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THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT

CHAPTER 404

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CHAPTER 404

NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT

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ACTST TO BE ADMINISTERED

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF
THE AUTHORITYFORMS

CHAPTER 404

NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT

[Date of assent: 12th October, 2012.]

[Date of commencement: 1st December, 2012.]

An Act of Parliament to provide for the establishment of the National Transport and Safety Authority; to provide for the powers and functions of the Authority, and for connected purposes

[Act No. 33 of 2012, Legal Notice 136 of 2012, Act No. 19 of 2014.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the National Transport and Safety Authority Act.

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 "Cabinet Secretary" and "Permanent Secretary" respectively.

PART II – ESTABLISHMENT OF THE NATIONAL TRANSPORT AND SAFETY AUTHORITY

3. Establishment of the Authority

(1) There is established an Authority to be known as the National Transport and Safety Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

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 Acts 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.

5. Headquarters of the Authority

(1) The headquarters of the Authority shall be in the capital city.

(2) The Authority may establish such other offices anywhere in Kenya as it may consider necessary for the discharge of its functions.

PART III – THE MANAGEMENT OF THE AUTHORITY

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.

7. Tenure of office

The chairperson and members of the Board, other than the *ex officio* members, shall hold office for a period of three years and shall be eligible for reappointment for one further term.

8. Remuneration of Board members

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

9. Qualifications for appointment

A person shall be qualified for appointment as the chairperson or a member of the Board under section 6(f) and (g) if that person—

- (a) holds a degree from a university recognised in Kenya; and
- (b) has knowledge and experience in any of the following fields—
 - (i) transport;
 - (ii) law;
 - (iii) public health;
 - (iv) civil engineering; or
 - (v) economics.

10. Vacation of office

The office of the chairperson or a member of the Board appointed under sections 6(f) and (g) shall become vacant if the chairperson or member—

- (a) is unable to perform the functions of his office by reason of mental or physical infirmity;
- (b) is otherwise unable or unfit to continue serving as the chairperson or member of the Board;
- (c) is adjudged bankrupt;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (e) is absent, without reasonable cause, from three consecutive meetings of the Board;
- (f) resigns in writing addressed, in the case of the chairperson, to the President and in the case of a member appointed under section 6(f), to the Cabinet Secretary;
- (g) fails to declare his interest in any matter being considered or to be considered by the Board; or
- (h) dies.

11. Powers of the Board

The Board 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 Board shall have power to—

- (a) enter into contracts;
- (b) determine, impose and levy rates, charges, dues or fees for any services performed by the Authority, or for the grant, renewal or validation of a licence, permit or certificate, subject to the approval of the Cabinet Secretary;
- (c) manage, control and administer the assets of the Authority in such manner and for such purposes as best promotes the purpose for which the Authority is established;
- (d) receive gifts, grants, donations or endowments made to the Authority and make disbursement therefrom in accordance with the provisions of this Act;
- (e) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Authority funds not immediately required for the purposes of this Act, as it may determine; and
- (f) open a bank account for the funds of the Authority into which all moneys received by the Authority shall be paid in the first instance and out of which all payments made by the Authority shall be made.

12. Committees of the Board

(1) The Board may establish such committees as it may consider necessary for the performance of its functions and the exercise of its powers under this Act.

(2) The Board may co-opt any person to sit on any committee established under subsection (1), whose knowledge and skills are found necessary for the performance of the functions of the Board.

13. Delegation by the Board

The Board may by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Authority, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

14. Conduct of business and affairs of the Board

The Board shall conduct its affairs in accordance with the provisions of the Second Schedule.

15. Director-General

(1) There shall be a Director-General of the Authority who shall be competitively recruited and appointed by the Board, on such terms and conditions as the Board shall determine.

(2) A person shall not be qualified for appointment as a Director-General under subsection (1) unless the person—

- (a) holds a degree from a university recognized in Kenya; and
- (b) has knowledge and experience in any of the following fields—
 - (i) transport;
 - (ii) law;
 - (iii) public health;
 - (iv) civil engineering; or
 - (v) economics.

(3) The Director-General shall be an *ex officio* member of the Board and shall have no right to vote at any meeting of the Board.

16. Tenure of office of Director-General

The Director-General shall be appointed for a term of three years and shall be eligible for reappointment for one further term.

17. Functions of the Director-General

(1) The Director-General shall be the chief executive officer of the Authority and secretary to the Board.

(2) In exercise of his functions under this Act, the Director-General shall, subject to the direction of the Board—

- (a) be responsible for the day-to-day management of the Authority;
- (b) manage the funds, property and affairs of the Authority;
- (c) be responsible for the management of the staff of the Authority;
- (d) implement the policies, programmes and objectives of the Authority;
- (e) cause to be prepared for the approval of the Board—
 - (i) the strategic plan and annual plan of the Authority; and
 - (ii) the annual budget and audited accounts of the Authority; and
- (f) perform such other duties as may be assigned by the Board.

18. Removal of Director-General

The Board may terminate the appointment of the Director-General in accordance with his terms and conditions of service for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

19. Staff of the Authority

(1) The Board may appoint such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Authority under this Act.

(2) The staff appointed under subsection (1) shall serve on such terms and conditions as the Board may, in consultation with the Salaries and Remuneration Commission, determine.

20. Seal of the Authority

(1) The common seal of the Authority shall be kept in the custody of the Director-General or such other person as the Board may direct, and shall not be used except upon the order of the Board.

(2) The common seal of the Board shall, when affixed to a document and authenticated, be judicially and officially noticed and unless the contrary is proved, any order or authorization by the Board under this section shall be presumed to have been duly given.

(3) The seal of the Authority shall be authenticated by the signature of the Director-General and the chairperson of the Board or in the absence of either person, such other member of the Board who shall be designated by the Board for that purpose on his behalf.

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.

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.

23. Conduct of affairs of the county transport and safety committees

The provisions relating to the conduct of the affairs of the Board prescribed in the Second Schedule shall apply with necessary modifications to the conduct of the affairs of the county transport and safety committee.

24. Protection from personal liability

No matter or thing done by a member of the Board or any officer, employee, or agent of the Authority shall, if the matter or thing is done in good faith and in the course of executing the functions, powers or duties of the Authority, render the member, officer, employee or agent personally liable for any action, claim or demand whatsoever.

25. Liability of the Authority to damages

The provisions of section 24 shall not relieve the Authority of the liability to compensate or pay damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, whether wholly or partially of any works.

PART IV – LICENSING PROVISIONS

26. Licensing of motor vehicles

(1) A person shall not—

- (a) operate any class of vehicle including private vehicles as public service vehicles; or
- (b) operate a commercial service vehicle whose tare weight exceeds three thousand and forty eight kilograms, unless the vehicle is licensed by the Authority.

(2) A registered owner, driver, or a person in possession of a motor vehicle used for the carriage of goods shall, for the purpose of this Part, be deemed to be the person by whom the vehicle is being used.

(3) Where at any time goods are carried in a motor vehicle which has been let on hire by the person who at the time of the carriage of the goods, is within the meaning of this Act, the user of the motor vehicle, the goods shall be deemed to be carried by that person for hire or reward.

(4) For the purposes of this Act—

- (a) the delivery or collection by a person of goods sold, used or let on hire or hire purchase in the course of a trade or business carried on by him;
- (b) the delivery or collection by a person of goods which have been, or are to be, subjected to a process or treatment in the course of a trade or business carried on by him;
- (c) the carriage by a person engaged in agriculture in any locality of goods for or in connection with the business of agriculture carried on by another person in that locality, so long as the goods are carried in a vehicle which the person carrying them is authorized by a licence to use for the carriage of goods for or in connection with his agricultural business;
- (d) the carriage of goods in a vehicle which is being used under and in accordance with the regulations applicable to a dealer's general licence issued under the Traffic Act (Cap. 403); and
- (e) the carriage of goods in a vehicle by a manufacturer, agent or dealer, whilst the vehicle is being used by him for demonstration purposes,

shall not constitute carrying of goods for hire or reward.

(5) This section shall not apply—

- (a) to the use of a motor vehicle for the purposes of a funeral; or
- (b) to the use of a motor vehicle for towing a motor vehicle or removing goods from a motor vehicle that has broken down to a place of safety.

(6) The Cabinet Secretary may, by notice in the *Gazette*, exempt any person or class of persons or any motor vehicle or class of motor vehicles from all or any of the provisions of this Act.

(7) A person who contravenes the provisions of subsection (1) 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 five years or to both.

[Act No. 19 of 2014, s. 44.]

27. Classes of licences

(1) The Authority may, on the application of a registered owner of a motor vehicle in Form A specified in the Third Schedule, issue the following classes of licences under this Act—

- (a) a road service licence issued for the carriage of passengers and goods;
- (b) a "B" carrier's licence issued for the carriage of commercial goods;
- (c) a tourist service licence; and
- (d) a short term licence issued for the carriage of passengers and goods under paragraph (a) or (b) on a short-term basis.

(2) A holder of a road service licence may, subject to any conditions attached to the issuance of the licence, use a motor vehicle in respect of which the licence is issued for the carriage of goods for hire or reward but, unless the Authority, in its discretion, otherwise determines, it shall be a condition of the licence that no motor vehicle which is for the time being an authorized motor vehicle shall be used for the carriage of goods for or in connection with any other trade or business carried on by him except such storage or warehousing of goods as may be incidental to his business as a carrier.

(3) For the purposes of this section, different types of motor vehicles or different types of trailers, as the case may be, may be distinguished in a licence and a maximum number may be specified in the licence for vehicles or trailers of each type.

(4) The Authority shall not issue a licence with respect to a motor vehicle for which a licence has been issued under this Act unless the first licence is withdrawn or revoked.

(5) The Authority may issue to a person, more than one licence, whether of the same class or of different classes in respect of different motor vehicles owned by the same person.

28. Exclusive licences

(1) Notwithstanding any other provisions of this Act, the Authority may, with the approval of the Cabinet Secretary, and subject to such conditions as it may consider fit to impose, grant to any person an exclusive licence authorizing such person to operate a motor vehicle as the case may be, for the carriage of passengers or goods in such areas, over such routes or between such places and for such period as the Authority may determine, and the provisions of this Act regarding applications for the grant of a licence shall apply to the applications for and grant of any exclusive licence.

(2) Where the Authority intends to grant an exclusive licence under subsection (1), it shall, by notice in the *Gazette* and in a local newspaper of wide circulation in the area to which the proposed exclusive licence relates, publish a notice of its intention to grant such licence at least thirty days before the date on which it intends to grant the licence.

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.

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.

31. Exemptions from conditions of a carrier's licence

A condition imposed with respect to a carrier's licence shall not apply while the motor vehicle is being used for any purpose for which it might lawfully be used without the authority of a licence.

32. Duration of a licence

(1) Subject to the provisions of subsection (2), every licence shall, unless previously revoked, remain in force for one year from the date of issue:

Provided that, if on the date of the expiration of a licence, proceedings are pending before the Authority on an application for the grant of a new licence with respect to the same vehicle, the existing licence shall continue in force until such application is determined.

(2) The Authority may grant a short term licence of any class for a period not exceeding three months—

- (a) for the purpose of carrying on business for a short-term;
- (b) for the purpose of the execution of a particular piece of work; or

(c) for any other purpose of limited duration.

(3) Without prejudice to the generality of subsection (2), the Authority may grant a short term licence if it is satisfied that the demand for the use of the motor vehicle to be so licensed is urgent and is in public interest.

(4) If on the date of the expiration of a licence other than a short term licence, proceedings are pending before the Authority on an application by the licensee for the grant to him of a new licence, the existing licence shall continue in force until the application is determined, without prejudice to the exercise in the meantime of the powers of suspension or revocation conferred on the Authority by this Act.

33. Licence not transferable

A licence issued under this Act shall not be transferable except with the written consent of the Authority, and, in the case of an exclusive licence, with the written consent of the Cabinet Secretary, endorsed on such licence.

34. Power to revoke or suspend licences

(1) The Authority may revoke or suspend a licence issued under this Act where the licensee fails to—

- (a) comply with a condition for the issuance of the licence; or
- (b) fails to operate the motor vehicle with respect to which the licence is issued for a period of three months during the period for which the licence is issued.

(2) The Authority shall, where it revokes or suspends a licence and at the request of the licensee inform the licensee in writing, the reasons for such revocation or suspension.

(3) The Authority may, in lieu of revoking or suspending a carrier's licence, direct that any one or more of the motor vehicles specified in the licence be expunged from the licence, or that the maximum number of motor vehicles or of trailers specified in the licence be reduced.

(4) Where the Authority directs that a motor vehicle specified in a licence be removed from the licence, the motor vehicle shall cease to be a licenced vehicle under this Act.

35. Expiry of licence

Where a licensee sells, transfers (otherwise than by way of security for any purpose) or otherwise disposes of the motor vehicle or any business in respect of which such licence was issued, such licence shall, unless any written consent of the Authority has been endorsed on such licence, expire with effect from the date of such sale, transfer or other disposal, and the vendor or transferor, or person who otherwise disposed of such motor vehicle or business, shall return to the Authority, the identity certificates and the licences issued under such identity certificates.

36. Power to call for further particulars

A person applying for a licence under this Act shall, in addition to any particulars which he is required to furnish with his application, submit to the Authority any information which it may reasonably require for the discharge of its duties in relation to the application and in particular shall submit such particulars as the Authority may require with respect to any business as a carrier of passengers and goods for hire or reward carried on by the applicant at any time before the making of the application and of the rates charged or proposed to be charged by the applicant

and of the wages and conditions and hours of employment of persons employed in connection with the motor vehicle proposed to be used under the licence.

37. Applicant to furnish details of motor vehicle within three months

(1) Where an application for the grant of a licence has been approved by the Authority, the applicant shall, if at the time of making the application, he had not finalized the purchase of the motor vehicle in respect of which the application is made, furnish the prescribed details required of such motor vehicle within three months after the date of approval by the Authority.

(2) Where an applicant fails to submit the prescribed details within a period of three months—

- (a) the approval issued by the Authority shall lapse; and
- (b) subject to subsection (3), the Authority shall not approve an application by the applicant of a licence of a similar class until a period of six months from the date of such application has expired.

(3) The Authority may, where an applicant under subsection (2) shows sufficient cause for the delay in submitting the prescribed information, grant a licence or determine a subsequent application for a licence before the expiry of six months and may impose such conditions which it considers appropriate.

38. Appeals against decision of Authority

A person who—

- (a) being an applicant for the grant or variation of a licence, is aggrieved by the decision of the Authority on the application;
- (b) having made an objection to any such application as aforesaid, being an objection which the Authority is bound to take into consideration, is aggrieved by the decision of the Authority thereon; or
- (c) being the licensee, is aggrieved by the revocation or suspension thereof,

may within the time and in the manner prescribed appeal to the Appeals Board established under section 39.

39. Transport Licensing Appeal Board

(1) There is established the Transport Licensing Appeals Board.

(2) The Appeals Board shall consist of a chairperson and four other members appointed by the Cabinet Secretary.

(3) The members of the Appeals Board shall hold office for such term and under such conditions as the Cabinet Secretary may determine.

(4) Three members of the Appeals Board shall form a quorum.

(5) The Appeals Board may, on any appeal, affirm or reverse the decision of the Authority, or make such other order as the Board considers necessary and fit.

(6) Where the Appeals Board has received an appeal under this section, it shall consider that appeal and, if it determines that the grounds of appeal are frivolous or vexatious or do not disclose sufficient reason for interfering with the decision of the Authority, may summarily reject the appeal.

(7) Save as may be prescribed, the Appeals Board shall regulate its procedure and proceedings as it may consider appropriate.

(8) The Cabinet Secretary shall make rules for regulating the practice and procedure of the Appeals Board.

(9) Without prejudice to the generality of subsection (8), such rules may provide for—

- (a) regulating the sittings of the Appeals Board;
- (b) prescribing forms and fees in respect of proceedings in the Appeals Board and regulating the costs of and incidental to any such proceedings;
- (c) prescribing the time within which any requirement of the rules is to be complied with; and
- (d) any other matter required under this Act or any other written law.

40. Forgery, etc., of licences

(1) A person who, with intent to deceive any person—

- (a) forges within the meaning of Chapter XXXIV of the Penal Code (Cap. 63), or alters or uses or lends to or allows to be used by any other person, a licence, or any document, plate or mark by which the subject of the licence is to be identified as being licensed under this Act; or
- (b) makes or has in his possession any document, plate or mark so closely resembling a licence, or any such document, plate or mark as aforesaid, as to be calculated to deceive,

commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding three years.

(2) A person who, for the purpose of—

- (a) obtaining a licence;
- (b) obtaining a variation of a licence;
- (c) preventing the grant or variation of any licence; or
- (d) procuring the importation of any condition or limitation in relation to a licence,

knowingly makes any false statement, commits an offence and shall be liable, on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year.

41. Contravention of conditions of a licence

A person who drives or uses a motor vehicle in contravention of any of the provisions of this Act, or being the owner of such vehicle, allows a person to so use it, and any driver or other person in charge of any vehicle in respect of which a licence has been granted under this Act who drives or uses such vehicle in contravention of any condition of such licence, or being the owner of such vehicle, allows a person to so use it, commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year.

42. Power to stop and inspect vehicles

(1) A police officer in uniform may stop and inspect any vehicle with a view to ascertaining whether or not the provisions of this Act or of any regulations made thereunder have been complied with, and may demand for inspection

the production of any licence, certificate, document or record of any description whatsoever which may, under the provisions of this Act or of any regulations made thereunder be required to be carried on such vehicle and may require the driver or any other person travelling on such vehicle to give such information as such police officer may reasonably request in order to ascertain whether or not the provisions of this Act or regulations are being complied with.

(2) A person who obstructs any police officer in the exercise of the powers conferred on such police officer by this section, or fails to comply with any lawful order given by such police officer or refuses to give any information when requested so to do by such police officer, commits an offence and shall be liable on conviction, to a fine not exceeding five thousand shillings, and in the case of a second or subsequent offence to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year.

43. Fees in respect of licences

An applicant for a licence under this Act shall pay such fees at such times and in such manner as the Cabinet Secretary may prescribe shall be charged by the Authority in respect of the grant or variation of a licence.

44. Rules in respect of records as to hours of work, journeys, loads, etc.

(1) The Authority may make rules to provide for the keeping by a licensee of current records showing—

- (a) with respect to every person employed by him as a driver or statutory attendant of an authorized motor vehicle, the times at which that person commenced and ceased work and particulars of his intervals of rest and the like information as respects himself when acting as such a driver or attendant;
- (b) with respect to every journey of a motor vehicle on which goods are carried under a licence, particulars of the journey, of the rates charged and of the greatest weight of goods carried by the vehicle at any time during the period to which the record relates and the description and destination of the goods carried; and
- (c) with respect to certain journeys of a vehicle on which passengers are carried, particulars in relation to the passengers travelling on board such vehicle in such form as the Authority may specify,

and such rules may make provisions for requiring drivers of authorized motor vehicles to carry such documents, and to make such entries therein, as may be prescribed in such rules.

(2) Subject to the provisions of the rules, the Authority may exempt a licensee from the observance, as respects the carriage of goods under a licence granted by him, of any requirements of the rules, and may grant such exemption either generally or as respects any particular vehicle or as respects the use of vehicles for any particular purpose on such conditions as it considers fit.

(3) A licensee shall preserve every record kept under the rules for a period of six months, commencing on the date on which the record is made, and for such further period, not exceeding six months, as may be required by the Authority or a police officer not below the rank of Superintendent, and during the period for which he is required by or under this subsection to preserve a record shall, if required so to do at any time by the Authority or by any person authorized in that behalf by the Authority or by any person authorized in that behalf by a police officer not below

the rank of Superintendent, produce the record for the inspection of the Authority or of the person so authorized.

(4) A person who fails to comply with the provisions of this section commits an offence and shall be liable, on conviction, in the case of a first offence, to a fine not exceeding one hundred thousand shillings, and in the case of a second or subsequent offence to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year.

PART V – FINANCIAL PROVISIONS

45. Funds of the Authority

The funds of the Authority shall comprise of—

- (a) such moneys 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;
- (b) such moneys as may be payable to the Authority pursuant to this Act or any other written law;
- (c) such gifts as may be donated to the Authority;
- (d) such money as may be appropriated by Parliament for the purposes of the Authority; and
- (e) money from any other source granted, donated, or lent to the Authority.

46. National Transport and Safety Levy

(1) The Cabinet Secretary may, upon the recommendation of the Authority and by order published in the *Gazette*, impose a levy to be known as the national transport and safety levy on—

- (a) any services rendered by the Authority;
premiums received by any insurance company in respect of every policy of insurance taken in accordance with the provisions of the Insurance (Motor Vehicles Third Party Risks) Act (Cap. 405), which shall be paid by the insurance company; and
- (b) ten percent of the revenue collected from motor vehicle registration, motor vehicle inspection and issuance of driver licences.

(2) A levy imposed under this section shall be determined from time to time and payable in such a manner as the Cabinet Secretary may specify in the order.

(3) Where a person fails to pay any amount payable by way of levy on or before the date prescribed by the order, a sum equal to five per centum of the amount shall become due and payable in addition to the amount due for each month or part thereof during which the amount due remains unpaid.

(4) All moneys received in respect of the levy shall be paid into the Fund and if not paid on or before the date prescribed in the order, the amount due and any sum payable under subsection (3) shall be a civil debt recoverable summarily by the Authority.

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.

48. Investment of funds

(1) The Authority may invest any of its funds in securities in which for the time being trustees may by law invest in trust funds, or in any other securities which the Treasury may, from time to time, approve for that purpose.

(2) The Authority may place or deposit with such bank or banks as it may determine, any moneys not immediately required for the purposes of the Authority.

49. Financial year

The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

50. Annual Estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the 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 concerned.

(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in the National Assembly.

51. Annual Report

The Board shall, within a period of three months after the end of each financial year, submit—

- (a) to the Auditor-General, the accounts of the Authority in respect of that year together with—
 - (i) a statement of the income and expenditure of the Authority during that year; and
 - (ii) a statement of the assets and liabilities of the Authority on the last day of that financial year; and
- (b) to the Cabinet Secretary, an annual report in respect of that year containing—
 - (i) the accounts of the Authority and statements referred to under paragraph (a);

- (ii) the Authority's performance indicators and any other related information;
- (iii) a report on the operations of the Authority during that year; and
- (iv) such other information as the Cabinet Secretary may request.

52. Accounts and Audit

(1) The Authority shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Authority.

(2) The annual accounts of the Authority shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

PART VI – MISCELLANEOUS PROVISIONS**53. Offences and penalties**

(1) A person who—

- (a) without lawful excuse, contravenes any lawful direction issued by any member, officer, employee or agent of the Authority in exercise of the powers or the performance of the functions of the Authority under this Act; or
- (b) wilfully obstructs any member, officer, employee or agent of the Authority in the discharge of his lawful duties,

commits an offence and shall be liable, on conviction, to a fine of at least one hundred thousand shillings, or to imprisonment for a term not exceeding one year.

(2) An offence committed under this Act shall be a cognizable offence by the police.

54. Regulations

The Cabinet Secretary may, in consultation with the Board, make regulations for the better carrying into effect of the provisions of this Act.

PART VII – REPEAL AND TRANSITIONAL PROVISIONS

- 55. [Spent]
- 56. [Spent]
- 57. [Spent]
- 58. [Spent]
- 59. [Spent]
- 60. [Spent]
- 61. [Spent]
- 62. [Spent]

FIRST SCHEDULE

[s. 4(1)(e)]

ACTST TO BE ADMINISTERED

The Traffic Act (Cap. 403)

SECOND SCHEDULE

[s. 14, 23]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE AUTHORITY

1. Meeting of the Board

- (1) The Board shall meet at most twelve times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.
- (2) The first meeting of the Board shall be convened by the chairperson and the Board shall meet subsequently at such a time and place as it shall determine.
- (3) Notwithstanding the provisions of sub-paragraph (1), the chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the Board at any time where he considers it expedient for the transaction of the business of the Authority.
- (4) The members of the Board shall elect a vice-chairman from among themselves—
 - (a) at the first sitting of the Board; and
 - (b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

- (5) A meeting shall be presided over by the chairperson or in his absence by the vice-chairman.
- (6) Unless three quarters of the total number of the members of the Board otherwise agree, at least five days written notice of every meeting of the Board shall be given to every member of the Board by the Director-General.
- (7) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Commission.
- (8) The proceedings of the Board shall not be invalidated by reason of a vacancy within its membership.

2. Quorum

- (1) Subject to sub-paragraph (2), the quorum of a meeting the Board shall not be less than half of the appointed members.
- (2) Where there is a vacancy in the Board, the quorum of the meeting shall not be less than three appointed members.

3. Decision by simple majority

Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a simple majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or person presiding over the meeting shall have a casting vote.

4. Conflict of interest

- (1) A member of the Board who has a direct or indirect personal interest in any matter being considered or to be considered by the Board shall, upon the relevant facts concerning the matter having come to his knowledge, disclose the nature of his interest to the Board.
- (2) A disclosure of interest made by a member of the Board under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not, unless the Board otherwise determines—
 - (a) be present during the deliberation on the matter by the Board; or
 - (b) take part in the decision of the Board on the matter.
- (3) A member of the Board who makes a disclosure under subsection (1) shall not—
 - (a) be present in the meeting of the Board held to determine whether or not the member should take part in the deliberations or decision of the Board in relation to the matter; or
 - (b) influence any other member of the Board in arriving at a particular decision in relation to the matter.
- (4) No member or staff of the Authority shall transact any business or trade with the Authority.

5. Rules of Procedure and minutes

- (1) Subject to provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board.
- (2) The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by

the Board at the next meeting of the Board and signed by the chairperson or the person presiding at the meeting.

THIRD SCHEDULE

[Section 27(1).]

FORMS

Ref _____

FORM A

REPUBLIC OF KENYA

THE NATIONAL TRANSPORT SAFETY AUTHORITY ACT

(Cap. 404)

APPLICATION FOR LICENCE

TO: NATIONAL TRANSPORT SAFETY AUTHORITY,
P.O. BOX 52692,
NAIROBI.

I/We hereby apply for a licence as under and I/We hereby declare that to the best of my/our knowledge and belief all the statements in the application are true.

Full name of applicant (in BLOCK letter)

Address _____

(1) Road Service Licence

(a) Route: Place of origin _____ Destination _____

Place between origin and destination _____

(b) *the proposed time-table, approved by the Authority must be submitted with this application*

(2) "B" Carriers' Licence (for hire or reward):

purpose for which licence is desired

Nature of goods

State any other trade/business carried on by the applicant

Tourist Licence

purpose for which licence is desired _____

Date _____

Signature of Applicant _____

DECISION OF THE AUTHORITY

APPROVED _____

NOT APPROVED _____

REASONS FOR NON APPROVAL _____

Signature _____

Place of decision _____

Date _____

Regn. Number of vehicle	Make (lorry, tanker, trailer)	Type Tare Weigh	Passenger (excluding driver) load-carrying capacity
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INSTRUCTIONS

If the applicant is not in possession of a vehicle:

The first, second and fourth columns should be completed as headed but should be used to indicate the number of vehicles applied for.

The third and fifth columns must always be completed.

This space to be left blank for use in Transport Licensing Board Office