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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2021

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THE KENYA ROADS (AMENDMENT) BILL, 2021

**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, 2021. Short title.

2. Section 13 of the Kenya Roads Act (in this Act referred to as the “principal Act”) is amended in subsection (3) by deleting the word “three” appearing immediately after the words “term of” and substituting therefor the word “five”. Amendment of
section 13 of No.
2 of 2007.

3. The principal Act is amended by repealing section 14 and replacing therefor the following new section— Repeal and
replacement of
section 14 of No.
2 of 2007.

Qualification of
Director-General. **14.** A person shall be qualified for appointment as a Director-General if the person—

- (a) holds a bachelor’s degree in civil engineering and a Masters’ degree from a university recognized in Kenya;
- (b) is registered with the Engineers Board of Kenya;
- (c) has at least fifteen years’ experience with at least ten years post-registration experience in highway and road engineering;
- (d) has at least ten years experiment in managerial position within the roads sector; and
- (e) satisfies the requirements of Chapter Six of the Constitution.

4. Section 38 of the Principal Act is amended—
- Amendment of
section 38 of No.
2 of 2007.
- (a) in subsection (2) by deleting the expression “Controller and Auditor-General in accordance with the Public Audit Act, 2003” and substituting therefor the expression “Auditor-General in accordance with the Public Audit Act, 2015”;
 - (b) in subsection (3) by deleting the expression “Public Audit Act, 2003” and substituting therefor the expression “Public Audit Act, 2015”;
 - (c) in subsection (4) by deleting the words “Controller and” appearing immediately after the words “audit the”;
 - (d) in subsection (5) by deleting the words “Controller and” appearing immediately after the words “provide the”; and
 - (e) in subsection (6) by deleting the words “Controller and” appearing immediately after the word “the”.
5. Section 44 of the Principal Act is amended in subsection (2) by—
- Amendment of
section 44 of No.
2 of 2007.
- (a) deleting the words “Controller and” appearing immediately after the words “report of the ” in paragraph (b); and
 - (b) deleting the words “Controller and” appearing immediately after the words “by the” in paragraph (c).

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons for the Bill

The principal object of the Bill is to amend the Kenya Roads Act, (No. 2 of 2007) to align the Act with the provisions of the Constitution with regard to the auditing functions of the Office of the Auditor-General. The Act currently refers to the defunct office of the Controller of Budget and the Auditor-General.

The Bill further seeks to amend the term of office of and the qualification for the Director-General of the Kenya Roads Board appointed under the Act.

Statement on Delegation of Legislative Powers and Limitation of Fundamental Rights and Freedoms

This Bill does not delegate legislative powers neither does it limit fundamental rights and freedoms.

Statement of the Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 19th April, 2021.

DAVID PKOSING,
Chairperson, Transport, Public Works and Housing Committee.

Section 13 of No. 2 of 2007 which it is proposed to amend—

13. Director-General

(1) Each Authority shall have a Director-General, who shall be appointed by the concerned Board in consultation with the Minister from among three candidates competitively selected by the Board.

(2) The Director-General shall be responsible for the day to day operations and administration of the Authority in respect of which he is appointed.

(3) Subject to this Act, the Director-General shall hold office for a term of three years and shall be eligible for appointment for one more term.

(4) Subject to this Act and to the general direction and control of the concerned Board, the Director-General shall be responsible for the following matters with respect to the Authority for which he is responsible—

- (a) the implementation of the policies and programmes of the Authority and reporting thereon to the Board;
- (b) the proper management of the funds and property of the Authority;
- (c) the organisation and control of the staff of the Authority;
- (d) the development of an operations plan for achieving the Authority's objectives;
- (e) co-operation with other lead agencies and organisations in the roads sector;
- (f) the development of an economic, efficient and cost-effective internal management structure;
- (g) the formulation and implementation of the strategic plan, business plan and annual plan of the Authority;
- (h) the implementation and fulfillment of the policies and agreed objectives, performance targets and service standards of the Authority;
- (i) the provision of advice as required on all matters within the Authority's responsibility; and
- (j) the performance of any other duty necessary for the implementation of this Act as may be assigned to him by the concerned Board.

Section 14 of No. 2 of 2007 which it is proposed to amend—

14. Qualifications of the Director-General

A person shall be qualified for appointment as Director-General if such a person—

- (a) is registered with the Engineers Registration Board of Kenya in the category of registered engineer in the field of highway engineering and is a member of the Institution of Engineers of Kenya; and
- (b) has at least fifteen years' post-registration experience in the field of road and highway engineering.

Section 38 of No. 2 of 2007 which it is proposed to amend—

38. Accounts and Audit

(1) Each Authority shall keep proper books of accounts and shall prepare an annual statement of accounts in conformity with international accounting standards.

(2) For each financial year, the Authority shall prepare and submit for audit accounts to the Controller and Auditor-General in accordance with the Public Audit Act, 2003 (No. 12 of 2003), and comply with all applicable requirements of that Act.

(3) The costs of the audit shall be as specified in the Public Audit Act, 2003.

(4) In addition to the annual audit, the Controller and Auditor-General may at any time audit the accounts and examine the records of financial transactions of the Authority, and shall forthwith draw the attention of the Minister to any irregularity disclosed by such audit and examination.

(5) The authorities shall provide the Controller and Auditor-General with all necessary and appropriate facilities for the examination of the accounts and records.

(6) The Controller and Auditor-General may make copies of or take extracts from account books or other financial records of the authorities.

Section 44 of No. 2 of 2007 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.