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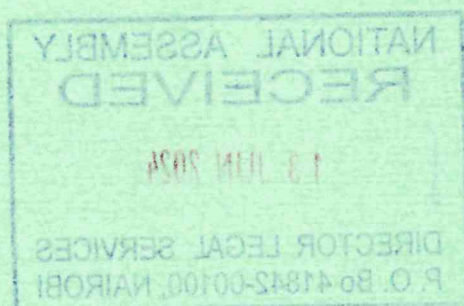
Bill for Introduction into the National Assembly—

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The Kenya Roads (Amendment) Bill, 2024

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THE KENYA ROADS (AMENDMENT) BILL, 2024

A Bill for

AN ACT of Parliament to amend the Kenya Roads Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Kenya Roads (Amendment) Act 2024.

Short title.

2. The Kenya Roads Act, (herein after referred to as “the principal Act”) is amended in section 2 by inserting the following new definitions in their proper alphabetical sequence—

Amendment of section 2 of Cap. 408.

“bicycle” has the same meaning assigned to it under the Traffic Act;

“cycling lane” means on-road lanes exclusively reserved for use by bicycles and wheelchairs, with clear markings separating them from other lanes used by motorized vehicles;

“cycling track” means part of the road exclusively reserved for use by bicycles and wheelchairs and is physically separated from tracks used by motorized vehicles;

“non-motorized transport” means all forms of travel that do not rely on an engine or motor for movement and includes walking, cycling and mobility assistance devices;

“non-motorized vehicle” means any vehicle that is not self-propelled and includes bicycle, wheelchair, and scooter;

“pedestrian” means a person travelling on foot;

“pedestrian walkway” means that part of the road exclusively reserved for use by pedestrians and is physically separated from lanes used by motorized vehicles.

3. Section 4 of the principal Act is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (a)—

Amendment of section 4 of Cap. 408.

- (aa) designing and constructing designated tracks for non-motorized transport for existing roads and new roads under its control, including cycling lanes and pedestrian walkways which shall be separated from tracks for motorized transport.

4. Section 7 of the principal Act is amended in—

Amendment of
section 7 of Cap.
408.

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

- (aa) designing and constructing designated tracks for non-motorized transport for existing roads and new roads under its control, including cycling lanes and pedestrian walkways which shall be separated from tracks for motorized transport.

5. Section 10 of the principal Act is amended in—

Amendment of
section 10 of Cap.
408.

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

- (aa) designing and constructing designated tracks for non-motorized transport for existing roads and new roads under its control, including cycling lanes and pedestrian walkways which shall be separated from tracks for motorized transport.

The principal Act is amended by inserting a new section immediately after Section 11—

Inserting a new
section 10A.

Functions of county
governments.

11A The county governments shall have the following roles—

- (1) designing and constructing designated tracks for non-motorized transport for existing roads and new roads under its control, including cycling lanes and pedestrian walkways which shall be separated from tracks for motorized transport.

6. Section 22 of the principal Act is amended—

Amendment of
section 22 of Cap.
408.

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

- (aa) to co-operate with county governments which have power over non-motorized transport infrastructure on designated roads ;

in subsection 2 paragraph (a) by inserting the words “cycling lane, pedestrian walkway” immediately after the word “road”

7. The principal Act is amended by inserting the following new section immediately after section 46—

Amendment of section 46 of Cap. 408.

Regulations

46A. The Cabinet Secretary may make regulations for design and construction of lanes for non-motorized transport relating to—

Inserting a new section 46A.

- (a) use, safety or maintenance of the lanes for non-motorized transport;
- (b) uniformity of design and standards of the lanes for non-motorized transport;
- (c) the roads in which the lanes for non-motorized transport shall be constructed; and
- (d) the level and the width of the lanes for non-motorized transport

8. The principal Act is amended in Section 50 by inserting a new paragraph immediately after paragraph (2)—

Amendment of Section 50 of Cap. 408.

(1) The traffic police shall have the responsibility of enforcing these rules by ensuring —

- (a) strict use of the dedicated lanes for pedestrians and cyclists; and
- (b) the safety of non-motorized of non-motorized transport users.

9. The enactment of these amendments shall take effect in 15 year’s time to cater for already existing Infrastructure.

Transitional Clause.

MEMORANDUM OF OBJECTS AND REASONS

Statement of object and reasons

The Principal Object of the Bill is to amend the Kenya Roads (Amendment) Bill, 2023 to make provision for design and construction of lanes for non-motorized transport.

Clause 1 of the Bill is the short title.

Clause 2 of the Bill seeks to amend section 2 of the Act to provide for the definition of the new terms introduced by the proposed amendments.

Clause 3 of the Bill seeks to amend section 4 of the Act to make provision for the Kenya National Highways Authority to design and construct lanes for non-motorized transport in designated roads under its control.

Clause 4 of the Bill seeks to amend section 7 of the Act to make provision for the Kenya Rural Roads Authority to design and construct lanes for non-motorized transport in designated roads under its control.

Clause 5 of the Bill seeks to amend section 10 of the Act to make provision for the Kenya Urban Roads Authority to design and construct lanes for non-motorized transport in designated roads under its control. Further to make provision for county governments in the implementation of non-motorized transport infrastructure provision, such as sidewalks, pedestrian crossings and cycle lanes, as part of its responsibilities

Clause 6 of the Bill seeks to amend section 22 of the Act to empower the road agencies to design and construct lanes for non-motorized transport.

Clause 7 of the Bill seeks to amend section 46 of the Act to empower the Cabinet Secretary make regulations relating to design and construction of lanes for non-motorized transport.

Clause 8 of the Bill seeks to amend Section 50 of the Act to introduce police enforcement powers on non-motorized transport infrastructure use, such as dedicated lanes for pedestrians and cyclists & ensuring the safety of non-motorized transport users.

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

The Bill confers on the Cabinet Secretary the powers to make Regulations. It does not limit any fundamental rights or freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments in terms of Article 110 (1) (a) of the Constitution as it affects the functions and powers of county governments as set out in Paragraph 5 (a) of Part 2 of the Fourth schedule of the Constitution.

Statement of the Bill as a money Bill within the meaning of Article 114 of the Constitution

The Bill is Money Bill within Article 114 of the Constitution.

Dated the 24th April, 2024.

NAISULA LESUUDA,
Member of Parliament .

Sections which it is proposed to be Amended—

Section 2 which is proposed to be amended—

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, 1998 (No. 8 of 1998);

“Minister” means the Minister 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, 1999 (No. 7 of 1999);

“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 which is proposed to be Amended—

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 Minister;
- (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 Minister 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 Minister.

Section 4 which is proposed to be Amended—

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 Minister;
- (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 Minister 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 Minister.

Section 10 which is proposed to be amended—

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 Minister;
- (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 Minister 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 Minister.

Section 22 which is proposed to be amended—

Powers of the Authority as a statutory body

(1) An Authority shall have power —

- (a) to maintain, operate, improve and manage the roads under its jurisdiction;
- (b) to construct new roads;
- (c) to measure and assess the weights, dimensions and capacities of vehicles using any road and provide measures to ensure compliance with rules relating to axle load control, other provisions of the Traffic Act (Cap. 403) and any regulations under this Act; and
- (d) to provide such amenities or facilities for persons making use of the services or facilities provided by the Authority as may appear to the Authority necessary or desirable.

(2) Subject to this Act, the powers conferred by, subsection (1) shall include all such powers as are necessary or appropriate and proper for the purposes of the Authority and in particular, but without prejudice to the generality of the foregoing, shall include powers —

- (a) to construct any road, bridge, building, drainage structure, drain, river channelling or any other necessary or desirable works required for the purposes of the Authority;
- (b) to operate machinery and equipment on public roads in such manner as it deems necessary;
- (c) to carry on any business necessary or desirable to be carried on for the purposes of the Authority and to act as an agent for the Government in the provision of any agreed services;
- (d) with the approval of the Minister, to determine, impose and levy rates, tolls, charges, dues or fees for any of its services or for the use by any person of its facilities;
- (e) to prohibit, control or regulate;
 - i. the use by any person of the services performed, or the facilities provided, by the Authority; or
 - ii. the usage of any vehicle on any road or on any premises occupied by the Authority;

- (f) to sell, let or otherwise dispose of any property, movable or immovable, which in the opinion of the Board, is not necessary for the purposes of the Authority;

Provided that an Authority shall not so sell, let or otherwise dispose of any building or land placed at its disposal by the Government otherwise than with the consent of, and under conditions agreed by, the Minister;

- (g) to act as an agent for any person engaged, whether within Kenya or elsewhere, in the performance of services, or the provision of facilities, of a kind similar or complementary to those performed or provided by the Authority;
- (h) to enter into agreements with any person;
 - i. for the supply, construction, manufacture, maintenance or repair by that person of any property, movable or immovable, necessary or desirable for the purposes of the Authority;
 - ii. for the performance or provision by that person of any of the services or the facilities which may be performed or provided by the Authority;
 - iii. for the payment, collection or apportionment of any tolls, rates, charges or other receipts arising out of the performance or the provision by that person of any such services or facilities;
- (i) to establish or acquire any subsidiary corporation with the written approval of the Minister and the Minister responsible for Finance; or
- (j) to enter into any arrangement with any state corporation or other entity which, in the opinion of the Board, is likely to promote or secure the provision, or improved provision, of any service or facilities which they may separately provide.

(3) For the avoidance of doubt, it is hereby declared that subsections (1) and (2) relate only to the capacity of the Authority as a statutory body and nothing in those provisions shall be construed as authorizing the disregard by the Authority of any law.

(4) The powers conferred on an Authority under this section to construct or improve any road shall empower the Authority to undertake the construction or execution of any works necessary thereto on land vested in the Authority or on land placed at its disposal by the Government, or, in the case of land not so vested in, or placed at the

disposal of, the Authority, only with the agreement of the owner of the land on which such works are to be constructed or executed.

(5) Where any land is required by an Authority for the purposes of its functions under this Act the Authority shall proceed in accordance with section 22.

Section 46 which is proposed to be amended—

Making of regulations by Authorities

(1) An Authority may with the approval of the Minister make regulations for the better performance of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), an Authority may make regulations—

- a. relating to the use, safety or maintenance of the roads falling within its responsibility;
- b. relating to the erection of structures on, near, over or under the roads falling within its responsibility;
- c. for the drainage of streets, lands, compounds and buildings adjacent to the road;
- d. respecting the level, width and construction of roads and streets;
- e. for the removal, demolition or alteration of any projection, structure or thing obstructing a road or likely to cause damage or inconvenience to road users; and
- f. prescribing the fees payable for services provided by the Authority.

(3) Rules or regulations made under subsection (1) may prescribe, in respect of any contravention of any provision thereof, a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding one year or both, and may also prescribe, in the case of continuing offences, an additional penalty in respect of each day in which the offence continues.

(4) The provisions of section 34 of the Interpretation and General Provisions Act (Cap. 2) shall not apply to regulations made under this Act.

