

LEGAL NOTICE NO. 12

THE TRAFFIC ACT

(Cap. 403)

THE TRAFFIC (DRINK-DRIVING) RULES, 2026

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PAPERS LAID	
DATE	26.02.2026
TABLED BY	Majority K/LP
COMMITTEE	—
CLERK AT THE TABLE	Ms Cherop

THE TRAFFIC ACT

(Cap. 403)

IN EXERCISE of the powers conferred by section 119(1)(na) of the Traffic Act, the Cabinet Secretary for Roads and Transport makes the following Rules—

THE TRAFFIC (DRINK-DRIVING) RULES, 2026

1. These Rules may be cited as the Traffic (Drink-Driving) Rules, 2026. Citation.
2. In these Rules, unless the context otherwise requires— Interpretation.
 - “alcohol test” means a test conducted for the purposes of obtaining an indication of the proportion of alcohol in a person’s blood by way of a breath test, urine test or blood test;
 - “blood alcohol concentration” means the concentration of alcohol in a person’s blood measured in terms of mass per volume as may be expressed in different units and notations determined by the Cabinet Secretary for the purpose of determining the degree of intoxication of a person;
 - “breathalyser” means a device of a type approved by the Kenya Bureau of Standards used for the purposes of measuring blood alcohol concentration from a specimen of breath provided by the person;
 - “breath test” means a test for the purpose of obtaining blood alcohol concentration from a specimen of breath provided by the person through a breathalyser;
 - “drink-driving” means the act of driving, operating, being in charge of or taking control of a motor vehicle on a public road or other public place or attempting to drive, operate, be in charge of or take control of a motor vehicle on a public road or other public place after having consumed alcohol to a degree beyond the prescribed limit;
 - “medical practitioner” has the meaning assigned to it in section 2 of the Medical Practitioners and Dentists Act; and Cap. 253.
 - “specimen” means a portion or quantity of a sample of breath, blood or urine for use in an alcohol test.
3. For the purposes of sections 44(1) and 45(1) of the Act, the prescribed limit of blood alcohol concentration shall be the maximum permissible limit of blood alcohol concentration— Prescribed limits.

- (a) in the case of drivers of public service vehicles, commercial vehicles or school transport vehicles—
 - (i) 00 microgrammes of alcohol in 100 millilitres of breath;
 - (ii) 00 microgrammes of alcohol in 100 millilitres of blood; or
 - (iii) 00 microgrammes of alcohol in 100 millilitres of urine; and
- (b) in the case of drivers, other than drivers of public service vehicles, commercial vehicles or school transport vehicles—
 - (i) 35 microgrammes of alcohol in 100 millilitres of breath;
 - (ii) 80 microgrammes of alcohol in 100 millilitres of blood; or
 - (iii) 107 microgrammes of alcohol in 100 millilitres of urine.

4. (1) Where a police officer in uniform suspects a person of drink driving, the police officer may require the suspected person to provide a specimen for the purpose of conducting an alcohol test.

Alcohol tests.

(2) If a road traffic accident occurs due to the presence of a motor vehicle on a public road or other public place, a police officer in uniform may require the person whom the police officer has reasonable cause to believe was driving, attempting to drive, operating or being in charge of the motor vehicle at the time of the accident to provide a specimen for the purpose of conducting an alcohol test.

(3) Where a police officer in uniform suspects that a person who was involved in a road traffic accident who is in a hospital as a patient was driving, attempting to drive, operating or being in charge of the motor vehicle at the time of the accident, the police officer may require that suspected person to provide a specimen for the purpose of conducting an alcohol test.

(4) A request under sub-rule (3) shall be in writing and addressed to the suspected persona and the medical practitioner in charge of the suspected person.

(5) A specimen shall not be provided under sub-rule (3) if the medical practitioner in charge of the suspected person—

- (a) has not been given prior notice by the police officer of the requirement to provide the specimen; and
- (b) objects to the provision of the specimen if the provision of the specimen would be prejudicial to the proper care and treatment of the suspected person.

(6) Where a specimen is provided under sub-rule (3), the specimen shall be collected by a trained medical practitioner and in accordance with the relevant written law and approved medical protocols in force in Kenya.

5. (1) The Cabinet Secretary may, in consultation with the Kenya Bureau of Standards, approve the use by policemen in uniform of breathalysers for the collection of specimens from persons suspected of drink-driving for the purpose of conducting alcohol tests.

Use of
breathalysers.

(2) Each breathalyser used for the collection of specimens for the purpose of conducting alcohol tests shall be of a type that has been approved by the Kenya Bureau of Standards.

(3) Where a police officer in uniform uses a breathalyser to collect a specimen for the purpose of conducting an alcohol test, the police officer shall ensure that at each instance of the use of the breathalyser, the specimen is collected using a single breathalyser straw for each person from whom a specimen is required.

(4) A police officer in uniform using a breathalyser to collect a specimen for the purpose of conducting an alcohol test shall ensure that the breathalyser has been calibrated in accordance with the manufacturer's directions and keep a written schedule of the calibration.

(5) A police officer giving evidence in court in respect of any specimen that was collected through the use of a breathalyser on which an alcohol test was conducted may be required by the court to provide the schedule of calibration of the breathalyser when providing evidence in court in respect of the breathalyser.

(6) No police officer shall collect specimens through a breathalyser for the purpose of conducting alcohol tests unless that police officer has been trained and certified in the use of the breathalyser.

6. Where it is necessary for a blood sample or a urine sample to be provided by a person suspected of driving, attempting to drive, operating, taking charge or being in charge of a motor vehicle in a

Blood and urine
samples.

public road or a public place after having consumed alcohol in such quantity that the blood alcohol concentration exceeds the prescribed limit, such sample shall be collected by a medical practitioner in the presence of a police officer in uniform.

7. A person —

Refusal to provide specimens.

- (a) who is suspected of driving, attempting to drive, operating, taking charge or being in charge of a motor vehicle in a public road or a public place after having consumed alcohol in such quantity that the blood alcohol concentration exceeds the prescribed limit; and
- (b) who refuses to provide a specimen when requested to do so by a police officer in uniform,

commits an offence and shall be liable, on conviction, to the penalty prescribed in the Act.

8. The Traffic (Drink-Driving) Rules, 2024, are revoked.

Revocation.
L.N. 86/2024.

Made on the 9th February, 2026.

DAVIS CHIRCHIR,
Cabinet Secretary for Roads and Transport.