

PARLIAMENT
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THE NATIONAL ASSEMBLY
BILLS LAID
DATE: 30 SEP 2025
DAY: TUESDAY
TABLED BY: HON. KIMANI ICHUNG'WAH
(MAJORITY LEADER)
MWALE

MINISTRY OF ROADS AND TRANSPORT

EXPLANATORY MEMORANDUM TO THE KENYA ROADS BOARD (KENYA ROADS BOARD FUND) (ADDITIONAL FUNDING REGULATIONS, 2025

PART I

Name of the Statutory Instrument: The Kenya Roads Board (Kenya Roads Board Fund) (Additional Funding Regulations, 2025

Name of the parent Act: The Kenya Roads Board Act, Cap 408A

Enacted Pursuant to: Section 32(3)

Name of the Ministry: Ministry of Roads and Transport

Gazetted on: April, 2025

Tabled on:

PART II

1. THE KENYA ROADS BOARD (KENYA ROADS BOARD FUND) (ADDITIONAL FUNDING) REGULATIONS, 2025

The purpose of the Kenya Roads Board (Kenya Roads Board Fund) (Additional Funding Regulations, 2025 is to provide for a procedure for setting aside a portion of the Fund for purposes of securing additional funding to meet financial demands for maintenance, development and rehabilitation of roads in terms of Section 32A(2) of the Act.

The additional funding will not only enhance the Fund but also secure sustainable source of funding for road maintenance and for the following reasons:-

- i. The State Department of Roads estimates that approximately. Kshs. 910.0 billion is required to complete ongoing road works over the next three (3) years under the project portfolios of KeNHA, KeRRA and KURA. Outstanding payments for completed works currently amount to Kshs. 175 billion.
- ii. The Ministry seeks to leverage on the RMLF and securitize the KES.7.00 per liter increment in fuel levy, which amounts to approximately KES 32 billion per year, to raise up to KES 175 billion, to finance completed, ongoing and new roads over the next three years. estimated to raise up to KES 175 billion.

2. LEGISLATIVE CONTEXT

These Regulations has been made pursuant to the provisions of Section 32A(3) of the Kenya Board Roads Act, Cap 408A. The Act empowers the Cabinet Secretary to make regulations for better carrying out of the Board's power to borrow such monies as may be required for the proper discharge of its functions; where it is necessary to meet financial demands for maintenance, development and rehabilitation of roads by setting aside a portion of the Fund for purposes of securing additional funding which may be determine from time to time.

The Regulations recognized and considered the following:

- i. Article 10 and 232 of the Constitution on National values and principles of governance.
- ii. Principles of public finance as enshrined in Article 201 of Constitution of Kenya and Section 15 of the Public Finance Management Act, 2012;
- iii. Prudent management of the Kenya Roads Board Fund established under Section 31 of the Act and the reporting obligations provided for thereinunder.
- iv. The need for additional funding to address the road maintenance funding shortfall based on the annual maintenance requirement of KSh. 175 billion.

3. POLICY BACKGROUND

Section 31 of the Kenya Roads Board Act established the Kenya Roads Board Fund which consists of proceeds from the Road Maintenance Levy Fund and transit toll, among others.

The Fund is administered in accordance with the provision of the Kenya Roads Board Act, 1999 and specifically for the maintenance, rehabilitation and development of roads. The Kenya Roads Board is mandated to oversee the entire road network and the optimal utilization of the Road Maintenance Levy Fund in the implementation of roadworks programmes.

The Board is also responsible for the monitoring and evaluating the delivery of goods, works and services funded by the Fund through technical, financial and performance audits.

Presently, KRB performs its oversight function over road agencies through the use of Technical, Financial and Performance Audit as provided for under the Act and the Kenya Roads Board Act (General) Rules, 2022.

4. CONSULTATIVE OUTCOME

- a) The Regulations will consider inputs and comments from the relevant Government ministries, Road Agencies, private sector and the general public.
- b) The Ministry, based on feedback from road agencies noted that the society relies on a good road network as a key enabler to access jobs, business, health care, education and other social amenities.
- c) It is further noted that the net impact of the proposed statutory instrument is positive on the funding of the road network's maintenance, rehabilitation and development needs.
- d) The Ministry conducted stakeholder engagement forums from 6th to 9th May, 2025 in 10No. Regions to collect views of stakeholders and general the public.

5. GUIDANCE

The Board will publicize and bring the Regulations to the attention of relevant stakeholders.

6. IMPACT

The Regulations does not infringe on any fundamental rights and freedoms of the public as enshrined in the Constitution of Kenya.

The Ministry is cognizant of the fact that the society relies on a good road network as the basis to access jobs, business, health care, education and other social amenities. The net impact of the proposed statutory instrument is positive on the funding of the road network's maintenance, rehabilitation and development needs.

Given the current economic situation, the review will be implemented in a manner that would not result in an increase in fuel pump so as to cushion the public from high cost of living.

7. REVIEW OF THE REGULATIONS

The Ministry will regularly review and monitor; the implementation of the Regulations, optimal utilization of the Fund as well as monitoring and evaluating the delivery of goods, works and services funded by the Fund through technical, financial and performance audits.

8. REGULATORY IMPACT STATEMENT

The Ministry submits that the proposed Regulations only provide for the procedure for setting aside a portion of the Fund for purposes of securing additional funding to meet financial demands for maintenance, development and rehabilitation of roads and does not operate to the disadvantage of any person (other than a government entity) by –

- (i) decreasing the person's rights; and
- (ii) imposing liabilities on the person;

Consequently, the provisions of Section 6, 7 and 8 of the Statutory Instruments Act do not apply to the proposed Regulations.

8. CONTACT

Davis Chirchir, EGH
Cabinet Secretary
Ministry Roads and Transport
NAIROBI.

Date:

SPECIAL ISSUE

1773

Kenya Gazette Supplement No. 156

16th September, 2025

(Legislative Supplement No. 80)

LEGAL NOTICE NO. 156

THE KENYA ROADS BOARD ACT

(Cap. 408A)

**THE KENYA ROADS BOARD (KENYA ROADS BOARD FUND)
(ADDITIONAL FUNDING) REGULATIONS, 2025**

ARRANGEMENT OF REGULATIONS

Regulation.

PART I—PRELIMINARY PROVISIONS

- 1—Citation.
- 2—Interpretation.
- 3—Object and purpose of the Regulations.
- 4—Scope of the Regulations.

PART II—REVIEW BY THE BOARD

- 5—Review of programmes.
- 6—Participation by road agencies.

PART III—PROPOSALS FOR ADDITIONAL FUNDS


- 7—Portion of the Fund to be set aside.
- 8—Proposals for additional funding.
- 9—Contents of the additional funding proposal.
- 10—Approval of additional funding proposals.

PART IV—SECURING AND DISBURSEMENT OF ADDITIONAL FUNDS

- 11—Clearance by National Treasury and Attorney-General.
- 12—Remittance of additional funds by advisor.
- 13—Disbursement.

PART V—MISCELLANEOUS PROVISIONS

- 14—Register.
- 15—Compliance.
- 16—Books and records of account.
- 17—Accounts and audit.
- 18—Annual reports.
- 19—Transitional matters.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 30 SEP 2025	DAY: TUESDAY
TABLED BY:	Hon. KIMANI CHUNG'WAA (MAJORITY LEADER)
	INZOFU MWALE

THE KENYA ROADS BOARD ACT

(Cap. 408A)

IN EXERCISE of the powers conferred by section 32A(3) of the Kenya Roads Board Act, the Cabinet Secretary for Roads and Transport makes the following Regulations—

THE KENYA ROADS BOARD (KENYA ROADS BOARD FUND)
(ADDITIONAL FUNDING) REGULATIONS, 2025

PART I—PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Kenya Roads Board (Kenya Roads Board Fund) (Additional Funding) Regulations, 2025. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.

“five year road investment programme” means the five year road investment programme approved by the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance as contemplated under section 6(2)(d) of the Act; and

“set aside funds” includes the withdrawal of funds from the Fund and depositing the withdrawn funds in a special account established by the Board for the purposes of securing additional funds.
3. The object and purpose of these Regulations shall be to prescribe the procedure for setting aside a portion of the Fund for purposes of securing additional funding to meet financial demands for maintenance, development and rehabilitation of roads in terms of section 32A (2) of the Act. Object and purpose of the Regulations.
4. These Regulations shall apply to— Scope of the Regulations.
 - (a) the procedure for setting aside funds from the Fund for the purpose of securing additional funds by the Board; and
 - (b) the procedure for the Board to monitor the manner road agencies utilise additional funds allocated by the Board.

PART II—REVIEW BY THE BOARD

5. (1) The Board shall, at least six months before the end of the financial year, undertake a review of the five year road investment programme under section 6(2)(d) of the Act to determine whether additional funding for maintenance, development and rehabilitation of roads shall be needed in the coming financial year. Review of programmes.
 - (2) The review under subregulation (1) shall consider the following information—
 - (a) how much money was allocated from the Fund for the five year road investment programme;
 - (b) how much money was requisitioned for the purposes of the five year road investment programme;
 - (c) the deficit, if any, between the money requisitioned and the money allocated under the five year road investment programme;

- (d) whether the money allocated under the five year road investment programme was spent in full or partially spent;
- (e) if any money allocated under the five year road investment programme remained unspent, the reasons thereof; and
- (f) any other relevant information to determine how much additional funding is required in the coming financial year.

6. Where a road agency intends to request additional funding from the Board under these Regulations, the road agency shall submit the information contained in Form C as set out in the Schedule to the Kenya Roads Board (General) Rules.

Participation by road agencies.

Sub. Leg.

PART III—PROPOSALS FOR ADDITIONAL FUNDS

7. (1) Where the Board determines that additional funding is required for maintenance, development and rehabilitation of roads for the coming financial year, it shall, with the approval of the Cabinet Secretary and the Cabinet Secretary for matters relating to finance—

Portion of the Fund to be set aside.

- (a) set aside and withdraw a portion of the Fund from the Fund; and
- (b) deposit the funds that have been set aside and withdrawn under paragraph (a) in a special account or special accounts established by the Board for the purpose of securing additional funds.

(2) The portion of the Fund set aside and withdrawn under subregulation (1)—

- (a) shall not exceed the amount allocated by the Board under section 6(2)(c)(ii) of the Act; and
- (b) shall include any associated expenses incurred by the Board for the purposes of securing additional funds.

(3) For the purposes of subregulation (1), the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance may authorise more than one withdrawal from the Fund to be set aside for the purposes of section 32A(2) of the Act:

Provided that the aggregate of the sums set aside from the Fund shall not exceed the amount allocated by the Board under section 6(2)(c)(ii) of the Act.

8. Before setting aside the portion of the Fund under regulation 7(1), the Board shall—

Proposals for additional funding.

- (a) prepare a proposal for the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance, setting out the way the funds of the Fund shall be used to secure additional funding;
- (b) prepare a proposal for the approval of the Cabinet Secretary setting out the way on which the additional funds shall be allocated for the maintenance, development or rehabilitation of roads;

- (c) prepare a list of road agencies to which the additional funds will be disbursed;
- (d) prepare a framework for the disbursement of the additional funds for the maintenance, development or rehabilitation of roads; and
- (e) prepare a framework for supervising the way the additional funds allocated under these Regulations are utilised for the maintenance, development or rehabilitation of roads.

9. (1) The proposal submitted to the Cabinet Secretary and Cabinet Secretary responsible for finance under regulation 8(a) shall contain the following information—

Contents of the additional funding proposal.

- (a) the amount of the portion of the Fund intended to be set aside for the purposes of securing additional funding;
- (b) the method or methods that the Board proposes to utilise to secure additional funding;
- (c) an economic, legal and financial analysis of the methods the Board proposes to utilise to secure additional funding;
- (d) a statement as to whether the method or methods proposed by the Board to secure additional funding offer value for money;
- (e) a statement of whether the Board has identified the source or sources of additional financing and the cost associated with the source or sources of additional financing;
- (f) the period for which the additional funding shall be secured; and
- (g) the way the value of the portion of the Fund used to secure additional funding was computed and the related assumptions regarding the computation.

(2) The proposal submitted to the Cabinet Secretary under regulation 8(b) shall contain the following information—

- (a) whether the additional funds shall be allocated exclusively for maintenance, development or rehabilitation of roads or any combination thereof;
- (b) a schedule for allocating the additional funds and in what proportions the additional funds shall be allocated;
- (c) the road agencies that the Board intends to allocate the additional funds to; and
- (d) the reasons for allocating the additional funds to the road agencies specified under paragraph (c).

10. (1) The Board shall, at least three months before the end of the financial year, submit the proposals under regulation 8(2) to the Cabinet Secretary for approval.

Approval of additional funding proposals.

(2) Where the Cabinet Secretary approves the proposals under subregulation (1), the Cabinet Secretary shall submit the proposals to the Cabinet Secretary responsible for matters related to finance for approval.

(3) Where the Cabinet Secretary and Cabinet Secretary responsible for matters related to finance approve the proposals, the Board shall procure the services of an advisor to assist the Board in securing additional funds in accordance with the Public Procurement and Asset Disposal Act.

Cap. 412C.

(4) The advisor procured by the Board under subregulation (3) may include—

- (a) the Central Bank of Kenya;
- (b) a bank licensed by the Central Bank of Kenya;
- (c) a securities market intermediary licenced by the Capital Markets Authority;
- (d) multilateral lending agencies to which Kenya is a member;
- (e) regional and international development agencies to which Kenya is a member; and
- (f) any other financial services provider approved by the National Treasury.

(5) In this regulation, “advisor” means a person procured by the Board, who has appropriate skills and experience to assist and advise the Board in connection with the method or methods of securing additional funding, including the preparation and conclusion of a transaction documents

PART IV—SECURING AND DISBURSEMENT OF ADDITIONAL FUNDS

11. (1) The Board shall, before execution, submit the transaction documents to be executed by the Board—

Clearance by National Treasury and Attorney-General.

- (a) to the National Treasury for clearance of the financial aspects of the agreement; and
- (b) to the Attorney-General for legal clearance.

(2) Where the National Treasury and Attorney-General clear the transaction documents, the Board shall execute the agreement or agreements relating to the transaction.

12. The party that secures the additional funds under the transaction documents executed under regulation 8 shall deposit the additional funds in the special account or special accounts established under regulation 7(1)(b).

Remittance of additional funds by advisor.

13. The additional funds secured by the Board under regulation 12 shall be disbursed—

Disbursement.

- (a) in accordance with the allocation schedule prepared under regulation 9(2)(b); and
- (b) to the road agencies specified under regulation 9(2)(c).

PART V—MISCELLANEOUS PROVISIONS

14. The Board shall keep and maintain a register of road agencies to which additional funds have been disbursed, how much each road agency received, for what purpose the funds were disbursed, and any other relevant information regarding the additional funds. Register.
15. Where a road agency to which additional funds have been disbursed under these Regulations fails to apply the funds as directed by the Board, that road agency shall not be eligible to receive any funds from the Board until the road agency fully complies with the provisions of these Regulations in addition to any action by the Board under section 30 of the Act. Compliance.
16. The Board shall keep and maintain or cause to be kept and maintained such books and records of account in respect of the additional funds secured under these Regulations in accordance with section 23(2) of the Act. Books and records of account.
17. The accounts kept and maintained for the purposes of the additional funds secured under these Regulations shall be audited and reported on in accordance with section 36 of the Act. Accounts and audit.
18. The Board shall prepare an annual general performance report of the additional funding on the five year road sector investment programme that shall be submitted to the Cabinet Secretary. Annual reports.
19. The coming into operation of these Regulations shall not invalidate any authorisations to set aside of a portion of the Fund for the purposes of section 32A(2) granted by the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance before the coming into operation of these Regulations. Transitional matters.

Made on the 2nd September, 2025.

DAVIS CHIRCHIR,
Cabinet Secretary for Roads and Transport.

THE KENYA ROADS BOARD




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Website: www.krb.go.ke

 Kenya Roads Board

REPORT ON PRE-PUBLICATION SCRUTINY MEETING ON THE KENYA ROADS BOARD (KENYA ROADS BOARD FUND) (ADDITIONAL FUNDING) REGULATIONS, 2025

NAIROBI, KENYA

	Date	Signature
Prepared by:		<i>A. Mohamed</i>
Reviewed by:		<i>C. Kassim</i>
Approved by:		<i>R. Mohamed, MBS.</i>

THE NATIONAL ASSEMBLY
PARLIAMENTARY COMMISSION
DATE: 30 SEP 2025 DAY: TUESDAY
TABLED BY: HON. KIMANI CHUNG'WAA (MAJORITY LEADER)
IN THE PRESENCE OF: INZAPU MWALE

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1.0 INTRODUCTION

The Committee on Delegated Legislation (Committee) invited the Ministry of Roads & Transport, the Kenya Roads Board, and the three road agencies, to attend a pre-publication scrutiny session in respect of the the *Draft Kenya Roads Board Fund (additional funding) regulations 2025* following the completion of public participation. The meeting was held at Hilton Garden Inn between 8am-1pm on 14 May 2025, and was chaired by Hon. Samuel Chepkonga, the Chairman of the Committee.

The purpose of the session was to sensitize the members of the Committee on the proposed regulations ahead of formal transmission to the National Assembly for consideration.

2.0 POLICY BACKGROUND

Section 31 of the Kenya Roads Board Act established the Kenya Roads Board Fund which consists of proceeds from the Road Maintenance Levy Fund and transit toll, among others.

Section 32A(3) of the Kenya Board Roads Act, Cap 408A. The Act empowers the Cabinet Secretary to make regulations for better carrying out of the Board's power to borrow such monies as may be required for the proper discharge of its functions; where it is necessary to meet financial demands for maintenance, development and rehabilitation of roads by setting aside a portion of the Fund for purposes of securing additional funding which may be determine from time to time.

The Fund is administered in accordance with the provision of the Kenya Roads Board Act, 1999 and specifically for the maintenance, rehabilitation and development of roads. The Kenya Roads Board is mandated to oversee the entire road network and the optimal utilization of the Road Maintenance Levy Fund in the implementation of roadworks Programmes.

The Board is also responsible for monitoring and evaluating the delivery of goods, works and services funded by the Fund through technical, financial and performance audits.

Presently, KRB performs its oversight function over road agencies through the use of Technical, Financial and Performance Audit as provided for under the Act and the Kenya Roads Board Act (General) Rules, 2022.

2.1 Aims and objective of the pre-publication scrutiny

Pre-publication scrutiny is a process provided for under the Standing Orders of the National Assembly. The purpose of the exercise is to consider whether a legislative proposal should proceed. The Committee is responsible for all delegated legislation, and as such, convened the exercise to understand the nature of the proposed regulations to be enacted, and to assess if it should proceed to be tabled before the National Assembly.

3.0 COMMITTEE FEEDBACK RECEIVED ON THE KENYA ROADS BOARD (KENYA ROADS BOARD FUND) (ADDITIONAL FUNDING) REGULATIONS, 2025

The Ministry of Roads & Transport, led by the Cabinet Secretary, Hon. Davis Chirchi, EGH, assisted by KRB, presented the proposed regulations to the Honourable Members of the Committee and solicited feedback from them. The Committee's feedback can be grouped into two categories: (i) legislative drafting cues relating to the accessibility of the terminology and phrasing of the provisions; and (ii) guidance on ensuring the draft regulations featured robust checks and balances to limit discretion. This report focuses on the second category of feedback which are summarized below:

- The Committee proposed that key terms be defined to limit ambiguity. These terms included the phrases 'setting aside' and 'special account'. With respect to setting aside, the Committee emphasized the importance of specifying what the KRB would be allowed to do and the nature of transactions it would be allowed to conclude. For the 'special account' the Committee proposed that it needs to be clear who will control the account, and where it would be domiciled. The Committee guided the Ministry to the dictates of the Constitution and the Public Finance Management Act.
 - The Honourable Members of the Committee guided the Ministry on ensuring that certain provisions of the proposed regulations do not duplicate and conflict with provisions of the KRB Act.
 - The Honourable Members proposed that the Ministry delete various provisions which left discretion to the KRB in assessing funding needs for the road agencies.
 - The Committee guided the Ministry to ensure the regulations were alive to the budgetary cycles.
-
- In conclusion, the vote of thanks was delivered by the Principal Secretary for Roads, Hon. Eng. Joseph Mbugua, CBS. He thanked the Committee for hosting the Ministry and its team, and providing guidance on the proposed regulations. Hon. Chepkonga, on behalf of the Committee, thanked the Ministry of Roads and Transport for honoring the Committee's invite.

4.0 OBSERVATIONS

Following the successful completion of the pre-publication scrutiny the following were the regional committee observations;

- I. The exercise was conducted smoothly as per the programme and within stipulated date, time and venue
- II. The participants turned up in on time and deliberations were comprehensive.
- III. Based on the scrutiny, the Committee provided the Ministry with guidance on steps which need to be taken in order to table the regulations before the National Assembly.

OUTPUT

no	sue	Proposed Intervention	emarks
	/A	/A	/A

5.0 RECOMMENDATIONS

Based on the feedback, the Ministry of Road & Transport's legal counsel, together with KRB's counsel, should revise the draft regulations to align with the guidance received from the Committee.

Insert name



MINISTRY OF ROADS AND TRANSPORT

EXPLANATORY MEMORANDUM TO THE KENYA ROADS BOARD (KENYA ROADS BOARD FUND) (ADDITIONAL FUNDING REGULATIONS, 2025

PART I

Name of the Statutory Instrument:	The Kenya Roads Board (Kenya Roads Board Fund) (Additional Funding Regulations, 2025
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Enacted Pursuant to:	Section 32(3)
Name of the Ministry	Ministry of Roads and Transport
Gazetted on:	April, 2025
Tabled on:

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8. CONTACT

Davis Chirchir, EGH
Cabinet Secretary
Ministry Roads and Transport
NAIROBI.

Date:



MINISTRY OF ROADS AND TRANSPORT

PRE-PUBLICATION SCRUTINY OF DRAFT REGULATIONS UNDER SECTION 32A OF KRB ACT NO. 7 OF 1999

Venue: HILTON GARDEN INN, NAIROBI

Date: 14th May 2025 | Time: 8:00am

NO.	NAME	SIGNATURE
HON	SAMUEL CHEPKORLA	
HON	Robert Gichimu	
	HON Julius Sunkulu	
	HON ANTHONY T. OLUOCH	
	HON. Gideon Kimani	
	HON CHARLES ONCHIRE	
	HON PAULINE LENZURIS	
	HON. JOSEPH MUMTORO	
	HON. YAKUB ABU KIRO	
	HON. MACHUA WAITHAKA	
	ABDULMALIK SMOU	
	CAROLYN NGAUSA	
	Matat Somare	
	TOTAL	

