

THE KENYA RAILWAYS CORPORATION (AMENDMENT) ACT, 2005

No. 5 of 2005

Date of Assent: 18th November, 2005

Date of Commencement: 24th November, 2005

AN Act of Parliament to amend the Kenya Railways Corporation Act

ENACTED by the Parliament of Kenya, as follows -

1. This Act may be cited as the Kenya Railways Corporation (Amendment) Act, 2005. Short title.

2. Section 8 of the Kenya Railways Corporation Act, in this Act referred to as “the principal Act”, is amended in subsection (1) by deleting the words “by means of the undertaking of the Corporation”. Amendment of section 8 of Cap 397.

3. The principal Act is amended in section 11 by adding the phrase “and to any agreement which may be subsisting entered into pursuant to section 11A” immediately after the word “Minister”. Amendment of section 11 of Cap. 397.

4. The principal Act is amended by inserting the following new section immediately after section 11 - Insertion of section 11A of Cap.397.

Concessions
of the
railways.

11A.(1) Notwithstanding any other provision of this Act, the Board may enter into an agreement with a person appointed in accordance with this section, for the performance of any of its functions or the exercise of any of its powers under this Act by that person.

(2) An agreement under subsection (1) may take the form of a concession, lease or management contract.

(3) The Board shall appoint the person for the purposes of an agreement under this section (hereafter referred to as "the appointed person") through competitive tendering in accordance with the law for the time being applicable to the procurement of public services.

(4) An agreement under this section shall -

- (a) be subject to the approval of the Minister;
- (b) specify the functions or powers of the Board to be performed or exercised, as the case may be, by the appointed person and those to remain the responsibility of the Board during the term of the agreement;
- (c) set out the terms and conditions applicable to the transfer of any of the employees of the Corporation recruited by the appointed person for the purposes of the agreement; and,
- (d) without prejudice to the generality of paragraph (b), provide for the operation, maintenance, rehabilitation and development of the railway and associated infrastructure of the Corporation.

(5) Where a function or power of the Board is conferred on the appointed person by virtue of an agreement under this section, the performance of the function or the exercise of the power by that person shall be deemed to be under the authority of this Act.

Amendment of section
12 Cap. 397.

5. The principal Act is amended in section 12 by inserting the phrase “subject to any agreement entered into pursuant to section 11A” immediately after the word “may”.

Amendment of Section
13 of Cap 397.

6. Section 13 of the principal Act is amended in subsection (1) by deleting the words “The Corporation shall have power to” and substituting therefor the phrase “Without prejudice to section 11A, the Corporation shall have power to”.

Amendment of section
19 of Cap 397.

7. Section 19 of the principal Act is amended by inserting the phrase “or a person appointed in accordance with section 11A” immediately after the word “Corporation”.