

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 37 (Senate Bills No. 3)*



REPUBLIC OF KENYA



**KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2025**

**NAIROBI, 7th March, 2025**

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**THE TRANSPORT LAWS (UNIVERSAL DESIGN)  
(AMENDMENT) BILL, 2025**

**A Bill for**

**AN ACT of Parliament to amend the various statutes to mainstream the principles of universal design in road transport and buildings; to mainstream non-motorised transport; and for connected purposes.**

**ENACTED** by the Parliament of Kenya, as follows —

1. This Act may be cited as the Transport Laws (Universal Design) (Amendment) Act, 2025.

Short title.

2. The Traffic Act is amended in section 2 by inserting the following new definitions in their proper alphabetical sequence —

Amendment of section 2 of Cap. 403.

“principles of universal design” means the principles provided for in the Fourth Schedule of the National Construction Authority Act; and

“universal design” shall have the meaning assigned to it under the National Construction Authority Act.

3. Section 39 of the Traffic Act is amended —

Amendment of section 39 of Cap. 403.

(a) in subsection (2) by inserting the following new paragraph immediately after paragraph (d) —

(e) knowledge of the basic principles of universal design, disability awareness, and handling of all categories of road users including vulnerable road users.

(b) by inserting the following new subsection (2A) immediately after subsection (2) —

(2A) Where an applicant submits an application for a licence to a drive public service vehicle, the Authority shall, in addition to the driving test administered under subsection (2), test the applicant’s knowledge of —

(a) basic customer care principles;

(b) basic first aid skills;

(c) basic emergency response procedures; and

(d) defensive driving skills.

4. Section 45A of the Traffic Act is amended in subsection (2) by deleting the words “thirty thousand shillings” appearing immediately after the words “or to a fine not exceeding” in paragraph (a) and substituting therefor the words “fifty thousand shillings”.

Amendment of section 45A of Cap. 403.

5. Section 52 of the Traffic Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (d)—

Amendment of section 52 of Cap. 403.

(e) stop their vehicle and give way to a person with disability.

6. Section 70 of the Traffic Act is amended by inserting the following new subsection immediately after the subsection (2)—

Amendment of section 70 of Cap. 403.

(2A) A highway authority shall ensure that all traffic signs —

- (a) comply with the principles of universal design; and
- (b) are accessible, simple and easy to use by all persons including persons with disability.

7. Section 119 of the Traffic Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (o)—

Amendment of section 119 of Cap. 403.

(oa) the maximum volume allowed for sound emanating from the sound system of a public service vehicle, taking into account navigation and communication by persons with disabilities, which regulations shall be enacted within one year of commencement of the Act.

8. The Kenya Roads Act is amended in section 2 by inserting the following new definitions in their proper alphabetical sequence—

Amendment of section 2 of Cap. 408.

“county executive committee member” means the county executive committee member responsible for matters relating to roads in the relevant county;

“non-motorised transport” means any form of travel that does not rely on an engine or motor for movement and

includes walking, cycling and mobility assisted transport;

“non-motorised vehicle” means any vehicle that is human-powered and includes a bicycle, wheelchair and mobility scooter;

“principles of universal design” means the principles provided for in the Fourth Schedule of the National Construction Authority Act; and

“universal design” shall have the meaning assigned to it under the National Construction Authority Act.

**9.** Section 4 of the Kenya Roads Act is amended—

Amendment of  
section 4 of Cap  
408

(a) in subsection (2) by—

(i) inserting the following new paragraph immediately after paragraph (c)—

(ca) mainstreaming and prioritising non-motorised transport in the planning, development and maintenance of national roads;

(ii) inserting the following new paragraph immediately after paragraph (i)—

(ia) designing national roads in a manner that ensures the safety of all road users; and

(b) inserting the following new subsection immediately after subsection (2)—

(3) In carrying out its functions under this Act, the Authority shall ensure adherence to the principles of universal design.

**10.** Section 5 of the Kenya Roads Act is amended in subsection(1) by—

Amendment of  
section 5 of Cap  
408.

(a) deleting the word “his” appearing immediately after the words “roads or” in paragraph (b) and substituting therefor the word “their”;

(b) deleting the word “his” appearing immediately after the words “roads or” in paragraph (c) and substituting therefor the word “their”; and

(c) deleting the word “his” appearing immediately after the words “roads or” in paragraph (d) and

substituting therefor the word “their”;

**11.** Section 7 of the Kenya Roads Act is amended—

Amendment of  
section 7 of Cap  
408.

(a) in subsection (2) by—

(i) inserting the following new paragraph immediately after paragraph (c)—

(ca) mainstreaming and prioritising non-motorised transport in the planning, development and maintenance of rural roads;

(ii) inserting the following new paragraph immediately after paragraph (i)—

(ia) designing rural roads in a manner that ensures the safety of all road users; and

(b) inserting the following new subsection immediately after subsection (2)—

(3) In carrying out its functions under this Act, the Authority shall ensure adherence to the principles of universal design.

**12.** Section 8 of the Kenya Roads Act is amended in subsection (1) by—

Amendment of  
section 8 of Cap  
408.

(a) deleting the word “his” appearing immediately after the words “roads or” in paragraph (b) and substituting therefor the word “their”;

(b) deleting the word “his” appearing immediately after the words “roads or” in paragraph (c) and substituting therefor the word “their”;

(c) deleting paragraph (d) and substituting therefor the following new paragraph—

(d) the Principal Secretary of the Ministry responsible for Devolution or their representative; and

(e) deleting paragraph (g) and substituting therefor the following new paragraph—

(f) a nominee from the Council of Governors.

**13.** Section 10 of the Kenya Roads Act is amended—

Amendment of  
section 10 of Cap  
408.

(a) in subsection (2) by—

(i) inserting the following new paragraph immediately after paragraph (c)—

- (ca) mainstreaming and prioritising non-motorised transport in the planning, development and maintenance of urban roads;
- (ii) inserting the following new paragraph immediately after paragraph (h)—
  - (ha) designing urban roads in a manner that ensures the safety of all road users; and
- (b) inserting the following new subsection (3) immediately after subsection (2)—

(3) In carrying out its functions under this Act, the Authority shall ensure adherence to the principles of universal design.

**14.** Section 11 of the Kenya Roads Act is amended in subsection (1) by—

Amendment of section 11 of Cap 408.

- (a) deleting the word “his” appearing immediately after the words “roads or” in paragraph (b) and substituting therefor the word “their”;
- (b) deleting the word “his” appearing immediately after the words “roads or” in paragraph (c) and substituting therefor the word “their”;
- (c) deleting paragraph (d) and substituting therefor the following new paragraph—
- (d) the Principal Secretary of the Ministry responsible for Devolution or their representative; and
- (e) deleting paragraph (f) and substituting therefor the following new paragraph—
- (f) a member nominated by the Council of Governors.

**15.** Section 44 of the Kenya Roads Act is amended in subsection (2) by inserting the following new paragraphs immediately after paragraph (h)—

Amendment of section 44 of Cap 408.

- (ha) a report on programs adopted to ensure conformity of the respective roads to universal design; and
- (hb) an assessment of progress made in mainstreaming and prioritising non-motorised transport in the relevant road

network.

**16.** The Kenya Roads Act is amended by inserting the following new sections immediately after section 47—

Insertion of sections in Cap 408.

Non-motorised transport for National roads.

**47A.** (1) The Cabinet Secretary shall ensure that—

- (a) all roads designated to the National Government under paragraph 18(b) of Part 1 of the Fourth Schedule to the Constitution are designed and constructed to include-
    - (i) lanes and tracks reserved for the exclusive use by non-motorised transport;
    - (ii) slip-resistant walkways for the exclusive use by pedestrians;
    - (iii) slip-resistant tracks for the exclusive use of wheelchairs; and
    - (iv) lanes for the exclusive use by cyclists;
  - (b) all pedestrian walkways, wheelchair tracks and cycling lanes are physically separated from lanes used for motorised transport;
  - (c) where there is a change in level, all relevant pedestrian walkways and pedestrian crossings are designed and constructed to include dropped kerbs; and
  - (d) all relevant bus stops are designed and constructed in conformity with the principles of universal design.
- (2) The Cabinet Secretary shall—
- (a) within one year of the commencement of this Act, develop and publish standards for the design, construction and equipping of pedestrian walkways, wheelchair tracks and cycling

lanes that ensure safety, functionality and universal access; and

- (b) within three years of the commencement of this Act, ensure that all relevant roads constructed before the commencement of this Act comply with the provisions of this section.

Non-motorised transport for county roads.

**47B.** (1) Each county executive committee member shall ensure that—

- (a) all roads designated to the county governments under paragraph 5(a) of Part 2 of the Fourth Schedule to the Constitution are designed and constructed to include —
    - (i) lanes and tracks reserved for the exclusive use by non-motorised transport;
    - (ii) slip-resistant walkways for the exclusive use by pedestrians;
    - (iii) slip-resistant tracks for the exclusive use of wheelchairs;
    - (iv) lanes for the exclusive use by cyclists;
  - (b) all pedestrian walkways, wheelchair tracks and cycling lanes are physically separated from lanes used for motorised transport;
  - (c) where there is a change in level, all relevant pedestrian walkways and pedestrian crossings are designed and constructed to include dropped kerbs; and
  - (d) all relevant bus stops are designed and constructed in conformity with the principles of universal design.
- (2) The county executive committee

member shall ensure that all relevant roads constructed before the commencement of this Act comply with the provisions of this section within three years of the commencement of this Act.

Penalties for misuse of facilities designated for non-motorised transport.

**47C.** (1) A person shall not use facilities designated for the exclusive use of pedestrians, wheelchair users or cyclists for a non-designated purpose.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

**17.** The National Construction Authority Act is amended in section 2 by inserting the following new definitions in the proper alphabetical sequence—

Amendment of section 2 of Cap 118.

“principles of universal design” means the principles provided for in the Fourth Schedule of this Act; and

“universal design” means the design and composition of any building, road, technology, product or service so that it can be accessed, understood and used to the greatest extent possible by all people regardless of their age, size, ability or disability without the need for adaptation or specialized design, and without excluding assistive devices for particular groups of persons with disabilities where they are needed.

**18.** Section 5 of the National Construction Authority Act is amended—

Amendment of section 5 of Cap 118.

(a) in subsection (2) by—

(i) inserting the following new paragraph immediately after paragraph (ga) —

(gb) ensure buildings are designed and constructed in compliance with the principles of universal design as provided for in the Fourth Schedule; and

(ii) inserting the following new paragraph

immediately after paragraph (j) —

(ja) ensure universal design is incorporated in the curriculum of accredited training centers as a mandatory course for skilled construction workers and construction site supervisors.

(b) by inserting the following new subsection (3) immediately after subsection (2)—

(3) In carrying out its functions under this Act, the Authority shall ensure adherence to the principles of universal design.

**19.** The National Construction Authority Act is amended by inserting the following new section immediately after section 5—

Insertion of section 5A in Cap 118.

Accessibility by persons with disability.

**5A** (1) The Authority shall ensure that all buildings are designed in a manner that facilitates continuous access and use of facilities in the buildings by persons with disability.

(2) Without prejudice to the generality of subsection (1), the Authority shall ensure that all buildings—

- (a) are accessible by a person with a disability;
- (b) that have parking spaces reserve at least two parking spaces or five percent of all the parking spaces, whichever is more, to persons with disability;
- (c) have in place a step-free access and not have a steep ramp, door or doorway which would impede the passage of persons with disability;
- (d) have in place a ramp that has the appropriate handrail where there is a change in the level unless the change in the level is served by a lift;
- (e) that have lifts have in place at least

one lift that accesses all floors is designed to be accessible to all persons with disabilities and have audio and visual prompts;

- (f) have in place adequate space for maneuvering a wheelchair in a room, entrance, lobby, path or a similar area;
- (g) have in place slip resistant flooring;
- (h) have at least one door that is installed in a manner that ensures accessibility by all persons with disability;
- (i) have at least one toilet in each floor designed for access by persons with disability; and
- (j) designed for occupancy as rented accommodation have at least two rooms that have facilities to accommodate all persons with disability, unless they comprise dwelling units.

**20.** Section 7 of the National Construction Authority Act is amended—

Amendment of section 7 of Cap 118.

- (a) in subsection (1) by—
  - (a) deleting paragraph (d) and substituting therefor the following new paragraph (d)—
    - (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to devolution; and
  - (b) inserting the words “one of whom shall be a person with disability” appearing immediately after the words “the construction industry” in paragraph (h)

**21.** Section 17 of the National Construction Authority Act is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (d)—

Amendment of section 17 of Cap 118.

- (e) has undertaken training in universal design.

**22.** Section 42 of the National Construction Authority Act is amended—

Amendment of section 42 of Cap 118.

- (a) in subsection (2) by inserting the words “that conforms to the principles of universal design” immediately after the words “the construction industry” in paragraph (aa); and
- (b) by inserting the following new subsection immediately after subsection (3)—

(4) The Cabinet Secretary shall prescribe and table before Parliament, for approval, the Building Code required under subsection (2) (aa) within one year of the commencement of this Act.

**23.** The National Construction Authority Act is amended by inserting the following new schedule immediately after the Third Schedule—

Insertion of new schedule in Cap 118.

**FOURTH SCHEDULE**

[Sec. 5(2)(gb)]

**PRINCIPLES OF UNIVERSAL DESIGN**

**1. PRINCIPLE ONE: EQUITABLE USE**

The design should be useful and marketable to people with diverse abilities.

*Guidelines:*

- (a) Provide the same means of use for all users: identical whenever possible; equivalent when not.
- (b) Avoid segregating or stigmatizing any users.
- (c) Provisions for privacy, security, and safety should be equally available to all users.
- (d) Make the design appealing to all users.

**2. PRINCIPLE TWO: FLEXIBILITY IN USE**

The design accommodates a wide range of individual preferences and abilities.

*Guidelines:*

- (a) Provide choice in methods of use.

- (b) Accommodate right- or left-handed access and use.
  - (c) Facilitate the user's accuracy and precision.
  - (d) Provide adaptability to the user's pace.
3. PRINCIPLE THREE: SIMPLE AND INTUITIVE USE

Use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level.

*Guidelines:*

- (a) Eliminate unnecessary complexity.
  - (b) Be consistent with user expectations and intuition.
  - (c) Accommodate a wide range of literacy and language skills.
  - (d) Arrange information consistent with its importance.
  - (e) Provide effective prompting and feedback during and after task completion.
4. PRINCIPLE FOUR: PERCEPTIBLE INFORMATION

The design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities.

*Guidelines:*

- (a) Use different modes (pictorial, verbal, tactile) for redundant presentation of essential information.
- (b) Provide adequate contrast between essential information and its surroundings.
- (c) Maximize "legibility" of essential information.
- (d) Differentiate elements in ways that can be described (i.e., make it easy to give instructions or directions).
- (e) Provide compatibility with a variety of techniques or devices used by people with sensory limitations.

## 5. PRINCIPLE FIVE: TOLERANCE FOR ERROR

The design minimizes hazards and the adverse consequences of accidental or unintended actions.

*Guidelines:*

- (a) Arrange elements to minimize hazards and errors: most used elements, most accessible; hazardous elements eliminated, isolated, or shielded.
- (b) Provide warnings of hazards and errors.
- (c) Provide fail safe features.
- (d) Discourage unconscious action in tasks that require vigilance.

## 6. PRINCIPLE SIX: LOW PHYSICAL EFFORT

The design can be used efficiently and comfortably and with a minimum of fatigue or struggle.

*Guidelines:*

- (a) Allow user to maintain a neutral body position.
- (b) Use reasonable operating forces.
- (c) Minimize repetitive actions.
- (d) Minimize sustained physical effort.

## 7. PRINCIPLE SEVEN: SIZE AND SPACE FOR APPROACH AND USE

Appropriate size and space should be provided for approach, reach, manipulation, and use regardless of user's body size, posture, or mobility.

*Guidelines:*

- (a) Provide a clear line of sight to important elements for any seated or standing user.
- (b) Make reach to all components comfortable for any seated or standing user.
- (c) Accommodate variations in hand and grip size.
- (d) Provide adequate space for the use of assistive devices or personal assistance.

**24.** The National Transport and Safety Authority Act, is amended in section 2 by inserting the following new definitions in their proper alphabetical sequence—

Amendment of section 2 of Cap 404.

“non-motorised transport” means any form of travel that does not rely on an engine or motor for movement and includes walking, cycling and mobility assisted transport;

“principles of universal design” means the principles provided for in the Fourth Schedule of the National Construction Authority Act; and

“universal design” shall have the meaning assigned to it under the National Construction Authority Act.

**25.** Section 4 of the National Transport and Safety Authority Act is amended—

Amendment of section 4 of Cap 404.

(a) in subsection (1) by inserting the following new paragraphs immediately after paragraph (d)—

(da) incorporate the principles of universal design in the planning, management and regulation of the road transport system;

(db) mainstream and prioritise non-motorised transport in the road transport system;

(b) in subsection (2) by—

(iii) inserting the following new paragraph immediately after paragraph (c)—

(ca) collaborate with the Kenya Bureau of Standards in developing specifications that ensure that the construction of public service vehicles incorporates principles of universal design;

(iv) inserting the words “that conform to the principles of universal design” immediately after the words “road safety strategies” in paragraph (e); and

(v) inserting the following new paragraph immediately after paragraph (j)—

(ja) ensure that the driving school curriculum and the testing of drivers incorporates training on customer service, disability awareness and basic principles of universal design.

**26.** Section 6 of the National Transport and Safety Authority Act is amended in subsection (1) by inserting the words “at least one of whom shall be a person with disability” immediately after the words “the Cabinet Secretary” in paragraph (f).

Amendment of section 6 of Cap 404.

**27.** Section 21 of the National Transport and Safety Authority Act is amended in subsection (2) by inserting the words “at least one of whom shall be a person with disability” immediately after the words “two persons” in paragraph (e).

Amendment of section 21 of Cap 404.

**28.** Section 22 of the National Transport and Safety Authority Act is amended by inserting the following new paragraph immediately after paragraph (a) —

Amendment of section 22 of Cap 404.

(aa) incorporate the principles of universal design in the management and regulation of the road transport system in the respective county.

**29.** Section 29 of the National Transport and Safety Authority Act is amended by—

Amendment of section 29 of Cap 404.

(a) renumbering the existing provision as subsection (1); and

(b) inserting the following new subsection immediately after the renumbered subsection (1)—

(2) The Authority shall not grant a public service vehicle licence unless —

(a) the design of the vehicle for which the application for a licence is made incorporates universal design principles; and

(b) that a vehicle has at least one seat designed for use by persons with disability.

**30.** Section 30 of the National Transport and Safety Authority Act is amended—

Amendment of section 30 of Cap 404.

(a) in subsection (1) by—

(a) inserting the following new paragraph immediately after paragraph (a)—

(aa) the public service vehicle complies with the specifications issued by the Kenya Bureau of Standards on the construction of bodies of public service vehicles;

(b) inserting the following new paragraphs

immediately after paragraph (d)—

(da) the public service vehicle in respect of which the licence is issued has in place at least one seat reserved for use by a person with disability; and

(db) the sound emanating from the sound system of the public service vehicle in respect of which the licence is issued is not so loud as to impair the navigation or communication of persons who utilize sound to navigate or communicate;

(b) in subsection (3) by inserting the following new paragraph immediately after paragraph (c)—

(ca) passengers of all ages, ability or disability can conveniently access and use public transport vehicles.

**31.** Section 47 of the National Transport and Safety Authority Act is amended in subsection (3) by inserting the following new paragraphs immediately after paragraph (c)—

Amendment of section 47 of Cap 404.

(ca) incorporate the principles of universal design in the road transport system;

(cb) mainstream non-motorised transport in the road transport system.

**32.** The National Transport and Safety Authority Act is amended by inserting the following new section immediately after section 53 —

Insertion of section 53A in Cap 404.

Smart cards and other cashless payments in public transport.

**53A** (1) The operator of a public service vehicle may adopt the use of smart cards and other cashless payment systems in the collection of fare in a public service vehicle.

(2) The Cabinet Secretary may, with the approval of the Cabinet Secretary for the National Treasury, provide tax and other incentives to operators of public service vehicles that adopt the use of smart cards and other cashless systems in fare collection.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

The main object of the Bill is to amend the Traffic Act, Cap 403, the Kenya Roads Act, Cap 408, the National Construction Authority Act, Cap 118 and the National Transport Authority Act, Cap 404 to provide for the incorporation of principles of universal design in the design of public service vehicles, buildings, road transport and traffic systems.

The Bill seeks to amend the Traffic Act, Cap 407 of the Laws of Kenya to incorporate the principles of universal design. The Bill also amends this Act to provide for testing of certain skills in respect of persons applying for a license to drive public service vehicles, including defensive driving and first aid skills, and conversance with basic customer care principles as well as basic emergency response procedures. It also makes it a requirement for traffic signs to be accessible, simple and easy to use by all persons, including persons with disabilities.

The Bill seeks to amend the National Construction Authority Act, Cap 118, to incorporate the principles of universal design in the design and construction of buildings in Kenya. To achieve this, the Bill proposes to amend section 5 of the Act to ensure that buildings are designed in a manner that facilitates continuous access and use of facilities by persons with disabilities. It provides for reservation of parking spaces for persons with disability, and also that facilities such as washrooms, lifts and walkways can be easily used by such persons.

The Bill also amends section 7 of the National Construction Authority Act to provide for one of the representatives appointed in the board of the National Construction Authority to represent special interests in the construction industry to be a person with disability. Additionally, the Bill in clause 7 provides for the development and tabling of a Building Code within one year of commencement of the Act.

The amendments to the National Transport Authority Act aim to ensure accessibility and ease of use of public transport by persons with disability by ensuring that a few seats in a public transport vehicle are reserved for such persons and additionally, that noise in the vehicles is controlled so that it is not so loud as to impair the navigation or communication of persons who utilize sound to navigate or communicate. They additionally seek to encourage the use of cashless fare collection systems by giving the Cabinet Secretary the power to introduce incentives to operators who adopt such systems.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

Clause 7 of the Bill confers on the Cabinet Secretary the powers to make regulations under the Act for the purposes of carrying into effect the provisions of the Act. The Bill does not limit any fundamental rights or freedoms.

### **Statement on how the Bill concerns county governments**

The Bill aims to incorporate principles of universal design in the training of drivers and design of public service vehicles and road transport systems including traffic light systems. Paragraphs 5(c) and (d) of Part 2 of the Fourth Schedule to the Constitution provides for traffic and parking, as well as public road transport as functions of county governments.

The Bill also provides for the incorporation of principles of universal design in the design and construction of both national and county roads and related amenities such as bus stops. County roads are a function of county governments pursuant to paragraph 5(a) of Part 2 of the Fourth Schedule to the Constitution.

The Bill also contains provisions on designing of buildings. Building plans and designs are usually approved by the county's department of public works and planning in accordance with paragraph 8 of Part 2 of the Fourth Schedule to the Constitution.

The Bill is therefore a Bill concerning county governments in terms of Article 110(1)(a) of the Constitution.

### **Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution**

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 22nd of October, 2024.

CRYSTAL ASIGE,

*Senator.*

Section 2 of Cap 403, which it is proposed to amend –

## 2. Interpretation

In this Act, unless the context otherwise requires—

“authorised officer” means a person appointed as such under section 3(4);

“Authority” means the National Transport and Safety Authority established under the National Transport and Safety Authority Act;

“bicycle” means any bicycle or tricycle not self-propelled;

“cattle” includes oxen, bulls, cows, horses, camels, mules, asses, sheep, goats and swine;

“certifying officer” means the person appointed to be the certifying officer under subsection (2) of section 3;

“commercial vehicle” means a motor vehicle constructed or adapted for the carriage of goods or burdens of any description in connection with any trade, business or agriculture, but does not include any type or class of motor vehicle which the Authority may, by notice in the *Gazette*, declare not to be commercial vehicles for the purposes of this Act;

“computerized motor vehicle registration system” means any software or hardware for use in storing, retrieving, processing or disseminating information relating to registration records of motor vehicles and trailers, the licensing of drivers, and the keeping of such records in relation thereto as are required by this Act;

“dealer” means any person who deals by way of business in motor vehicles or trailers;

“dealer’s general licence” means a licence issued under section 23;

“deregistration certificate” means a deregistration certificate issued under section 6A(2);

“drive”, in relation to a motor vehicle, includes the steering of a motor vehicle;

“driver” means any person who drives or guides, or is in actual physical control of, any vehicle or cattle on any road;

“driving licence” means a licence to drive a motor vehicle issued under this Act, and any document deemed to be a driving licence by any rules made under this Act;

“driving test examiner” *deleted by Act No. 18 of 2018, Sch.;*

“heavy commercial vehicle” means a commercial vehicle whose tare weight exceeds six thousand seven hundred and twenty pounds;

“highway authority” means the Cabinet Secretary for the time being responsible for Public Roads or any other Authority or body to whom the Cabinet Secretary delegates powers subject to such terms and conditions as he may deem appropriate;

“information technology” means any equipment or software for use in storing, retrieving, processing or disseminating information;

“inspection certificate” means a certificate affixed to a vehicle under section 17A;

“inspector” means any person appointed to be an inspector of vehicles under subsection (3) of section 3;

“invalid carriage” means a motor vehicle specially designed and constructed for the use of persons suffering from some physical defect or disability;

“licensing officer” means a licensing officer appointed under section 3;

“manufacturer” means a manufacturer of motor vehicles and trailers;

“*matatu*” means a public service vehicle having a seating accommodation for not more than twenty-five passengers exclusive of the driver, but does not include a motor-car;

“motor-car” means a motor vehicle having seating accommodation for not more than ten passengers excluding the driver, but does not include a motorcycle;

“motorcycle” means a motor vehicle with less than four wheels the weight of which unladen does not exceed eight hundred weights;

“motor omnibus” means a public service vehicle having seating accommodation for more than twenty-five passengers exclusive of the driver;

“motor vehicle” means any mechanically propelled vehicle, excluding any vehicle running on a specially prepared way such as a railway or tramway or any vehicle deriving its power from overhead electric power cables or such other vehicles as may from time to time by rules under this Act be declared not to be motor vehicles for the purposes of this Act;

“owner”, in relation to a vehicle which is the subject of a hire-purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“plying for hire” includes—

- (a) standing on any public taxi stand;
- (b) being offered for hire by any notice, advertisement or announcement;
- (c) standing or travelling whilst exhibiting a “For Hire” notice of any kind;

“provisional licence” means a licence issued under section 32;

“private hire vehicle” means any public service vehicle constructed or adapted to carry not more than seven passengers, exclusive of the driver, such vehicle not being a taxicab or *matatu*;

“public service vehicle” means any motor vehicle which—

- (a) is licensed under Part XI to carry passengers for hire or reward; or
- (b) plies for hire or reward or is let out for hire or reward; or
- (c) is carrying passengers for hire or reward;

“Registrar” *deleted by Act No. 33 of 2012, s. 62(a)*;

“registration certificate” means a certificate issued under section 6(5);

“road” means any public road within the meaning of the Public Roads and Roads of Access Act (Cap. 399), and includes any other road or way, wharf, car park, footpath or bridle-path on which vehicles are capable of travelling and to which the public has access;

“tare weight” means the weight of a vehicle when unladen, inclusive of the weight of the body and all parts (the heavier being taken when alternative bodies or parts are used) which are necessary to or ordinarily used with the vehicle when used on the road;

“taxicab” means any public service vehicle constructed or adapted to carry not more than seven passengers, exclusive of the driver, which is registered under any by-laws relating to the licensing and operation of taxicabs to ply for hire from a taxi rank or other public place within the area where such by-laws are in force;

“tractor” means a motor vehicle constructed or adapted for the purpose of hauling trailers but which is not itself designed to carry goods or passengers;

“trailer” means any vehicle designed to be drawn by a motor vehicle, but does not include a sidecar attached to a motorcycle;

“traffic signs” means any sign, notice, signal, light or other device erected or in any way displayed by or with the consent of the highway authority, for the purpose of regulating, restricting or prohibiting traffic and vehicles of any kind, on a road:

Provided that all traffic signs shall conform to any regulations as to size, colour and type which may be prescribed by rules made under this Act;

“vehicle” includes a motor vehicle, a trailer and any other conveyance used on a road;

“vehicle licence certificate” means a certificate issued under section 20A of this Act.

*Section 39 of Cap 403, which it is proposed to amend —*

### **39. Driving tests**

(1) Driving tests for the purpose of this Act shall be conducted by the Authority.

(2) Driving tests shall be carried out in such manner as the Cabinet Secretary may direct, but shall in any case include a test of the applicant’s—

- (a) knowledge of the rules of the road;
- (b) knowledge of recognized road signals and road signs;
- (c) knowledge of any authorized road or highway code; and
- (d) physical fitness to drive a motor vehicle of the class for which the licence is required.

(3) No person shall undergo a test until he has paid the prescribed fee.

*Section 45A of Cap 403, which it is proposed to amend —*

### **45A. Driving on pavement, pedestrian walkway, etc.**

(1) No person shall, in order to avoid a buildup of traffic on a road, drive a motor vehicle on, or through, a pavement or a pedestrian walkway.

(2) A person who contravenes subsection (1) commits an offence and shall be liable—

- (a) for a first conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding thirty thousand shillings; and
- (b) for a second or subsequent conviction to imprisonment for a term not exceeding six months.

*Section 52 of Cap 403, which it is proposed to amend –*

**52. Signals and signs to be obeyed**

(1) The driver of a vehicle shall at all times—

- (a) obey any directions given, whether verbally or by signal, by a police officer in uniform, in the execution of his duty; and
- (b) conform to the indications given by any traffic sign; and
- (c) stop his vehicle on being so required by a police officer in uniform; and
- (d) when any person in charge of any cattle raises his hand or in any manner gives a signal to stop, forthwith stop his vehicle and keep it stationary for as long as it is reasonably necessary.

(2) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and liable—

- (a) for a first conviction, to a fine not exceeding fifty thousand shillings or a term of imprisonment not exceeding six months; and
- (b) for a second or subsequent conviction, to a fine not exceeding seventy thousand shillings or a term of imprisonment not exceeding one year, and the court shall exercise the power conferred by Part VIII of canceling any driving licence held by the offender and declaring the offender disqualified from holding or obtaining a driving license for a period of two years starting from the date of conviction.

*Section 70 of Cap 403, which it is proposed to amend –*

**70. Traffic signs**

(1) Subject to and in conformity with such general or other directions as may be given by the Cabinet Secretary, a highway authority may cause or permit traffic signs to be placed on or near a road.

(1A) Without prejudice to the generality of subsection (1), a highway authority shall cause to be placed on or near a road traffic signs prescribing speed limits on the road.

(2) Traffic signs shall be of the prescribed size, colour and type except where the Cabinet Secretary authorizes the erection or retention of a sign of another character.

(3) After the commencement of this Act, no traffic signs shall be placed on or near any road except under and in accordance with subsections (1) and (2) of this section:

Provided that—

(i) nothing in this subsection shall apply to any notice in respect to the use of a bridge;

(ii) a highway authority or police officer of or above the rank of Inspector may authorize the erection of any traffic sign for any special purpose for a period not exceeding seven days, and such traffic sign shall be deemed to be lawful even though it does not conform to the requirements of this section.

(4) All traffic signs shall be deemed to have been lawfully erected until the contrary is proved.

(5) A highway authority may, by notice in writing, require the owner or occupier of any land on which there is any traffic sign or any object which so closely resembles a traffic sign that it might reasonably be taken to be such a sign to remove it, and if any person fails to comply with such a notice the highway authority may effect the removal, doing as little damage as may be, and may recover as a civil debt recoverable summarily from the person so in default the expense incurred in so doing:

Provided that this subsection shall not apply in the case of any sign or object so long as its retention is expressly authorized by the highway authority.

(5A) The driving licence of a person who has been convicted for the violation of a speed limit prescribed for a road under subsection (1A) shall be invalidated for a period not less than three years—

(a) if the violation of the limit is by more than twenty kilometres per hour; and

(b) the violation is repeated three or more different times.

(5B) A person who violates a speed limit prescribed for a road under subsection (1A) by more than twenty kilometres per hour commits an offence and shall be liable, on conviction, to imprisonment for a term of not less than three months, or a fine of not less than twenty thousand shillings, or both.

Section 119 of Cap 403, which it is proposed to amend –

**119.Rules**

(1) The Cabinet Secretary may make rules prescribing—

- (a) anything required by this Act to be prescribed;
- (b) the forms to be used for any purposes of this Act;
- (c) the weight of goods and passengers, the number of passengers which vehicles may carry, the method by which seating capacity is to be determined and the gross weight of vehicles;
- (d) the weight and size of vehicles which may be permitted on any class of road and the manner in which, if at all, vehicles whose weight or size is in excess of the prescribed maximum weight or size may be allowed to use any road;
  - (da) devices to be fitted to any class or type of vehicle for restricting their speed to a specified speed (and different devices and different speeds may be prescribed for different classes or types of vehicles);
  - (db) tachographs or other instruments for recording their speed and other details of their operation to be fitted to any class or type of vehicle;
  - (dc) the standards for or inspection, approval, calibration or testing of devices, tachographs or other instruments prescribed under paragraphs (da) or (db);
- (e) the construction of, and equipment to be carried by, any class of vehicle, and in particular the type of tyres, lights and warning instruments to be carried by any class of vehicle, and any restriction in the carrying or use of lights and warning instruments;
  - (ea) by reference to shape, construction or any other qualities, types of helmet or head-dress which may or must be worn as affording protection to persons on or in motorcycles, in motorcycles of different classes or descriptions, from injury in the event of accident, and prohibiting the manufacture or sale of helmets or head-dresses which do not comply with such rules;
  - (eb) subject to such exceptions as may be prescribed, the wearing of seat belts of such description as may be prescribed by persons who are driving or riding in any class or type of

- vehicle (and different rules may be prescribed for different classes or types of vehicles);
- (ec) the standards for, construction of or approval of seat belts prescribed under paragraph (eb);
  - (f) the carrying on any class of vehicle of any special identification plates, and the fees to be charged for such plates;
  - (fa) the carrying on any class of vehicle of reflecting triangles for the purpose of section 53(3) and the construction of, standards for, approval or supply and fees to be charged for such triangles;
  - (g) all matters relating to the inspection, registration, licensing, regulation and control of vehicles and to the conditions which may be imposed in regard thereto;
  - (ga) all such matters relating to the regulation of establishments or persons engaged in teaching for gain the driving of motor vehicles as the Cabinet Secretary may deem necessary for the proper control of such establishments or persons, including the grant, revocation or variation of licences and appeals relating thereto, the testing of instructors, the inspection of vehicles and premises, and the fees payable for any of the above matters;
  - (h) the regulation of the conduct of drivers and conductors of public service vehicles, and the wearing by them of special badges and uniforms, and the fees to be paid for any badges provided by an authority;
  - (i) conditions of service and hours of work for persons employed by owners of public service and commercial vehicles;
  - (ia) the records to be kept by the drivers of any class or type of vehicle (and different rules may be prescribed for different classes or types of vehicles);
  - (j) the regulation of the carriage of luggage and goods on public service vehicles;
  - (k) the rules of the road, and the signals to be given and obeyed by the drivers of vehicles;
  - (ka) all such matters as the Cabinet Secretary may deem necessary for the establishment on roads, and the regulation of the use of, crossings for foot passengers, including the indication of such crossings by marks or devices on or near

roadways or otherwise, the precedence of vehicles and foot passengers respectively, and generally with respect to the movement of traffic (including foot passengers) at and in the vicinity of such crossings;

- (l) the procedure to be adopted and the conditions to be observed in connection with the issue of documents necessary for international travel, and the use of such documents in Kenya;
  - (m) the conditions on which motor vehicles licensed outside Kenya may be used within Kenya and on which persons holding driving licences or permits issued outside Kenya may be allowed to drive within Kenya;
  - (n) measures for controlling or prohibiting the movement of vehicles of any specified class or description between the hours of 6.45 p.m. and 6.15 a.m.;
  - (na) measures for enforcing the provisions of sections 44(1) and 45 which shall include prescribed limits of alcohol and drugs concentration, provision of specimens for analysis, choice of tests and devices, and the protection of persons under treatment;
  - (o) measures for controlling or prohibiting the use of vehicles of any specified class or description on any sea beach or foreshore or other place to which the public have access;
  - (p) measures for generally restricting or regulating the use of vehicles in such manner as the circumstances and safety on the roads may appear to him to require, and for the further, better or more convenient carrying out of any provisions of this Act;
  - (q) the penalties which may be imposed for the breach of such rules not exceeding—
    - (i) in the case of a first conviction, a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding two years or both;
    - (ii) in the case of a second or subsequent conviction, a fine not exceeding four hundred thousand shillings or imprisonment for a term not exceeding four years or both.
- (2) In any case when the Cabinet Secretary has not prescribed a suitable form under paragraph (b) of subsection (1), the Registrar may direct that a particular form shall be used for a particular purpose.

*Section 2 of Cap 408, which it is proposed to amend –*

## **2. Interpretation**

In this Act, unless the context otherwise requires—

“Authority” means the Highways Authority, the Rural Roads Authority or the Urban Roads Authority;

“city” shall have the meaning assigned to it under the Local Government Act (Cap. 265);

“class” in relation to a road means the categorization assigned to it pursuant to the First Schedule;

“construction” means supervision, inspection and building and includes locating, surveying, mapping and eliminating road hazards;

“Director-General” means the Director-General appointed under section 13(1) or a person authorised to act on his behalf;

“Highways Authority” means the Kenya National Highways Authority established under section 3;

“Local Authorities Transfer Fund” shall have the meaning assigned to it under the Local Authorities Transfer Fund Act (Cap. 272A);

“Cabinet Secretary” means the Cabinet Secretary responsible for Roads;

“municipality” shall have the meaning assigned to it under the Local Government Act (Cap. 265);

“national roads” means national roads as classified in the First Schedule;

“road” means a public road as defined under the Public Roads and Roads of Access Act (Cap. 399);

“Road Fund” means the Kenya Roads Board Fund established under the Kenya Roads Board Act (Cap. 408A);

“roadside development” means a physical structure or facility on land within or adjoining a road reserve;

“rural roads” means rural roads as so classified in the First Schedule;

“Rural Roads Authority” means the Kenya Rural Roads Authority established under section 6;

“traffic sign” shall have the meaning assigned to it under the Traffic Act (Cap. 403);

“urban roads” means urban roads as so classified in the First Schedule;

“Urban Roads Authority” means the Kenya Urban Roads Authority established under section 9;

“vehicle” shall have the meaning assigned to it in the Traffic Act.

*Section 4 of Cap 408, which it is proposed to amend –*

#### **4. Functions of the Authority**

(1) The Highways Authority shall be responsible for the management, development, rehabilitation and maintenance of national roads.

(2) For the purposes of discharging its responsibility under subsection (1), the Highways Authority shall have the following functions and duties—

- (a) constructing, upgrading, rehabilitating and maintaining roads under its control;
- (b) controlling national roads and road reserves and access to roadside developments;
- (c) implementing road policies in relation to national roads;
- (d) ensuring adherence to the rules and guidelines on axle load control prescribed under the Traffic Act (Cap. 403) and under any regulations under this Act;
- (e) ensuring that the quality of road works is in accordance with such standards as may be prescribed by the Cabinet Secretary;
- (f) in collaboration with the Ministry responsible for Transport and the Police Department, overseeing the management of traffic and road safety on national roads;
- (g) collecting and collating all such data related to the use of national roads as may be necessary for efficient forward planning under this Act;
- (h) monitoring and evaluating the use of national roads;
- (i) planning the development and maintenance of national roads;
- (j) advising the Cabinet Secretary on all issues relating to national roads;
- (k) preparing the road works programmes for all national roads;

- (l) liaising and co-ordinating with other road authorities in planning and on operations in respect of roads; and
- (m) performing such other functions related to the implementation of this Act as may be directed by the Cabinet Secretary.

Section 5 of Cap 408, which it is proposed to amend—

### **5. The Board of the Authority**

(1) The Highways Authority shall be managed by a Board which shall consist of the following members—

- (a) a non-executive Chairperson who shall be appointed by the President from amongst the members appointed under paragraph (f);
- (b) the Principal Secretary in the Ministry responsible for roads or his representative;
- (c) the Principal Secretary in the Ministry responsible for transport or his representative;
- (d) the Principal Secretary in the Ministry responsible for finance or his representative;
- (e) the Director-General of the Highways Authority, who shall be an *ex officio* member; and
- (f) six other persons, not being public officers, appointed by the Cabinet Secretary by virtue of their knowledge or experience in—
  - (i) industry;
  - (ii) highway engineering;
  - (iii) transport economics;
  - (iv) surveying;
  - (v) accountancy; or
  - (vi) law.

(2) The persons referred to in subsection (1)(f) shall be appointed by the Cabinet Secretary from among members nominated by the organisations set out in Part A of the Second Schedule, each of which shall nominate and approve three candidates at its annual general meeting.

(3) The Third Schedule shall apply with respect to the conduct of the business and affairs of the Board

*Section 7 of Cap 408, which it is proposed to amend –*

### **7. Functions of the Authority**

(1) The Rural Roads Authority shall have responsibility for the management, development, rehabilitation and maintenance of rural roads.

(2) For the purpose of discharging the responsibility described in subsection (1) above the Rural Roads Authority shall have the following functions and duties—

- (a) constructing, upgrading, rehabilitating and maintaining roads under its control;
- (b) controlling reserves for rural roads and access to roadside developments;
- (c) implementing road policies in relation to rural roads;
- (d) ensuring adherence by motorists to the rules and guidelines on axle load control prescribed under the Traffic Act (Cap. 403) or any regulations under this Act;
- (e) ensuring that the quality of road works is in accordance with such standards as may be defined by the Cabinet Secretary;
- (f) in collaboration with the Ministry responsible for Transport and the Police Department, overseeing the management of traffic on rural roads and issues related to road safety;
- (g) collecting and collating all such data related to the use of rural roads as may be necessary for efficient forward planning under this Act;
- (h) monitoring and evaluating the use of rural roads;
- (i) planning the development and maintenance of rural roads;
- (j) liaising and co-ordinating with other authorities in planning and operations in respect of roads;
- (k) preparing the road work programmes for all rural roads;
- (l) advising the Cabinet Secretary on all issues relating to rural roads; and
- (m) performing such other functions related to the implementation of this Act as may be directed by the Cabinet Secretary.

*Section 8 of Cap 408, which it is proposed to amend –*

### **8. The Board of the Authority**

(1) The Rural Roads Authority shall be managed by a Board which shall consist of the following members—

- (a) a non-executive Chairperson who shall be appointed by the President from amongst the members appointed under paragraph (f);
- (b) the Principal Secretary of the Ministry responsible for roads or his representative;
- (c) the Principal Secretary of the Ministry responsible for finance or his representative;
- (d) the Principal Secretary of the Ministry responsible for Local Government or his representative;
- (e) the Director-General who shall be an *ex officio* member;
- (f) five other persons, not being members of the public service, who shall be appointed by the Cabinet Secretary by virtue of their knowledge or experience in—
  - (i) highway engineering;
  - (ii) surveying;
  - (iii) urban and regional planning;
  - (iv) transport economics; or
  - (v) farming;
- (g) a member of an association for the time being recognized by the Government as representing the interests of local government authorities.

(2) The persons referred to in paragraph (f) shall be appointed by the Minister from among members nominated by each organisation set out in Part B of the Second Schedule, each of which shall nominate and approve three candidates at its annual general meeting.

(3) The Third Schedule shall apply with respect to the conduct of the business and affairs of the Board.

*Section 10 of Cap 408, which it is proposed to amend —*

### **10. Functions of the Authority**

(1) The Urban Roads Authority shall have the responsibility for the management, development, rehabilitation and maintenance of all public roads in the cities and municipalities in Kenya except where those roads are national roads.

(2) For the purposes of discharging its responsibility under subsection (1) the Authority shall have the following powers and duties—

- (a) constructing, upgrading, rehabilitating and maintaining roads under its control;
- (b) controlling urban road reserves and access to roadside developments;
- (c) implementing roads policies in relation to urban roads;
- (d) ensuring adherence by motorists to the rules and guidelines on axle load control prescribed under the Traffic Act (Cap. 403) and under any regulations under this Act;
- (e) ensuring that the quality of road works is in accordance with such standards as may be defined by the Cabinet Secretary;
- (f) in collaboration with the Ministry responsible for transport and the Police Department, overseeing the management of traffic and road safety on urban roads;
- (g) monitoring and evaluating the use of urban roads;
- (h) planning the development and maintenance of urban roads;
- (i) collecting and collating all such data related to the use of urban roads as may be necessary for efficient forward planning under this Act;
- (j) preparing the road works programmes for all urban roads;
- (k) liaising and co-ordinating with other road authorities in planning and on operations in respect of roads;
- (l) advising the Cabinet Secretary on all issues relating to urban roads; and
- (m) performing such other functions related to the implementation of this Act as may be directed by the Cabinet Secretary.

*Section 11 of Cap 408, which it is proposed to amend —*

### **11. Board of the Authority**

(1) The Urban Roads Authority shall be managed by a Board which shall consist of the following members—

- (a) a non-executive Chairperson who shall be appointed by the President from amongst the members appointed under paragraph (g);
- (b) the Principal Secretary of the Ministry responsible for roads or his representative;

- (c) the Principal Secretary of the Ministry responsible for finance or his representative;
- (d) the Principal Secretary of the Ministry responsible for Local Government or his representative;
- (e) the Director-General who shall be an ex officio member;
- (f) a member of an association for the time being recognised by the Government as representing the interests of local authorities;
- (g) five other persons, not being public officers, who shall be appointed by the Cabinet Secretary, by virtue of their knowledge or experience in—
  - (i) industry;
  - (ii) urban planning;
  - (iii) highway engineering;
  - (iv) surveying; and
  - (v) urban public transport operations.

(2) The persons referred to in subsection (1)(g) above shall be appointed by the Minister from among persons nominated by the organisations set out in Part C of the Second Schedule, each of which shall nominate and approve three candidates at its annual general meeting.

(3) The Third Schedule shall apply with respect to the conduct of the business and affairs of the Board.

*Section 44 of Cap 408, which it is proposed to amend —*

#### **44. Annual report**

(1) Each Authority shall, within a period of four months after the end of each financial year, submit to the Minister an annual report dealing generally with the activities and operations of the Authority.

(2) An annual report submitted under subsection (1) shall include—

- (a) information with regard to the progress and policies of the Authority;
- (b) a copy of the audited accounts of the Authority in respect of that year together with the report of the Controller and Auditor-General;
- (c) each report submitted in relation to that financial year by the Controller and Auditor-General;

- (d) an overview of the operations of the Authority;
- (e) an assessment of the degree to which performance targets have been achieved;
- (f) an assessment of the adequacy of road funding;
- (g) a report on the condition of the road network and the degree of change in such condition since the last report, the projected optimal level of the network and the extent of financing required to meet that level;
- (h) a review of the technical adequacy and proven cost efficiency of road management operations;
- (i) a report on progress achieved concerning coordination between the authorities and regional entities, including any challenges encountered and proposals for the future;
- (j) generally a report on the degree to which the objectives of this Act have been realized and the levels of compliance with the provisions of this Act; and
- (k) such other information as the Minister may request in writing.

*Section 47 of Cap 408, which it is proposed to amend —*

**47. Roads to be classified**

(1) All public roads under the management of an Authority shall be classified in the manner set out in the First Schedule.

(2) In addition to the classification under subsection (1), each public road shall have such number, name or description as to uniquely identify it among all other roads of its class within the country.

(3) All existing road categorisations and classifications and associated identity numbers defined by the Roads Department of the Ministry responsible for Roads prior to the commencement of this Act shall, for the time being, be maintained after the commencement of this Act.

(4) All existing road categorisations and classifications and associated identity numbers defined by the roads section of the Urban Development Department of the Ministry responsible for Local Government or a local Authority prior to the commencement of this Act shall be maintained for the time being after the date of commencement of this Act, save for such amendments as may be necessary to ensure consistency and compliance with the need for unique identity numbers.

(5) An Authority may with the authority of the Minister published in the Gazette, add, modify or remove the category of a road.

*Section 2 of Cap 118, which it is proposed to amend –*

## **2. Interpretation.**

In this Act, unless the context otherwise requires—

“Authority” means the National Construction Authority established under section 3;

“Board” means the Board of the Authority established under section 7;

“building code” means the building code provided for under regulations made pursuant to section 42;

“chairperson” means the chairperson of the Board appointed under Section 7 (1);

“class” in relation to contract, means any of the classes of contract works set out in the Third Schedule in respect of which a contractor may be licensed by the Board;

“company” means a company within the meaning of the Companies Act Cap. 486;

“construction site supervisor” means a person assigned to the construction site by a contractor to supervise construction works;

“construction industry” means the industry concerning construction works;

“construction works” means the construction, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling, or demolition of

- (a) any building, erection, edifice, structure, wall, fence or chimney, whether constructed wholly or partly above or below ground level;
- (b) any road, harbour works, railway, cableway, canal or aerodrome;
- (c) any drainage, irrigation or river control works;
- (d) any electrical, mechanical, water, gas, petrochemical or telecommunication works; or
- (e) any bridge, viaduct, dam, reservoir, earthworks, pipeline, sewer, aqueduct, culvert, drive, shaft, tunnel or reclamation works, and

includes any works” which form an integral part of, or are preparatory to or temporary for the works described in paragraphs (a) to (e), including site clearance, soil investigation and improvement, earth-moving, excavation, laying of foundation, site restoration and landscaping.

“contractor” means a person registered under section 15;

“executive director” means the executive director of the Authority appointed under section 12;

“member” in relation to the Board or the Appeals Authority includes the chairman and the vice-chairman;

“Minister”. means the Minister for the time being responsible for matters relating to public works;

“person” includes a firm or body of persons, whether corporate or unincorporate;

“register” means the Register of Contractors maintained by the Authority in accordance with the provisions of this Act;

“registered” in relation to any contractor means a contractor whose name is entered in the relevant register;

“Registrar” means the executive director.

*Section 5 of Cap 118, which it is proposed to amend —*

### **5. Functions of the Authority.**

- (1) The object for which the Authority is established is to oversee the construction industry and coordinate its development.
- (2) Without prejudice to the generality of subsection (1), the Authority shall—
  - (a) promote and stimulate the development, improvement and expansion of the construction industry;
  - (b) advise and make recommendations to the Minister on matters affecting or connected with the construction industry;
  - (c) undertake or commission research into any matter relating to the construction industry;
  - (d) prescribe the qualifications or other attributes required for registration as a contractor under this Act;
  - (e) assist in the exportation of construction services connected to the construction industry;

- (f) provide consultancy and advisory services with respect to the construction industry;
- (g) promote and ensure quality assurance in the construction industry;
  - (ga) enforce the prescribed Building Code in the construction industry;
- (h) encourage the standardisation and improvement of construction techniques and materials;
- (i) initiate and maintain a construction industry information system;
- (j) provide, promote, review and co-ordinate training programmes organized by public and private accredited training centers for skilled construction workers and construction site supervisors;
- (k) accredit and register contractors and regulate their professional undertakings;
- (l) accredit and certify skilled construction workers and construction site supervisors;
- (m) develop and publish a code of conduct for the construction industry, and
- (n) do all other things that may be necessary for the better carrying out of its functions under the Act.

*Section 6 of Cap 118, which it is proposed to amend –*

#### **6. Powers of Authority.**

(1) The Authority shall have all the powers necessary for the proper performance of its functions under this Act, and, in particular, but without prejudice to the generality of the foregoing, the Authority shall have power—

- (a) to award certificates of proficiency to contractors, skilled construction workers and construction site supervisors;
- (b) with the approval of the Minister, to impose fees or any other charges as it deems fit in respect of any of its functions or powers;
- (c) with the approval of the Minister, to facilitate, or promote the establishment or expansion of, companies, corporations or other bodies to carry on any activities related to construction either under the control or partial control of the Authority or independently; and

- (d) to receive, in consideration of any services that may be rendered by it, such commission or payments as may be agreed upon with any person.

*Section 7 of Cap 118, which it is proposed to amend —*

**7. Membership of the Board.**

(1) There shall be a Board of the Authority which shall consist of—

- (a) a chairperson, who shall be appointed by the Minister from among the members appointed under paragraph (g);
- (b) the Permanent Secretary in the Ministry for the time being responsible for matters relating to public works;
- (c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to roads;
- (d) the Permanent Secretary in the Ministry for the time being responsible for matters relating to local government;
- (e) the Permanent Secretary to the Treasury;
- (f) the Permanent Secretary in the Ministry for the time being responsible for housing;
- (g) seven members comprising representatives of each of the organizations specified in Parts I and II of the First Schedule and appointed by the Minister from amongst three persons nominated by each of the organizations; and
- (h) two members appointed by the Minister to represent groups with special interests in the construction industry.

(2) In appointing persons as members the Minister shall have regard to the principle of gender equity and regional balance.

(3) The Minister may, by notice in Gazette, amend the First Schedule

(4) The members referred to under subsection (1) (b), (c), (d) and (e) may in writing, designate any officer not below the level of Deputy Secretary to represent them on the Board.

(5) A person nominated by the associations set out in Part II of the First Schedule shall qualify for appointment as a member of the Board under paragraph (1)(g) if such person is the holder of a minimum of a Higher National Diploma in a relevant field or equivalent qualification and has at least ten years' practical experience in the construction industry.

(6) The chairperson and members of the Board, other than the ex-officio members, shall hold office for a period of three years from the date

of appointment, but shall be eligible for re-appointment for one further term.

*Section 8 of Cap 118, which it is proposed to amend —*

### **8. Vacation of office.**

The office of a member of the Board, other than an ex officio member, shall become vacant if the member—

- (a) resigns his office by notice in writing addressed to the Minister;
- (b) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (c) is convicted of an offence by a court and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (d) is convicted of an offence involving fraud, dishonesty or moral turpitude;
- (e) is unable, by reason of mental or physical infirmity, to discharge his functions as a member of the Board;
- (f) is otherwise unable or unfit to continue serving as member of the Board, or
- (g) dies.

*Section 10 of Cap 118, which it is proposed to amend —*

### **10. Remuneration of Board members.**

There shall be paid to the members of the Board such remuneration, fees or allowances as the Minister, in consultation with the Salaries and Remuneration Commission, may determine.

*Section 16 of Cap 118, which it is proposed to amend —*

### **16. Meaning of “Contractor”.**

(1) For the purposes of this Act, a person carries on business as a contractor where such person, for reward or other valuable consideration, undertakes the construction, installation or erection, for any other person, of any structure situated below, on or above the ground, or other work connected therewith, or the execution, for any other person, of any alteration or otherwise to any structure or other work connected therewith, and undertakes to supply—

- (a) the materials necessary for the work, or is authorized to exercise control over the type, quality or use of the materials supplied by any other person;
- (b) the labour necessary for the work, or is authorized on behalf of the person for whom the work is undertaken or any other person, to employ or select workmen for employment for the purposes of the execution of the work, whether under a contract of service or otherwise:

Provided that a person shall not be deemed to be a contractor if the work undertaken—

- (i) does not incur a cost exceeding such sum or sums as the Board may from time to time determine; or
- (ii) consists of a residential house for private use, not requiring a structural design.

(2) The Board shall register eligible contractors to undertake any of the classes of contracted works set out in the Third Schedule depending on their knowledge and experience.

(3) The Minister may by notice in the Gazette amend the Third Schedule.

*Section 17 of Cap 118, which it is proposed to amend —*

### **17. Application for Registration.**

(1) A person or firm may apply to the Board for registration as a contractor for purposes of this Act.

(2) An application for registration shall be in the prescribed form and shall be accompanied by the prescribed fee, and shall demonstrate to the satisfaction of the Board that the person, or, in the case of a firm, at least one director or partner thereof—

- (a) is the holder of the minimum technical qualifications and skills prescribed by the Board for the class of contract works in respect of which registration is sought;
- (b) has the necessary experience prescribed by the Board in works involving construction, erection, installation, alteration or any other activity Connected therewith;
- (c) has professional and general conduct which in the opinion of the Board, makes the person suitable to be registered under this Act; and

(d) has the necessary plant and equipment for the category of works for which the registration is sought.

(3) The Board may refuse to register a person as a contractor if in its opinion that person—

(a) does not meet the conditions stated in subsection (2);

(b) is a member of a consulting firm providing architectural, quantity surveying or engineering services, unless the person declares interest during the application for registration and does not carry out functions of consultancy and construction in the same project unless expressly specified.

(c) is a person whose registration as a contractor shall result in conflict of interest with his employer.

(4) The Board shall, where it refuses to register a person under subsection (3), communicate its decision in writing to the person within fourteen days of the date of its decision and shall state the reasons for such refusal.

(5) Upon registration, the person shall be issued with a certificate of registration indicating the registration number, the class of works for which registered, the date of registration and duration of registration.

(6) The certificate issued under subsection (3) shall remain the property of the Authority and shall be withdrawn and returned to the Authority upon suspension or cancellation of the registration of the holder.

*Section 18 of Cap 118, which it is proposed to amend —*

### **18. Registration of foreign contractors.**

(1) The Board may accredit a firm incorporated outside Kenya to carry out construction works in Kenya for a prescribed period where the firm meets the conditions prescribed by the Board and satisfies the Board that the firm—

(a) intends to be present in Kenya only for the purpose of carrying out the specific works for which it has been contracted, for which, the sum payable is not less than the sum prescribed by the Board for the class of works in respect of which registration is sought;

(b) has a certificate of compliance from the Registrar of Companies showing that it is, or immediately prior to entering Kenya, was, trading as a contractor in the capacity which satisfies the Board with respect to its suitability to serve the public as a qualified contractor; and

- (c) has lodged an affidavit with the Board to the effect that, once the contracted works are completed and the period of defects liability or maintenance has elapsed, it shall wind up business and shall not engage itself in the construction business within Kenya.
- (2) The Board may require an applicant under this section to appear before it and produce documentary evidence of its competence in executing construction works immediately prior to its entry in Kenya.
- (3) Registration of a firm under this section shall entitle it to undertake work only for the period of time prescribed by the Board in subsection (1), and on the expiry of that period that firm shall cease to be so registered, and shall return the registration certificate to the Board.
- (4) A firm registered under this section shall during the period of the contracted works, and in relation to things done or omitted to be done in the course of the contracted works, be treated as being duly registered under this Act as a contractor.
- (5) Notwithstanding the provisions of this section and section 16, the Minister, in consultation with the Board, shall make regulations stipulating ownership structures of foreign firms seeking registration under this Act, clearly stating the categories of contracts for which foreign firms may apply and those which shall be strictly reserved for local contractors.

*Section 27 of Cap 118, which it is proposed to amend —*

**27. Establishment.**

- (1) There is established a board to be known as the National Construction Appeals Board (hereinafter referred to as “the Appeals Board”).
- (2) The Appeals Board shall consist of the following persons, who shall be appointed by the Minister—
  - (a) a chairperson, being an advocate of the High Court of Kenya, who shall be nominated by the Attorney-General;
  - (b) a person with professional knowledge and experience in architecture, quantity surveying, engineering, building surveying or project management; and
  - (c) a person nominated by the Chartered Institute of Arbitrators (Kenya Chapter).
- (3) An appeal shall lie to the Appeals Board at the suit of any person aggrieved by a decision of the Board under section 26(4).

(4) A person aggrieved by the decision of the appeals Board may within thirty days from the date of the decision of the Appeals Board appeal to the High Court.

*Section 31 of Cap 118, which it is proposed to amend —*

### **31. Imposition of levy.**

(1) The Minister may, by notice in the Gazette, impose a levy to be known as the construction levy on construction work carried out by persons registered under this Act.

(2) The levy shall be in an amount not exceeding an equivalent of 0.5%, of the value of any contract whose value exceeds five million shillings.

(3) The Minister may make regulations prescribing the manner of payment of the levy.

*Section 33 of Cap 118, which it is proposed to amend —*

### **33. Annual Estimates.**

(1) At least three months before the commencement of a financial year, the Board shall cause to be prepared the estimates of revenue and expenditure of the Authority for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year, and, in particular, shall make provision for—

- (a) the payment of salaries, allowances, pension gratuities, and other changes in respect of the staff of the Authority;
- (b) proper maintenance of the buildings and grounds of the Authority; and
- (c) the maintenance, repair and replacement of the utilities, equipment and other property of the Authority.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate, and shall be submitted to the Minister for approval, and thereafter the Authority shall not increase or decrease the annual estimates except with the authority of the Minister.

*Section 34 of Cap 118, which it is proposed to amend —*

### **34. The National Construction Authority Fund.**

(1) There shall be established a Fund to be known as the National Construction Fund, which shall vest in the Authority.

(2) There shall be paid into the Fund—

- (a) the initial budgetary provision by the Government as start-up capital for the establishment of the Authority;
- (b) the charges levied on contractors on services given by the Authority;
- (c) such moneys or assets as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;
- (d) all proceeds from the levy imposed under section 26; and
- (e) all moneys from any other source provided for or donated or lent to the Authority;

(3) All receipts, savings and accruals for the Fund and the balance of the Fund at the end of the financial year shall be retained for the purposes for which the Fund is established.

(4) There shall be paid out of the Fund any expenditure incurred by the Authority in the exercise of its powers or the performance of its functions under this Act.

(5) The Board may with the approval of the Minister, set a ceiling of the money which may be spent on recurrent expenditure in any one year.

*Section 36 of Cap 118, which it is proposed to amend —*

### **36. Investment of funds.**

(1) The Authority may, with the approval of the Minister—

- (a) invest any of its surplus funds in Government securities;
- (b) place or deposit with any banks quoted on an approved securities exchange in Kenya as it may determine, any moneys not immediately required for the purposes of the Authority.

(2) In this section, “approved securities exchange” means a securities exchange approved under the Capital Markets Act Cap. 485A.

*Section 41 of Cap 118, which it is proposed to amend —*

### **41. Power to dissolve Board.**

Notwithstanding any other provision of this Act, the Minister may by notice in the Gazette dissolve the Board where the Board performs its functions in a manner which is inconsistent with this Act.

*Section 42 of Cap 118, which it is proposed to amend —*

#### **42. Power to make Regulations.**

(1) The Minister may in consultation with the Board, make regulations generally for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing, regulation made under this section may provide for—

- (a) the manner of payment of the levy imposed under section 31;
  - (aa) the Building Code in the construction industry;
  - (ab) the manner of conducting mandatory inspections by the Authority;
- (b) the manner of service of any notice required under Act;
- (c) the fees and charges to be paid in respect of any matter required for purposes of this Act;
- (d) the manner and forms of accreditation and certification of contractors, skilled construction workers and construction site supervisors;
- (e) the responsibilities and control of the officers and servants of the Authority;
- (f) the performance of the functions, the exercise of the powers and discharge of the duties of the Authority under this Act, and
- (g) any other matter to give effect to the provisions of this Act.

(3) Regulations made under this section shall be tabled in Parliament for approval before taking effect.

*Section 2 of Cap 404, which it is proposed to amend —*

#### **2. Interpretation**

(1) In this Act, unless the context otherwise requires—

“Authority” means the National Transport and Safety Authority established under section 3;

“authorised person” means a person authorised the Authority to carry out duties and functions under this Act;

“Board” means the Board of Directors of the Authority constituted under section 8;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to transport;

“chairperson” means the chairperson of the Board appointed under section 8;

“driver” means a person who drives or guides or is in the physical control of any vehicle on the road;

“driving licence” means a licence to drive a motor vehicle issued under the Traffic Act (Cap. 403), and any document deemed to be a driving licence under the Act;

“levy” means the national transport and safety levy established under section 46;

“motor vehicle” has the meaning assigned to it under the Traffic Act (Cap. 403);

“public service vehicle” has the meaning assigned to it under the Traffic Act (Cap. 403).

(2) Notwithstanding subsection (1), until after the first elections under the Constitution, references in this Act to the expressions “Cabinet Secretary” and “Principal Secretary” shall be construed to mean “Minister” and “Permanent Secretary” respectively.

*Section 4 of Cap 404, which it is proposed to amend —*

#### **4. Functions of the Authority**

(1) The functions of the Authority shall be to—

- (a) advise and make recommendations to the Cabinet Secretary on matters relating to road transport and safety;
- (b) implement policies relating to road transport and safety;
- (c) plan, manage and regulate the road transport system in accordance with the provisions of this Act;
- (d) ensure the provision of safe, reliable and efficient road transport services; and
- (e) administer the Act of Parliament set out in the First Schedule and any other written law.

(2) In the performance of its functions under subsection (1), the Authority shall—

- (a) register and license motor vehicles;
- (b) conduct motor vehicle inspections and certification;

- (c) regulate public service vehicles;
- (d) advise the Government on national policy with regard to road transport system;
- (e) develop and implement road safety strategies;
- (f) facilitate the education of the members of the public on road safety;
- (g) conduct research and audits on road safety;
- (h) compile inspection reports relating to traffic accidents;
- (i) establish systems and procedures for, and oversee the training, testing and licensing of drivers;
- (j) formulate and review the curriculum of driving schools;
- (k) co-ordinate the activities of persons and organisations dealing in matters relating to road safety; and
- (l) perform such other functions as may be conferred on it by the Cabinet Secretary or by any other written law.

*Section 6 of Cap 404, which it is proposed to amend –*

#### **6. Board of the Authority**

(1) The management of the Authority shall vest in a Board which shall consist of—

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry responsible for matters relating to transport;
- (c) the Principal Secretary in the Ministry responsible for matters relating to finance;
- (d) the Attorney-General;
- (e) the Inspector-General of the National Police Service;
- (f) four persons appointed by the Cabinet Secretary;
- (g) two persons appointed by the Cabinet Secretary to represent groups with special interests in the transportation industry; and
- (h) a Director-General appointed under section 15.

(2) The appointment of the chairperson and members of the Board under section 6(f) and (g) shall be by notice in the Gazette.

(3) In appointing persons as members of the Board, the Cabinet Secretary shall have regard to the principle of gender equity and regional balance.

(4) The members referred to under subsection (1)(b), (c), (d) and (e) may in writing, designate an officer to represent them in the Board.

*Section 21 of Cap 404, which it is proposed to amend –*

### **21. County transport and safety committees**

(1) The Authority may establish in each county, a committee to be known as the county transport and safety committee.

(2) A county transport and safety committee established under subsection (1) shall consist of—

- (a) the officer in charge of traffic in the county who shall be the secretary to the committee;
- (b) two persons responsible for overseeing the registration and licensing of vehicles within the county nominated by the Board;
- (c) one person nominated by the Association of Public Transport Operators to represent the Association;
- (d) one person with knowledge and experience in matters relating to transport within the county nominated by the county governor; and
- (e) two persons nominated by the county governor on the recommendations of the Authority to represent such special interests within the county as the Authority shall determine.

(3) Notwithstanding the provisions of subsection (2), where the county transport and safety committee is constituted before the first elections under the Constitution, the Cabinet Secretary shall nominate persons under subsections (2)(d) and (e) and shall hold office pending the appointment by the county governor.

(4) The persons nominated under subsection (2) (b), (c), (d) and (e) shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(5) The members of the county transport and safety committee shall appoint from amongst themselves, a person who shall be the chairperson of the committee.

*Section 22 of Cap 404, which it is proposed to amend –*

### **22. Functions of the county transport and safety committee**

Each county transport and safety committee shall be under the direction and supervision of the Authority and shall—

- (a) oversee the management and regulation of the road transport system by the Authority at the county level;
- (b) prepare and submit to the Authority such audit reports as the Authority may require on the safety, reliability and efficiency of the road transport system within the county;
- (c) advise the Authority on matters affecting the road transport system within the county; and
- (d) perform such other functions as may be assigned to it by the Authority.

*Section 29 of Cap 404, which it is proposed to amend —*

### **29. Discretion of authority to refuse licences**

The Authority may grant or decline to grant any application for a licence, or grant a licence subject to such conditions as it may consider fit to impose, and, in exercising its discretion, the Authority shall have regard to the public interest, including the interest of persons requiring and those of persons providing facilities for transport, and to such other matters as may be prescribed:

Provided that the Authority shall, before granting any road service licence in respect of any vehicle for the carriage of passengers from, through or into, the area of jurisdiction of any County, consult and have regard to the laws of the County relating to the place in the area of such County at which the vehicle may stop or start and the route to be taken by such vehicle.

*Section 30 of Cap 404, which it is proposed to amend —*

### **30. Conditions for the issuance of a licence**

- (1) It shall be a condition of every licence issued under this Act that—
- (a) the motor vehicle in respect of which the licence is issued is maintained in a fit and serviceable condition;
  - (b) the provisions of any law for the time being in force relating to limits of speed weight while laden and unladen, the loading of goods vehicles and the number of passengers to be carried, are complied with in relation to the authorized motor vehicles;
  - (c) the provisions of this Act, and of any rules made by the Authority relating to the keeping of records, are complied with; and
  - (d) that the public service motor vehicle operate in the authorized routes.

- (2) The Authority may impose on a licensee of any class—
- (a) a condition that a motor vehicle in respect of which a licence is issued shall operate in a specified area or over a specified route;
  - (b) a condition that certain classes or descriptions of goods shall or shall not be carried;
  - (c) a condition specifying the charges or the maximum or minimum charges to be made for the carriage of goods; or
  - (d) such other conditions as the Authority may prescribe.

(3) Subject to the provisions of this Act, the Authority may attach to a road service licence such conditions as it may consider fit for the purposes of ensuring that—

- (a) the fares imposed for the carrying of passengers are reasonable and ensure fair competition within the transport industry;
- (b) copies of the timetable and faretable are carried and available for inspection; and
- (c) the safety of passengers and in particular, that they alight and are picked from such areas as may be designated for that purpose, and generally for securing the safety and convenience of the public.

(4) The Authority may, from time to time in such manner as it considers fit, vary or cancel the conditions attached to the issuance of a road service licence.

(5) The Authority may, from time to time, either on its own motion or on the application of a licensee in the prescribed manner, cancel or vary, any of the conditions attached to a licence under this Act.

(6) The Authority shall exercise its powers under this section in consultation with the counties.

(7) A person who, being the licensee or being the person in charge of the vehicle in respect of which such licence is issued, fails to comply with any condition imposed by or under the provisions of this section, commits an offence and shall be liable, on conviction, to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

*Section 47 of Cap 404, which it is proposed to amend —*

#### **47. National Transport and Safety Fund**

(1) There is established a Fund to be known as the National Road Transport and Safety Fund which shall vest in the Authority.

(2) There shall be paid into the Fund—

- (a) moneys appropriated by Parliament;
- (b) the levy;
- (c) grants and donations made to the Authority; and
- (d) moneys from a source approved by the Authority.

(3) The Authority shall apply the moneys received into the Fund to—

- (a) conduct research activities and audits on road transport safety;
- (b) conduct road safety education and awareness campaigns;
- (c) implement road safety strategies; and
- (d) carry out the operations of the Authority.

(4) All receipts, savings and accruals for the Fund and the balance of the Fund at the end of the financial year shall be retained for the purposes for which the Fund is established.

(5) There shall be paid out of the Fund any expenditure incurred by the Authority in the exercise of its powers or the performance of its functions under this Act.