No

FIFTH SCHEDULE

(r. 15)

ACCIDENT REPORT FORM

Name of Registered Owner of Commercial Vehicle:- _____
 Date and location of accident: _____
 Registration number of vehicles involved in accident:- _____
 Licence Number of commercial vehicle:- _____
 Driver's Name: - _____
 Driving licence No. of driver of Commercial Vehicle:- _____

 Number of confirmed fatalities: _____
 Circumstances about the accident/ probable cause:- _____

Dated the 11th January, 2018.

JAMES MACHARIA,
 Cabinet Secretary for Transport,
 Infrastructure, Housing and Urban Development

LEGAL NOTICE No. 4

THE FERRIES ACT

(Cap. 410)

IN EXERCISE of the powers conferred by section 6 of the
 Ferries Act, the Cabinet Secretary makes the following Rules—

THE FERRIES (VEHICLE TOLL CHARGES) (AMENDMENT)
 RULES, 2018

1. These Rules may be cited as the Ferries (Vehicle Toll Charges) (Amendment) Rules, 2018. Citation.
2. The Ferries (Vehicle Toll Charges) Rules, 2002 are amended by deleting the Schedule and substituting therefor the following new Schedule— Amendment of L.N. 88 of 2002.

SCHEDULE

Category	Vehicle length (Metres)	Rates (Shs.)
Car	3.5	120
Car	4.5	120
Car	6	150
Land Rover	6	250
Pickup	-	150
Car (Towing)	3.5 – 6	300
Kombi	5	280

Category	Vehicle length (Metres)	Rates (Shs.)
Pickup ½ tonne	5	280
Pickup 1 tonne	5	280
Truck	5	350
Truck	5.5	350
Truck	6	400
Truck	7	600
Truck	7.5	600
Truck	8	700
Truck	8.5	700
Truck	9	850
Truck	9.5	850
Truck	10	900
Truck	11	1,050
Truck	11.5	1,050
Truck	12	1,200
Truck	12.5	1,200
Truck	13	1,350
Truck	13.5	1,350
Truck	14	1,450
Truck	15	1,500
Truck	15.5	1,500
Truck	16	1,600
Truck	16.5	1,600
Truck on tow	17	1,700
Trailer (Empty)		7,000
Minibus	7	600
Bus	9 – 11	1,100
Petrol Car		2,150
Tanker (Fuel) (Empty)		2,400
Petrol trailer (Empty)		5,550
Motorcycle/Mkokoteni		50
Surcharge on loader		220
Canter		500
Surcharge on loaded lorry		500
Surcharge on petrol tanker		50
Surcharge on loaded mkokoteni		2,500
Ten-wheeled truck above ten tonnes		2,500
Truck on tow	Over 17 metres	3,100
Pickup/kombi on tow		750
Surcharge on loaded pickup		80
Loaded trailer		7,950
Abnormal load		15,950

Dated on the 11th January, 2018.

JAMES MACHARIA,
 Cabinet Secretary for Transport,
 Infrastructure, Housing and Urban Development.

LEGAL NOTICE No. 5

THE COMPETITION ACT

(No. 12 of 2010)

EXCLUSION

THE PROPOSED ACQUISITION BY CAROLINE AWUOR ABADE
OF 91.7% OF THE SHAREHOLDING IN EXP MOMENTUM
LIMITED

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed acquisition by Caroline Awuor Abade of 91.7% of the shareholding in EXP Momentum Limited from the provisions of Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the acquirer had no turnover for the preceeding year, 2016, whereas that of the target was KES 593,199,000 and therefore, meets the threshold for exclusion under the Merger Threshold Guidelines.

Dated the 20th December, 2017.

WANG'OMBE KARIUKI,

Director-General.

LEGAL NOTICE No. 6

THE COMPETITION ACT

(No. 12 of 2010)

EXCLUSION

THE PROPOSED ACQUISITION OF 100% OF THE ISSUED
SHARES IN AKILI PARTNERS LIMITED BY AKILI NETWORKS
INCORPORATED

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed acquisition of 100% of the issued shares in Akili Partners Limited by Akili Networks Incorporated from the provisions of Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) both the acquirer and the target had no turnover or assets for the preceeding year, 2016, and therefore, the proposed transaction meets the threshold for exclusion as provided under the Merger Threshold Guidelines.

Dated the 20th December, 2017.

WANG'OMBE KARIUKI,

Director-General.

EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM TO THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF COMMERCIAL VEHICLES) REGULATIONS, 2018

Name of the Statutory Instrument: The National Transport and Safety Authority (Operation of Commercial Vehicles) Regulations, 2018

Name of the Parent Act: The National Transport and Safety Authority Act, 2012.

Enacted Pursuant to: Section 54 of The National Transport and Safety Authority Act, 2012.

Name of the Ministry/ Department: Ministry of Transport, Infrastructure and Urban Development/ State Department of Transport.

Gazetted on 24th January 2018

Tabled on

PART II

1. Purpose of the statutory instrument

To regulate the commercial vehicles transport sector.

2. Legislative Context

The statutory instrument in question provides a legal framework in which commercial vehicles will operate in public roads to promote road safety. The regulations provide for the licensing of commercial vehicles, securing of cargo during transportation, parking of commercial vehicles and trailers, daily driving, on-duty time, mandatory rest for drivers of commercial vehicles and removal or towing of commercial vehicles in case of a break-down or stalling of a commercial vehicle. The regulations also provide for record and reporting requirements and safety audits to be conducted by the Authority on carriers, owners or drivers of commercial vehicles.

The statutory instrument in question

3. Policy Background

The key policy objective of the NTSA Act is to ensure road safety and a sustainable and well organized road transport system. This instrument promotes road safety

by providing guidelines on how commercial vehicles shall operate including safe transportation of goods.

Currently the operation of commercial vehicles is unregulated which has led to an increase in the number of fatalities involving commercial vehicles which are of high impact in the society. In order to address this challenge there is need to bring the sector into a regulatory regime to enhance safety.

4. Consultation outcome

The Ministry and the National Transport and Safety Authority issued a public notice in two papers of national circulation inviting members of the public for their comments. In addition, public participation forums were held in various counties. The public submitted their comments some of which were included in the final regulations.

4.2 The Ministry of Transport and Infrastructure intends to provide support to further create awareness on the regulations through advertisements in the media and forums.

5. Impact

5.1 The regulations shall have no fundamental effect to rights and freedoms.

5.2 The regulations will help streamline the commercial vehicles sector.

6. Monitoring and review

6.1 The success criteria of this regulation will be a reduction in the number of road fatalities attributable to commercial vehicles.

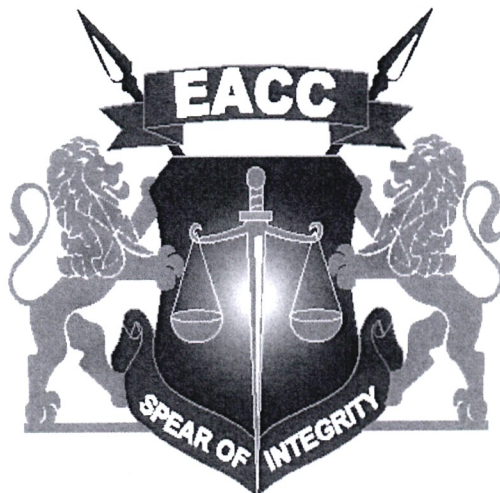
7.1 Francis Meja, Director General NTSA.

Francis.meja@ntsa.go.ke

0720 2395838

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THE ETHICS AND ANTI-CORRUPTION COMMISSION

**THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM
1ST OCTOBER, 2017 TO 31ST DECEMBER, 2017**

PREAMBLE

The Ethics and Anti-Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under Section 35 of the Anti-Corruption and Economic Crimes Act, 2003 as read with Section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011.

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney General.
4. The Attorney General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2017 to 31st December, 2017.

INVESTIGATION REPORT COVERING THE PERIOD 1ST OCTOBER, 2017 TO 31ST DECEMBER, 2017

1. EACC/FI/INQ/7/2016

INQUIRY INTO ALLEGATIONS OF TAX EVASION BY THE PROPRIETOR OF A PRIVATE FIRM AWARDED CONTRACTS BY THE NATIONAL YOUTH SERVICE.

Investigations jointly conducted by the Commission and the Kenya Revenue Authority (KRA) established that the suspect had done substantial business through contracts with the National Youth Service and received substantial taxable but failed to pay pre-requisite taxes and remit annual income returns as required by the Income Tax Act.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18th December, 2017 recommending that the suspect be charged with three counts of failure to pay taxes contrary to section 45(1) (d) as read with section 48 of the Anti-Corruption and Economic Crimes Act No.3 of 2003, failure to register for VAT contrary to section 34(1) (a) as read with section 37 of the Value Added Tax Act No. 35 of 2013 and failure to furnish returns contrary to section 52B(1) (b) as read with section 109(c) and section 107 of the Income Tax Act chapter 470 laws of Kenya.

On 31/01/2018 the DPP returned the inquiry file recommending further investigations.

2. EACC/FI/INQ/50/2016

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF THREE MITSUBISHI TIPPER TRUCKS BY KITUI COUNTY GOVERNMENT

Investigations revealed that the Interim County Secretary and the Head of Supply Chain Management, County government of Kitui irregularly presided over the purchase of three (3) Mitsubishi Tipper Trucks from Simba Colt Motors Limited in the financial year 2013/2014.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18th December, 2017 recommending that the suspects be charged with two counts of willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 (1) and abuse of office contrary to section 46 as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2018 the DPP returned the file for further investigations.

3. EACC/PI/INQ/383/2017

INQUIRY INTO ALLEGATIONS OF FRAUD AND IRREGULAR PROCUREMENT IN THE TENDER FOR SUPPLY, DELIVERY AND INSTALLATION OF ASPHALT PLANT AT NAIROBI COUNTY

Investigations revealed that various Nairobi county government officials had engaged in fraudulent activities in respect of tender for supply, delivery and installation of asphalt plant at Nairobi county.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18th December, 2017 recommending that the suspects be charged with the following offences: two counts of Conspiracy to commit an economic crime contrary to section 47A as read with section 48(1) of the Anti-Corruption and Economic Crimes Act ,2003; two counts of Committing a fraudulent act contrary to section 176(1) (i) as read with section 176(2) of the Public Procurement and Asset Disposal Act No. 33 of 2015; willful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 (1) and two counts of deceiving principal contrary to section 41(2) as read section 48 (1) of the Anti-Corruption and Economic Crimes Act,2003.

On 31st December, 2018, the DPP accepted the recommendation for prosecution.

4. EACC/MSA/PI/INQ/08/2013

INQUIRY INTO ALLEGATIONS THAT A VEHICLE INSPECTION COMPANY BASED IN JAPAN HAS BEEN ISSUING COMPLIANCE CERTIFICATES TO OVER AGE VEHICLES PURPORTING THEM TO BE TO BE OF LESS THAN EIGHT YEARS OLD.

Investigations revealed that some car importers had failed to pay taxes due in request of the imported motor vehicles and other companies had imported over age vehicles which was occasioned by irregularities at the source of the motor vehicles. It was further established that the inspection company had been issuing compliance certificates for over age motor vehicles purporting that they were less than 8 years. In some of the cases, the motor vehicles ages were understated so as to evade paying taxes.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7th November, 2017 recommending that the suspects be charged with the following offences: Unlawful failure to pay taxes contrary to section 45 (1) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act No.3 of 2003. and two counts of willful disobedience of statutory duty contrary to section 130 of the penal code by importing overage motor vehicles.

On 11th December, 2017, the DPP accepted the recommendation for prosecution.

5. EACC/KSM/EL/INQ/19/2016

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AGAINST A NOMINATED SENATOR ALLEGED TO HAVE DEFRAUDED KISUMU EAST COTTON FARMERS SACCO.

Investigations revealed that the SACCO organized a fund raiser to boost its finances with the assistance of the Senator. A fund raiser took place on 23rd October 2016 where Kshs. 2,260,880 was raised. The Senator took custody of the money after the fundraiser and later handed the same to G4S officers who banked the money in an account held at the CFC Bank without the consent of the officials of the SACCO. It was further established that the officials of the SACCO pursued her for the cash prompting her to hand over Kshs. 500,000 and later two cheques of Kshs. 950,000 and Kshs. 350,000, cheques which were not honored.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the suspect be charged with the offences of stealing and issuing bad cheques contrary to section 275 and 316A (1) of the penal code respectively.

On 2nd January, 2018, the DPP accepted the recommendation for prosecution.

6. CR.444/132/2017 CF. ACC. 3/2017

INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST TRAFFIC POLICE OFFICERS BASED AT KANGUNDO TRAFFIC BASE.

Investigations revealed that the suspects, Police Officers based at Kangundo traffic base corruptly solicited for a benefit of Kshs. 20,000/- from the complainant as an inducement to issue him with a police abstract over an on-injury accident involving his Motor Vehicle; a trap operation was organized 6th June 2017 when he was arrested after receiving Ksh. 20,000 treated money from the complainant.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4th October, 2017 recommending that the suspects be charged with 5 counts of Receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016 and concealing evidence contrary to section 66(1) (c) as read with section 66 (2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

On 20th November, 2017, the DPP accepted the recommendation for prosecution.

7. EACC/NKR/INQ/OPS/7/2016

INQUIRY INTO ALLEGATIONS OF SOLICITING FOR AND RECEIVING A BENEFIT BY A TRAFFIC BASE COMMANDER AT KERICHO COUNTY

Investigations revealed that the suspect demanded for and received a benefit of Kshs. 5,000/- in order to forebear charging the complainant in court and to release his taxi which he had impounded. The suspect was arrested after he corruptly received the bribe.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4th October, 2017 recommending that the suspect be charged with the offence of corruptly receiving a benefit contrary to section 39(3) as read with section 48(1) (2) of the Anti-Corruption and Economic Crimes Act No.3 of 2003.

On 10th November, 2017, the DPP accepted the recommendation for prosecution.

8. CR.148/08/2017 CF.ACC.2097/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS ATTACHED TO THIKA TRAFFIC BASE.

Investigations revealed that Traffic Police Officers manning Thika-Garissa road were collecting bribes and harassing motorists. A sting operation was organized on 15th March 2017 when the two officers were arrested.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4th October, 2017 2017 recommending that the suspects be each charged with the offence of Dealing with suspect property contrary to section 47(2) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

On 7th November, 2017, the DPP accepted with the recommendation for prosecution.

9. EACC/OPS/INQ/159/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST POLICE OFFICERS ATTACHED TO MUTHANGARI TRAFFIC POLICE SUB-BASE

Investigations revealed that police officers attached at Muthangari Traffic Police Base demanded for Kshs. 3,000/- from the complainant, a Manager of a bus Management Company as an inducement to release a matatu detained by the officers for allegedly plying the Kawangware Route in contravention with the road

service license. A trap operation was laid that led to the arrest of the officer after he received Kshs. 3,000 via Mpesa.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18th December, 2017 recommending that the suspects be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 4th January, 2018, the DPP accepted the recommendation for prosecution.

10. EACC/NYR//OPS/INQ/22/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST TRAFFIC POLICE OFFICERS BASED AT NYERI POLICE STATION

Investigations through surveillance revealed that Traffic Police Officers were soliciting and extorting bribes from motorists along the Nyeri-Othaya Road, in Nyeri County. A sting operation was conducted leading to their arrest on 9th June 2017.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18th December, 2017 recommending that the suspects be charged with the following offences: Abuse of office contrary to section 46 of the Anti-Corruption and Economic Crimes Act, 2003 as read with section 48 thereof and obstruction contrary to section 66(1)(a) as read with section 66(2) of the Anti-Corruption and Economic Crimes Act, 2003

On 28th December, 2017, the DPP accepted the recommendation for prosecution.

11. CR. 148/19/2017 CF. 3228/2017

INQUIRY INTO ALLEGATIONS DEALING WITH SUSPECT PROPERTY AND ABUSE OF OFFICE AGAINST TRAFFIC POLICE OFFICERS MANNING WITEITHIE AREA ALONG THE THIKA SUPERHIGHWAY.

Investigations through surveillance revealed that the suspects were stopping motor vehicles and receiving money from them without conducting any traffic checkups. A sting operation was conducted on 22nd June 2017 where three police officers were arrested.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 15th November, 2017 recommending that the suspects be charged with the offence of dealing with suspect property contrary to section 47(2) as read with section 48 (8) of the Anti-corruption and Economic Crimes Act No.3 of 2003. It was

further recommended that administrative action be taken against those who were captured by the video footage collecting bribes from motorists.

On 1st December, 2017, the DPP accepted the recommendation for prosecution.

12. CR.148/21/2011 CF.NO.ACC. 12/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST AN ADMINISTRATION POLICE (AP) OFFICER BASED AT THE LIKONI ROAD AP CAMP.

The investigation revealed that the suspect arrested the complainant a motorcycle rider on allegations that he had failed to display a life saver jacket. The officers detained his driving license and demanded for a bribe of Kshs. 1,000/- before releasing the driving license. The suspect was arrested after receiving the bribe during an operation organized by the Commission.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the suspects be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 1st December, 2017, the DPP accepted the recommendation for prosecution.

13. CR.973/57/2017 KISUMU ACC.NO. 2/79/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST, POLICE OFFICERS ATTACHED TO KABRAS SUB-BASE KAKAMEGA COUNTY

Investigations established that traffic police officers from Kabras Sub-base were demanding for a benefit of Kshs. 20,000/- from the complainant before releasing his motor cycle which had been detained at the Kabras Police Station for unspecified traffic offences. The suspect was arrested upon receiving Kshs.5000/- treated money on 30th January 2017 during an operation organized by the Commission

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the suspect be charged with the offences of requesting and receiving a benefit contrary to section 6(1) as read with section 18(1) of the Bribery Act No. 47 of 2016.

On 4th December, 2017, the DPP accepted the recommendation for prosecution.

14. EACC/OPS/INQ/136/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER BASED AT MAKONGENI POLICE STATION.

Investigations revealed that a police corporal at Makongeni Police Station, was solicited for a benefit of Kshs. 6000/- as an inducement to facilitate the arrest of the complainant's debtor and guarantor respectively. He corruptly received a bribe and unsuccessfully attempted to escape having concealed the trap money.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the suspect be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 (1) of the Bribery Act No. 47 of 2016 and concealing evidence contrary to Section 66 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

On 10th December, 2017, the DPP accepted the recommendation for prosecution.

15. EACC/OPS/INQ/128/2016

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE OFFICER BASED AT ATHI RIVER TRAFFIC BASE.

Investigations established that, a Police Corporal attached to the Athi-River Traffic Police Base had solicited for a bribe of Kshs. 5,000/- from a complainant in order to release a driving license that had been confiscated from him on allegations that his car had defective break lights. It was further established that the suspect received Kshs. 3,000/- from the complainant but declined to release the license demanding a further Kshs. 2,000/-. The suspect corruptly received Kshs. 2,000/- when an operation was planned leading to his arrest.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 27th November, 2017 recommending that the suspect be charged with the offences of corruptly soliciting and receiving a benefit contrary to section 39(3) (b) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 10th December, 2017, the DPP accepted the recommendation for prosecution.

16. CR. EACC/313/130/2017, EACC/MLD/OPS/09/2017

INQUIRY INTO ALLEGATIONS THAT A POLICE OFFICER CORRUPTLY RECEIVED A FINANCIAL ADVANTAGE AS AN INDUCEMENT TO FACILITATE RELEASE OF A MOTORCYCLE AND A NATIONAL ID CARD WHICH HAD BEEN DETAINED AT MALINDI POLICE STATION.

Investigations revealed that the Complainant's boyfriend was arrested by police officers from Malindi Police Station and that the said officers who had detained his motorcycle were demanding for Kshs. 20,000 as an inducement to release to it.; a trap operation was organized and the suspect was arrested after he received Kshs. 10,000/- treated money.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 27th November, 2017 recommending that the suspect be charged with the offences of requesting and receiving a benefit contrary to section 6(1) as read with section 18 (1) of the Bribery Act No. 47 of 2016 and for failing to record an arrest in the Occurrence Book contrary to section 50(4) as read with section 129 of the National Police Service Act.

On 22nd December, 2017, the DPP accepted the recommendation for prosecution.

17. EACC/FI/INQ/244/08/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST OFFICERS OF THE KENYA FOREST SERVICE BASED IN NYANDARUA COUNTY.

Investigations revealed that the suspects stationed at the Kipipiri Sub-County Forest Office demanded for and received a benefit of Kshs. 5,000/- in order to assess the damage done to a complainant's crops and prepare a report accordingly. An operation was mounted which led to their arrest on 1st February 2017 after they had received the bribe.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7th November, 2017 recommending that the suspects be charged with the offences of requesting and receiving a benefit contrary to Section 6 (1) as read with section 18 (1) of the Bribery Act No,47 of 2016.

On 29th November, 2017, the DPP accepted the recommendation for prosecution.

18. CR.973/192/2017 CF. ACC.2/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A SENIOR CLERICAL OFFICER AT BUTALI LAW COURTS.

Investigations revealed that the suspect requested for a financial benefit of Ksh. 1,000/- from a complainant so as to process court proceedings in a Criminal Case heard at the Butali Law Courts. The suspect was arrested after receiving the benefit during an operation mounted by the commission.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the suspect be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 11th December, 2017, the DPP accepted the recommendation for prosecution.

19. EACC/NKR/INQ/OPS/16/2016

INQUIRY INTO ALLEGATIONS OF SOLICITING AND RECEIVING A BENEFIT BY A KENYA REVENUE AUTHORITY OFFICER BASED AT THE KERICHO OFFICE.

Investigations revealed that a Kenya Revenue Authority (KRA) Officer demanded for a benefit of Kshs. 20,000/- from the complainant in order to forebear charging him for not using an Electronic Tax Register (ETR) Machine in his business. A trap operation was laid and it led to the arrest of the KRA officer after he received Kshs. 20,000 treated trap money.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the suspect be charged with the offences of corruptly soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 20th December, 2017, the DPP accepted the recommendation for prosecution.

20. EACC/NKR/OPS/INQ/31/2016

INQUIRY INTO ALLEGATIONS OF SOLICITING FOR AND RECEIVING A BENEFIT BY PUBLIC OFFICERS AT THE MINISTRY OF EDUCATION BASED AT THE OFFICE OF THE DIRECTOR OF EDUCATION, NAROK COUNTY

Investigations established that there was evidence of soliciting and receiving of a benefit of Kshs. 18,000/- from the complainant who owned a school within the county in order to facilitate the registration of his school. A trap operation mounted by the Commission led to the arrest of the officers after they corruptly received the bribe.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the suspect be charged with the offences of corruptly soliciting and receiving a benefit contrary to section 39(3) (a) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 20th December, 2017, the DPP accepted the recommendation for prosecution.

21. CR.671/84/2017 CF. ACC. (MIGORI) 2/2017

INQUIRY INTO ALLEGATIONS OF RECEIVING A BRIBE BY A SENIOR EXECUTIVE ASSISTANT AT KEHANCHA LAW COURTS.

Investigations revealed that the complainant had been charged at the Kehancha Law Courts with the offence of assault. His late brother stood surety for him by depositing his title deed as security for his release on bond. Upon conclusion of the case his brother died before collecting the title and when he went to collect it the Senior Executive Assistant demanded for Kshs. 10,000/- as an inducement to release the title. It was further established that the demand was negotiated down to Kshs. 5,000/-. The suspect was arrested upon receiving Kshs.5000/- treated money on 4th September 2017 during an operation organized by the Commission.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the suspect be charged with the offence of requesting and receiving a benefit contrary to section 6(1) as read with section 18 of the Bribery Act No. 47 of 2016.

On 28th December, 2017, the DPP accepted the recommendation for prosecution.

22. CR. NO.24/24/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST, A CONSTITUENCY DEVELOPMENT FUND (CDF) CHAIRMAN, KINANGOP CONSTITUENCY.

Investigations revealed that the CDF Chairman Kinangop Constituency solicited for a bribe from the complainant whose land had been set aside for construction of a road by the government. The Chairman solicited for Kshs. 300,000/- as an inducement to release a cheque of Kshs. 1,670,000/- being compensation from the CDF for the land acquired for the road construction. The suspect was arrested during an operation organized by the Commission after he corruptly received Kshs. 200,000/- bribe.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18th December, 2017 recommending that the suspect be charged with the offence of requesting and receiving a benefit contrary to section 6(1 as read with section 18 of the Bribery Act No. 47 of 2016.

On 28th December, 2017, the DPP accepted the recommendation for prosecution.

23. CR. EACC/EL/INQ/71/2017

INQUIRY INTO ALLEGATIONS THAT A MEMBER OF PARLIAMENT FILLED A FALSE SELF DECLARATION FORM IN RELATION TO HIS ACADEMIC QUALIFICATIONS.

Investigations revealed that a Member of Parliament (MP) from Meru County had in the year 2013, submitted to the Independent Electoral and Boundaries Commission (IEBC), a false self-declaration form to the effect that he held a Bachelor of Commerce Degree from the University of Nairobi obtained in the year 2001. It was further established that the MP never graduated from Nairobi University and he also had a forged KCSE certificate.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18th December, 2017 recommending that the suspect be charged with the following offences: Forgery contrary to section 349 of the penal code, uttering a false document contrary to section 353 as read with section 349 of the penal code, making false statutory declaration contrary to section 11 of the oaths and statutory declaration act and providing false information to the IEBC contrary to section 46(1) (d) as read with section 46 (2) of the Leadership and Integrity act, 2012.

On 1st March, 2018, the DPP returned the file as directions could not be given in light of the pending Constitutional Petition **No. 7 of 2018**, filed by the Member of Parliament seeking prohibitory orders.

24. EACC/EL/INQ/77/2017

INQUIRY INTO ALLEGATIONS THAT AN ASPIRANT FOR SUNA EAST CONSTITUENCY PARLIAMENTARY SEAT NEVER FINISHED SECONDARY SCHOOL AND HE HAS BEEN USING CERTIFICATES BELONGING TO ANOTHER PERSON.

Investigations revealed that the suspect used fake certificates to fraudulently apply for nomination under the Amani National Congress party using another person's KCSE result slip from Songhor Secondary School to get employment at the Kenya Police. He also used the said result slip in his application for admission at the Presbyterian University of East Africa and the Kenya Institute of Criminal

Justice and to also pursue his Diploma in Personnel Management and Higher Diploma in Human Resource Management.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4th October, 2017 recommending that the suspect be charged with the offence of Personation of a person named in a certificate contrary to section 384 as read with section 349 of the penal code.

On 7th November, 2017, the DPP accepted the recommendation for prosecution.

25. CR.345/373/2017 CF. NO. ACC. MSA.2 /INQ/2/2017

INQUIRY INTO ALLEGATIONS OF IMPERSONATING AN EACC OFFICER AND REQUESTING A BRIBE.

Investigations revealed that the suspect, had impersonated an EACC officer and demanded for a benefit from County Officials in Kilifi County. An operation was conducted leading to his arrest.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 18th December, 2017 recommending that the suspect be charged with the following offences; Impersonating an Investigator contrary to section 34(1) as read with section 34(2) and hindering Ethics and Anti-Corruption Officers acting under the act contrary to section 66(1) (a) and (2) of the Anti-corruption and Economic Crimes Act No.3 of 2003.

On 2nd January, 2018, the DPP's accepted the recommendation for prosecution.

26. EACC/ISL/INQ/NO/2/2017 CR NO. 421/79/2017

INQUIRY INTO ALLEGATIONS THAT A PRIVATE CITIZEN OFFERED AND GAVE KSHS. 3,000 TO A POLICE OFFICER ATTACHED TO NTSA TO FORBEAR CHARGES AGAINST HIS BROTHER WHO WAS ARRESTED FOR FLOUTING TRAFFIC RULES.

Investigations revealed that the suspect's brother was arrested on the night of 10th February, 2017 for flouting traffic rules along Meru-Nkubu road. The suspect offered Kshs. 3,000 to a National Transport and Safety Authority Officer to forebear charging his brother with the offence of driving under the influence of alcohol.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the suspect be charged with the offence of offering and giving a bribe contrary to sections 5(1) 6(1) (a) as read with section 18(1) of the Bribery Act No. 47 of 2016.

On 1st December, 2017 the DPP accepted the recommendation for prosecution.

27. EACC/EL/INQ/49/2016

INQUIRY INTO THE CONDUCT OF MEMBER OF THE NATIONAL ASSEMBLY WHO ARE ALLEGED TO HAVE FOUGHT AT THE OFFICE OF THE CABINET SECRETARY IN THE MINISTRY OF INTERIOR & COORDINATION FOR NATIONAL GOVERNMENT.

Investigations revealed that an elected member of parliament and a nominated member of parliament from Laikipia County fought at the offices of the Cabinet Secretary for Ministry of Interior and Co-ordination of National Government. The Members of Parliament fought in public and carried themselves in a manner that was inconsistent with the provisions of the Public Officers Ethics Act and the Leadership and Integrity Act.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7th November, 2017 recommending that the Parliamentary Service Commission to issue a warning/Caution to the members of Parliament.

On 30th November, 2017, the DPP accepted the recommendation for administrative action.

28. EACC/OPS/INQ/27/2017

INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST A POLICE CONSTABLE, ATTACHED TO KAYOLE POLICE STATION NAIROBI COUNTY

Investigations revealed that police officers from Kayole Police Station had arrested several people within Kayole area and were demanding for a bribe of Kshs. 1,000/- before releasing them. A trap operation was organized by the Commission to apprehend the officer but before the same could be finalized the suspect released the individuals that had been illegally detained at the police station.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 27th November, 2017 recommending that the suspect and the Officer Commanding Station, Kayole Police Station be subjected to administrative action for contravening provisions of the National Police regulations on detention of suspects and for improper conduct.

On 11th December, 2017, the DPP accepted the recommendation for administrative action.

29. EACC/NKR/INQ/E/03/2014

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE FORMER DIRECTOR OF KENYA FOREST SERVICE.

Investigations revealed that the issuance a special use license to a business man to construction of a petrol pump on a forest land at Sorget/Tendeno ward within Kericho County was procedural. There was no evidence to prove that the Director had abused his office in issuing the same. It was further established that there were no clear policies to guide Kenya Forest Services in issuance of special use licenses.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19th October, 2017 recommending that the inquiry file be closed with no further action.

On 29th November, 2017, the DPP declined the recommendation for closure and advised that further investigations be conducted.

30. EACC/OPS/INQ/35/2017

INQUIRY INTO ALLEGATIONS THAT AN EMPLOYEE OF KENYA REVENUE AUTHORITY REQUESTED FOR A BRIBE OF KSHS. 15,000 FROM A BUSINESSMAN IN ORDER TO FACILITATE VALIDATION OF DOCUMENTS.

Investigations revealed that the complainant, a businessman was required by law to create of a relevant Kenya Revenue Authority (KRA) account to enable him export fuel from Kenya to Uganda. The suspect, who was responsible for the opening of the account requested for a bribe of Kshs. 20,000/- to facilitate the process. The suspect was arrested upon receiving the said bribe from the complainant. However, a further analysis of the evidence of record did not support the allegation that the officer had requested for the bribe.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 21st November, 2017 recommending that the inquiry file be closed and the matter be referred to KRA for further disciplinary action against the officer pursuant to section 42 (9) of the Leadership and Integrity Act.

On 4th December, 2017, the DPP accepted the recommendation for closure.

31. KACC/FI/INQ/37/2009

INQUIRY INTO ALLEGATIONS THAT COUNCILLORS AND THE CHIEF OFFICERS AT MAUA MUNICIPAL COUNCIL ALLOCATED STALLS TO THEMSELVES, FRIENDS AND RELATIVES AND THEREAFTER SOLD THE STALLS BETWEEN KSHS. 50,000 AND KSHS. 150,000/-

Investigations revealed that the Municipal Council of Maua constructed market stalls to allocate to business owners within the municipality. Upon completion of the stalls the allocation to the intended beneficiaries was done through balloting.

However, the allocation process did not proceed to completion. It was established at the time of investigations that the stalls were yet to be occupied. There was no evidence to link the councilors and chief officers in any form of impropriety in the allocation of the stalls.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4th October, 2017 recommending that the inquiry file be closed with no further action.

On 24th November, 2017, the DPP accepted the recommendation for closure of the inquiry file.

32. EACC/EL/INQ/93/2015

INQUIRY INTO ALLEGATIONS OF LEGITIMACY OF ACADEMIC CREDENTIALS OF THE MAKUENI COUNTY ASSEMBLY SPEAKER.

Investigations established that the Makueni County Speaker was qualified for his position and allegations touching on the credibility of his academic credentials was unsubstantiated and insufficient to prove allegations of violation of any of the provisions of the Leadership and Integrity Act and Regulations thereunder, Chapter Six of the Constitution and the Public Officers Ethics Act.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4th October, 2017 recommending that the inquiry file be closed with no further action.

On 3rd November, 2017, the DPP accepted the recommendation for closure of the inquiry file.

33. EACC/OPS/INQ/42/2016

INQUIRY INTO ALLEGATIONS THAT MOMBASA COUNTY ASSEMBLY HEALTH COMMITTEE WERE TO RECEIVE BRIBE OF KSHS 1 MILLION FROM COAST BOTTLERS TO FORESTALL INVESTIGATIONS ON SUPPLY OF CONTAMINATED WATER TO THE COUNTY ASSEMBLY.

Investigation established the Health Services committee (the Committee) of the County Assembly of Mombasa commenced investigations into allegations that Coast Bottlers Limited (The Company) in Mtwapa area within Kilifi County supplied mineral water to the County Assembly which was contaminated. The investigations did not establish any evidence to support allegations that the members of the County Assembly of Mombasa demanded for a bribe of Kshs. 1 million from the company in order to influence the investigations as alleged.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 4th October, 2017 recommending that the inquiry file be closed for lack of evidence.

On 23rd November, 2017, the DPP accepted the recommendation for closure of the inquiry file.

34. EACC/FI/INQ/41/2015

INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE AND MISAPPROPRIATION OF KSHS. 200 MILLION FROM THE OFFICE OF THE DEPUTY PRESIDENT AND KSHS. 100 MILLION FROM THE LEGISLATIVE AND INTER-GOVERNEMENTAL LIASON OFFICE IN MOBILIZING MEMBERS OF PARLIAMENT TO SUPPORT A CENSURE MOTION AGAINST THE FORMER CABINET SECRETARY FOR DEVOLUTION.

Investigations revealed that a censure motion against the then Cabinet Secretary (the Secretary) for Devolution was filed and debated in Parliament following allegations that the Secretary was involved in the scandals that rocked the National Youth Service. It was further established that Members of Parliament who supported the censure motion did so on their own volition and the allegation of misappropriation of Kshs. 100 million from the Legislative and Inter-Governmental Relations Office and a further 200 million from the Office of the Deputy President to mobilize members of parliament to support the same was unsubstantiated.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19th October, 2017 recommending that the inquiry file be closed with no further action.

On 23rd November, 2017, the DPP accepted the recommendation for closure of the inquiry file.

35. EACC/FI/INQ/086/2014

INQUIRY INTO ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN RESPECT OF THE COMMERCIAL CONTRACT FOR THE CONSTRUCTION OF CIVIL WORKS OF THE MOMBASA-NAIROBI STANDARD GAUGE RAILWAY PROJECT ENGINEERING, PROCUREMENT AND CONSTRUCTION (EPC) TURNKEY CONTRACT BETWEEN A CHINESE CONTRACTOR AND KENYA RAILWAYS CORPORATION FOR USD 2,657,401,776 (KSHS. 220,921,502, 221)

Investigations established that the tender awarded to a Chinese Contractor for the construction of the Standard gauge railway was done in accordance to the provisions of the Public Procurement and Disposal Act 2005 (repealed). It was further established that the contract sum for the project was not inflated in

comparison to other similar projects as it had been alleged. There was no evidence to implicate any Public Officials involved in the project for any wrong doing during the processing and award of the subject tender.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19th October, 2017 recommending that the inquiry file be closed with no further action.

On 15th December, 2017, the DPP accepted the recommendation for closure of the inquiry file.

36. EACC/EL/INQ/37/2015

INQUIRY INTO ALLEGATIONS OF FALSE DECLARATION TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION BY A MEMBER OF COUNTY ASSEMBLY (MCA) FOR KOLWA EAST IN KISUMU COUNTY DURING THE 2013 GENERAL ELECTIONS.

Investigations revealed that the MCA was not required to resign as a nominated councilor before contesting in the 2013 general elections and just like the elected councilors he had a right to serve the full term.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19th October, 2017 recommending that the inquiry file be closed with no further action.

On 1st December, 2017, the DPP accepted the recommendation for closure.

37. EACC/FI/123/2014

INQUIRY INTO ALLEGATIONS OF FAUDULENT PAYMENT BY OFFICIALS OF THE COUNTY GOVERNMENT OF KIAMBU.

Investigations revealed that a local contractor was awarded the tender for the construction of the Kinenii-Karatina foot bridge in Lari District. It was established that the initial funds allocated for the foot bridge by the Ministry of Works was Kshs. 500,000 before it was taken over by the County government of Kiambu which eventually spent Kshs. 2,535,066 for the project. Investigations did not support the allegations of fraudulent payments of Ksh. 2,535,066 for a non-existent project.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19th October, 2017 recommending that the inquiry file be closed with no further action.

On 1st December, 2017, the DPP accepted the recommendation for closure.

38. EACC/MBSA/FI/INQ/28/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PURCHASE OF A PRINTING MACHINE FOR KSHS. 300 MILLION BY THE KENYA BUREAU OF STANDARDS (KEBS)

Investigations established that the Kenya Bureau of Standards vide Tender No. KEBS/TO72/14/15 dated 24th March 2015 procured for supply and delivery of KEBS quality marks complete with traceability system. It was established that the subject tender was not for a printing machine for import standardization mark stickers. The allegation that the printing machine was procured at a cost of Kshs. 300 million was unsubstantiated.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 19th October, 2017 recommending that the inquiry file be closed with no further action.

On 23rd November, 2017, the DPP accepted the recommendation for closure.

39. EACC/GSA/FI/INQ/04/2017

INQUIRY INTO ALLEGATIONS OF IRREGULAR DISPOSAL AND ACQUISITION OF MERCEDES BENZ MOTOR VEHICLE BELONGING TO THE DEFUNCT MUNICIPAL COUNCIL OF GARISSA

Investigations established that the motor vehicle which belonged to Garissa Municipal Council, was declared unserviceable and thus advertised for disposal in accordance to the Public Procurement and Disposal Act. The successful bidder paid for the vehicle and took possession accordingly, the Clerk, the Treasurer and the former mayor were not culpable for any offences during the disposal process.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7th November, 2017 recommending that the inquiry file be closed with no further action.

On 1st December, 2017, the DPP accepted the recommendation for closure.

40. EACC/FI/INQ/1/2015

INQUIRY INTO ALLEGATIONS OF IRREGULAR PAYMENT OF KSHS. 48 MILLION FOR MEDICAL COVER TO A NON FUNCTIONAL ENTITY BY MAKUENI COUNTY ASSEMBLY.

Investigations revealed that an insurance company which was awarded the tender to provide medical cover in 2014/2015 financial year for Makueni County Assembly staff was a functional entity for medical cover. It was further established that the amount paid to the said entity was Kshs. 17,359,089/- and not Kshs. 48 million as alleged.

A report was compiled and forwarded to the Director of Public Prosecutions (DPP) on 7th November, 2017 recommending that the inquiry file be closed with no further action.

On 20th December, 2017, the DPP accepted the recommendation for closure.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	40
No. of files recommended for prosecution	27
No. of files recommended for administrative or other action	2
No. of files recommended for closure	11
No. of files recommended for prosecution and the cases are already lodged before Court	14
No. of files where recommendation to prosecute accepted	24
No. of files where recommendation for administrative or other action accepted	1
No. of files where recommendation for closure accepted	10
No. of files returned for further investigations	3
No. of files where recommendation to prosecute not accepted	0
No. of files where recommendation for administrative or other action not accepted	0
No. of files where closure not accepted	1
No. of files awaiting Director of Public Prosecutions' action	1

DATED AT NAIROBI THIS


12th



**ARCH. (RTD) ELIUD WABUKALA
CHAIRMAN**

/rgnm

DAY OF

March


2018

**HALAKHE D. WAQO, CBS, MCI Arb.
SECRETARY/CHIEF EXECUTIVE OFFICER**