

Approved for tabling



REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT - FIFTH SESSION


THE DEPARTMENTAL COMMITTEE ON  
TRANSPORT, PUBLIC WORKS AND HOUSING

REPORT

ON

THE KENYA ROADS (AMENDMENT) BILL, 2021

(NATIONAL ASSEMBLY BILL NO. 13 OF 2021)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 05 AUG 2021	DAY: Thurs
TABLED BY:	Hon. David Pkosing Chair Transport
CLERK-AT THE TABLE:	Mainah Wanjiku

DIRECTORATE OF DEPARTMENTAL COMMITTEES  
CLERK'S CHAMBERS - NATIONAL ASSEMBLY  
PARLIAMENT BUILDINGS  
NAIROBI

AUGUST 2021



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## **ANNEXURES LIST**

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- (i) Minutes of the meetings of the Committee
- (ii) Adoption list of Members
- (iii) Newspaper advertisement inviting the public to make representations on the Bill
- (iv) Memoranda received by the Committee:
  - (a) Mr. Okiya Omtatah Okoiti
  - (b) Institute of Certified Public Accountants of Kenya (ICPAK)
  - (c) Kenya Institute of Supplies Management (KISM)
  - (d) Institute of Human Resource Management (IHRM)
  - (e) Institution of Engineers of Kenya (IEK)
  - (f) Office of the Attorney General & Department of Justice
  - (g) Kenya Roads Board (KRB)
  - (h) State Department for Infrastructure



## **CHAIRPERSON'S FOREWORD**

This report contains proceedings of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Kenya Roads (Amendment) Bill, 2021 (*National Assembly Bill No. 13 of 2021*), sponsored by Chairperson of the Departmental Committee on Transport, Public Works and Housing. The Bill was published on 30<sup>th</sup> April, 2021, read a First Time on 10<sup>th</sup> June, 2021 and thereafter committed to the Departmental Transport, Public Works and Housing for review and reporting to the House pursuant to Standing Order 127.

Following placement of adverts in the print media on 11<sup>th</sup> June, 2021 requesting for comments on the Bill from the public and relevant stakeholders pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee received eight (8) memoranda.

The Committee discussed the Bill with stakeholders on Wednesday, 28<sup>th</sup> July 2021. There were varied responses from the stakeholders; with others supporting the Bill as is while others proposing amendments. The Committee considered all the submissions while making recommendations to amend clause 3 of the Bill.

The Committee wishes to sincerely thank the Offices of the Speaker and of the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate. I also take this opportunity to thank all Members of the Committee for their patience, sacrifice, endurance and commitment towards the production of this Report. The Committee further wishes to record its appreciation for services rendered by the Committee Secretariat. Their efforts and input made the work of the Committee and production of this Report possible. The Committee further wishes to thank all the stakeholders who actively participated in the consideration of the Bill.

On behalf of the Departmental Committee on Transport, Public Works and Housing and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honor to present to this House the Report of the Committee on its consideration of the Kenya Roads (Amendment) Bill, 2021.



**HON. DAVID PKOSING, C.B.S, M.P.**

**Chairperson - Departmental Committee on Transport, Public Works and Housing**

## 1.0 PREFACE

1. Pursuant to Standing Order 127(1), the Bill was Read a First Time on Thursday, 10<sup>th</sup> June 2021 and consequently committed to the Departmental Committee on Transport, Public Works and Housing for consideration and thereafter report to the House.

### 1.1 Committee Mandate

2. The Departmental Committee on Transport, Public Works and Housing is established under Standing Order 216(1) whose mandate, pursuant to the Standing Order 216 (5), is as follows;
  - a. *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
  - b. *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
  - c. *study and review all legislation referred to it;*
  - d. *study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
  - e. *investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
  - f. *to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
  - f(a). *examine treaties, agreements and conventions;*
  - g. *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
  - h. *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
  - i. *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
  - j. *examine any questions raised by Members on a matter within its mandate.*
3. Further, the Second Schedule to the Standing Orders mandates the Committee to consider matters relating to the following subjects: -
  - a) Transport;
  - b) Roads;
  - c) Public works;
  - d) Construction and maintenance of roads, rails and buildings;
  - e) Air and seaports; and
  - f) Housing.
4. In executing this mandate, the Committee oversees various State Departments, namely:
  - a) The State Department of Transport;
  - b) The State Department of Infrastructure;
  - c) The State Department of Housing and Urban Development;
  - d) The State Department of Public Works; and
  - e) The State Department of Shipping and Maritime Affairs.

## 1.2 Committee Membership

5. The Committee on Transport, Public Works and Housing as constituted by the House comprises of the following members:

### **Chairperson**

Hon. David Pkosing, C.B.S., M.P.  
Pokot South Constituency  
Jubilee Party

### **Vice-Chairperson**

Hon. Gathoni Wamuchomba, H.S.C., M.P.  
Kiambu County  
Jubilee Party

### **Members:**

Hon. Abdul Rahim Dawood, M.P.  
North Imenti Constituency  
**Jubilee Party**

Hon. David Njuguna Kiaraho, M.P.  
Ol Kalou Constituency  
**Jubilee Party**

Hon. Johnson Many Naicca, M.P.  
Mumias West Constituency  
**Orange Democratic Movement Party**

Hon. Omar Mwinyi Shimbwa, M.P.  
Changamwe Constituency  
**Orange Democratic Movement Party**

Hon. Peris Tobiko, C.B.S., M.P.  
Kajiado East Constituency  
**Jubilee Party**

Hon. Samuel Arama, M.P.  
Nakuru Town West  
**Jubilee Party**

Hon. Ahmed Abdisalan Ibrahim, M.P.  
Wajir North Constituency  
**Orange Democratic Movement Party**

Hon. Ahmed Bashane Gaal, M.P.  
Tarbaj Constituency  
**Peoples Democratic Party**

Hon. Ali Wario Guyo, M.P.  
Garsen Constituency  
**Orange Democratic Movement Party**

Hon. Dominic Kipkoech Koskei, M.P.  
Soitik Constituency  
**Jubilee Party**

Hon. George Aladwa Omwere, M.P.  
Makadara Constituency  
**Orange Democratic Movement Party**

Hon. Gideon Mutemi Mulyungi, M.P.  
Mwingi Central Constituency  
**Wiper Democratic Party**

Hon. Kulow Maalim Hassan, M.P.  
Banisa Constituency  
**Economic Freedom Party (EFP)**

Hon. Mercy Wanjiku Gakuya, M.P.  
Kasarani Constituency  
**Jubilee Party**

Hon. Janet Wanyama Nangabo, M.P.  
Trans-Nzoia County  
**Jubilee Party**

Hon. Shadrack John Mose, M.P.  
Kitutu Masaba Constituency  
**Jubilee Party**

Hon. Tom Mboya Odege, M.P.  
Nyatike Constituency  
**Orange Democratic Movement Party**

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### 1.3 Committee Secretariat

6. The Committee secretariat comprise the following:

Ms. Chelagat Tungo Aaron  
**First Clerk Assistant**  
Head of Secretariat

Mr. Ahmed Salim Abdalla  
**Second Clerk Assistant**

Mr. Ronald Walala  
**Legal Counsel I**

Mr. Abdinasir Moge Yusuf  
**Fiscal Analyst I**

Mr. Eric Kariuki  
**Research Officer III**

Ms. Zainabu Wario  
**Serjeant-at-Arms**

Mr. Yeziel Jilo  
**Serjeant-at-Arms**

Mr. Yaqub Ahmed  
**Media Relations Officer**

Mr. Collins Mahamba  
**Audio Recording Officer**

## **2.0 OVERVIEW OF THE KENYA ROADS (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 13 OF 2021)**

### **2.1 Analysis of the Bill**

7. The principal object of this Bill is to amend the Kenya Roads Act, 2007 to enhance the term of office and the qualifications for appointment as a Director-General under the Act. The Bill further seeks to amend the Act to align it with the Constitution and the Public Audit Act, 2015 with regard to the audit of public bodies by the Auditor-General.
8. Clause 1: Provides for the short title.
9. Clause 2: Proposes amendment to Section 13 of the Kenya Roads Act, 2007 by deleting the word “three” appearing immediately after the words “term of” and substituting therefor the word “five”.
10. Clause 3: Proposes repeal and replacement of Section 14 of the Kenya Roads Act, 2007 and replacing it with a new section on Qualification of Director General.
11. Clause 4: Proposes amendment to Section 38 of the Kenya Roads Act, 2007
12. Clause 5: Proposes amendment to Section 44 of the Kenya Roads Act, 2007
13. The Bill does not delegate legislative powers, neither does it limit fundamental rights and freedoms.
14. The enactment of the Bill shall not occasion additional expenditure of public funds.

### 3.0 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

15. Following the call for submission of memoranda by the public through the placement of advertisements in the print media of 11<sup>th</sup> June 2021 and 2<sup>nd</sup> July 2021, the Committee received eight memoranda.
16. On 2<sup>nd</sup> August 2021, the Committee considered its report on the Bill and adopted it in the same sitting.
17. The following stakeholders submitted memoranda to the Committee—
  - (a) Mr. Okiya Omtatah Okoiti;
  - (b) Institute of Certified Public Accountants of Kenya (ICPAK);
  - (c) Kenya Institute of Supplies Management (KISM);
  - (d) Institute of Human Resource Management (IHRM);
  - (e) Institution of Engineers of Kenya (IEK);
  - (f) Office of the Attorney General & Department of Justice;
  - (g) Kenya Roads Board (KRB); and
  - (h) State Department for Infrastructure.

#### Consideration of the Kenya Roads (Amendment) Bill, 2021

18. While considering the Kenya Roads Bill, 2021 the Committee took into account the written memoranda (*annexure (iv)*) and oral submissions received from the public regarding each clause.

##### Clause 1

19. There were no submissions from stakeholders regarding clause 1.

##### Clause 2

20. The State Department for Infrastructure, the Kenya Roads Board, the Institution of Engineers of Kenya, and the Institute of Certified Public Accountants of Kenya supported the enhancement of the term of office for a Director General appointed under the Act to five years as contained in the Bill. Mr. Okiya Omtatah Okoiti opposed the enhancement of the term of office, noting that the current three-year renewable period is adequate.

##### Clause 3

21. The State Department for Infrastructure and the Kenya Roads Board supported the proposed qualifications for appointment as a Director General as contained in Clause 3 of the Bill.
22. The Institution of Engineers of Kenya proposed the inclusion of a master's degree or higher in a related field; registration with the Engineers Board of Kenya as a Professional Engineer or higher category; membership of the Institution of Engineers of Kenya; and at least fifteen (15) years post-registration experience in highway, road or transportation engineering as part of the qualifications for appointment as a Director General.
23. On the other hand, the Institute of Certified Public Accountants, Okiya Omtatah, the Institute of Human Resource Management, and the Kenya Institute of Supplies Management proposed the opening up of the qualifications for appointment as a Director-General to persons from professions. It was their view that the current provisions of the

Act and the proposal in the Bill limit the position of the Director General to one profession only and hence discriminates against other professions which are able to provide competent candidates to be considered for appointment on merit.

**Clause 4**

24. There were no submissions from stakeholders regarding clause 4.

**Clause 5**

25. There were no submissions from stakeholders regarding clause 5.

## 4.0 COMMITTEE'S OBSERVATIONS

26. The Committee observed as follows:

- (1) The proposal to enhance the term of office of the Director-General from three years to five-years had been contained in the Kenya Roads Bill, 2017 which was lost at mediation. The proposal to enhance the term had been approved by both Houses of Parliament and formed the basis of the Clause 2 as contained in the Bill.
- (2) Majority of the submissions from the public proposed that the qualifications for appointment as a Director General under the Kenya Roads Act, 2007 be opened up to allow the consideration of competent persons in other professions for appointment;
- (3) The current qualifications for appointment as a Director-General, which limit appointment to those in the engineering profession, are not aligned with the general managerial functions of the role outlined at section 13(4) of the Act. Section 13(4) provides as follows—

*“(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 fulfilment 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.”*

- (4) The Kenya Roads Act was enacted in 2007, prior to the promulgation of the current Constitution. Article 232(1) of the Constitution outlines the values and principles of public service which include fair competition and merit as the basis for appointment to public office. Article 232(1) of the Constitution provides as follows—

*“(1) The values and principles of public service include—*

- (a) high standards of professional ethics;*
- (b) efficient, effective and economic use of resources;*
- (c) responsive, prompt, effective, impartial and equitable provision of services;*
- (d) involvement of the people in the process of policy making;*
- (e) accountability for administrative acts;*



*(f) transparency and provision to the public of timely, accurate information;*  
*(g) subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;*  
*(h) representation of Kenya's diverse communities; and*  
*(i) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—*

*(i) men and women;*

*(ii) the members of all ethnic groups; and*

*(iii) persons with disabilities.”*

- (5) The current provision on qualifications contained in the Act is discriminatory as it reserves the post of Director General to only one qualification and profession.
- (6) Clause 3 of the Bill would therefore need to be amended to allow the consideration and appointment of persons from other professions to the post of Director General.

## COMMITTEE'S RECOMMENDATION

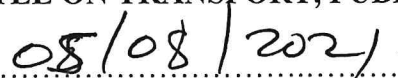
27. The Committee having considered the Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021), stakeholders' comments on the Bill and the above observations recommends to the House to pass the Bill with amendments. The Committee shall propose amendments to Clause 3 of the Bill as contained in the Schedule.

Signed .....  


**Hon. David L. Pkosing, C.B.S., M.P.**

**Chairperson**

**DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING**

Date .....  


## **SCHEDULE OF AMENDMENTS**

### **CLAUSE 3**

Clause 3 of the Bill be amended by deleting the proposed new section 14 of the Act and substituting therefor the following—

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

- (a) holds a postgraduate degree in engineering, architecture, finance, accounts, management, law or a related field from a university recognized in Kenya;
- (b) has at least ten years' experience in a senior managerial position within the roads sector;
- (c) is registered by a relevant regulatory body;
- (d) is a member in good standing of a relevant professional body; and
- (e) satisfies the requirements of Chapter six of the Constitution.

#### **Justification(s):**

- (1) In light of immense public interest from stakeholders
- (2) To align the provision with the values and principles of public service outlined at Article 232 of the Constitution which include fair competition and merit in appointments to public office;
- (3) To align the provision with the general managerial functions of the Director General outlined in s.13 of the Act;
- (4) To promote fair competition for the position and ensure recruitment of the most competent candidate. The current provision is discriminatory as it reserves the post of DG to only one qualification and profession



(i)

# Minutes

of the meetings of the Committee



**MINUTES OF THE THIRTY EIGHTH (38<sup>TH</sup>) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON MONDAY, 2<sup>ND</sup> AUGUST 2021 AT 2.30 P.M. AT 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE**

**MEMBERS PRESENT**

1. Hon. David L. Pkosing, M.P. - Chairperson
2. Hon. Abdul Rahim Dawood, M.P.
3. Hon. David Njuguna Kiaraho, M.P. - *virtually*
4. Hon. Johnson Many Naicca, M.P.
5. Hon. Omar Mwinyi Shimbwa, M.P.
6. Hon. Samuel Arama, M.P. - *virtually*
7. Hon. Ahmed Abdisalan Ibrahim, M.P. - *virtually*
8. Hon. Ahmed Bashane Gaal, M.P.
9. Hon. Ali Wario Guyo, M.P.
10. Hon. Dominic Koskei, M.P. - *virtually*
11. Hon. Kulow Maalim Hassan, M.P.
12. Hon. Mercy Wanjiku Gakuya, M.P.
13. Hon. Shadrack John Mose, M.P.
14. Hon. Tom Mboya Odege, M.P. - *virtually*

**MEMBERS ABSENT WITH APOLOGY**

15. Hon. Gathoni Wamuchomba, M.P. - Vice Chairperson
16. Hon. Peris Pesi Tobiko, M.P.
17. Hon. George Aladwa Omwera, M.P.
18. Hon. Gideon Mulyungi, M.P.
19. Hon. Janet Nangabo, M.P.

**SECRETARIAT**

- |                        |   |                    |
|------------------------|---|--------------------|
| 1. Mr. Ahmed Salim     | - | Clerk Assistant II |
| 2. Mr. Ronald Walala   | - | Legal Counsel      |
| 3. Ms. Zainab Wario    | - | Sergeant-at-arm    |
| 4. Mr. Collins Mahamba | - | Audio Officer      |
| 5. Ms. Mercy Mutuku    | - | Legislative Fellow |
| 6. Mr. Boniface Matano | - | Legislative Fellow |

**MIN No. TPWH 223/2021:**

**PRELIMINARIES**

The Chairman called the meeting to order at two o'clock followed by a word of prayer. The Chairman informed the Honorable Members that the Committee was meeting to adopt the report on NCA (Amendment) Bill, 2021 and Kenya Roads.

The agenda of the meeting was therefore adopted after being proposed by the Hon. Ahmed Bashane, MP and seconded by the Hon. Johnson Naicca, MP.

**MIN No. TPWH 224/2021:**

**CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS**

Confirmation of minutes of the previous sitting was deferred.

**MIN NO. TPWH 225/2021:**

**ADOPTION OF THE REPORT ON  
CONSIDERATION OF THE NATIONAL  
CONSTRUCTION AUTHORITY (AMENDMENT)  
BILL, 2020 (NATIONAL ASSEMBLY BILL NO. 45  
OF 2020)**

The Committee observed that the Bill was well-intentioned but the benefits sought through the Bill can be achieved without amending the National Construction Authority Act, 2011. It was noted that the exemption sought through the Bill is within the existing powers of the Cabinet Secretary and the NCA Board, as per section 42(1) of the Act and Regulation 27 of the National Construction Authority Regulations 2014. The Committee therefore noted that it was not ideal to legislate on a matter that can flexibly be regulated through Regulations.

Having considered the National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020) and stakeholders' comments on the Bill, the Committee resolved to recommend to the House to reject the Bill in its entirety. The Committee shall propose amendments to the Bill as contained in the Schedule.

Report on Consideration of The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020) was therefore adopted after being proposed by Hon. Johnson Many Naicca, M.P. and seconded by Hon. Shadrack Mose.

**MIN NO. TPWH 226/2021:**

**ADOPTION OF THE REPORT ON  
CONSIDERATION OF THE KENYA ROADS  
(AMENDMENT) BILL, 2021 (NATIONAL  
ASSEMBLY BILL NO. 13 OF 2021)**

There was a debate on whether to amend clause 2 and clause 3 of the Bill. The Committee therefore resolved not to amend clause 2 of the Bill, to leave the tenure for the Director General at 5 years as proposed. The Committee further noted that this position was not and it was also agreed during consideration of the Kenya Roads Bill, 2017.

Regarding clause 3, the Committee by majority proposed that the Bill be amended by deleting it and replacing it with the following:

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

- (a) holds a postgraduate degree in engineering, architecture, finance, accounts, management, law or a related field from a university recognized in Kenya;*
- (b) has at least ten years' experience in a senior managerial position within the roads sector;*
- (c) is a member in good standing of a relevant professional body; and*
- (d) satisfies the requirements of Chapter six of the Constitution.*

Report on Consideration of the Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021) was therefore adopted after being proposed by Hon. Ali Wario, M.P. and seconded by Hon. Abdul Rahim Dawood.

**MIN No. TPWH 227/2021:**

**ANY OTHER BUSINESS**

The Committee resolved to have the meeting scheduled for Wednesday, 4<sup>th</sup> August 2021 postponed because according to the Order Paper, the House will be sitting.



**MIN No. TPWH 228/2021:**

**ADJOURNMENT**

There being no other business, the sitting was adjourned at two o'clock. Next meeting to be held on Tuesday, the 3<sup>rd</sup> day of August 2021, at 11:00am.

**Signed.....**

*[Signature]*

**(Chairperson)**

**Date.....**

*3/8/2021*



**MINUTES OF THE THIRTY FIFTH (35<sup>TH</sup>) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON WEDNESDAY, 28<sup>TH</sup> JULY 2021 AT 10.00 A.M. AT 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE**

**MEMBERS PRESENT**

1. Hon. David L. Pkosing, M.P. - Chairperson
2. Hon. Abdul Rahim Dawood, M.P. - *virtually*
3. Hon. Johnson Manya Naicca, M.P.
4. Hon. Omar Mwinyi Shimbwa, M.P. - *virtually*
5. Hon. Peris Pesi Tobiko, M.P. - *virtually*
6. Hon. Samuel Arama, M.P.
7. Hon. Ahmed Abdisalan Ibrahim, M.P. - *virtually*
8. Hon. Ahmed Bashane Gaal, M.P.
9. Hon. Ali Wario Guyo, M.P. - *virtually*
10. Hon. Dominic Koskei, M.P.
11. Hon. Gideon Mulyungi, M.P. - *virtually*
12. Hon. Janet Nangabo, M.P.
13. Hon. Kulow Maalim Hassan, M.P. - *virtually*
14. Hon. Mercy Wanjiku Gakuya, M.P. - *virtually*
15. Hon. Tom Mboya Odege, M.P. - *virtually*

**MEMBERS ABSENT WITH APOLOGY**

16. Hon. Gathoni Wamuchomba, M.P. - Vice Chairperson
17. Hon. David Njuguna Kiaraho, M.P.
18. Hon. George Aladwa Omwera, M.P.
19. Hon. Shadrack John Mose, M.P.

**SECRETARIAT**

- |                        |   |                    |
|------------------------|---|--------------------|
| 1. Mr. Ahmed Salim     | - | Clerk Assistant II |
| 2. Mr. Ronald Walala   | - | Legal Counsel      |
| 3. Ms. Zainab Wario    | - | Sergeant-at-arm    |
| 4. Mr. Nixon Mutai     | - | Audio Officer      |
| 5. Ms. Mercy Mutuku    | - | Legislative Fellow |
| 6. Mr. Boniface Matano | - | Legislative Fellow |

**IN ATTENDANCE**

- |                             |   |  |
|-----------------------------|---|--|
| 1. Mr. Okiya Omtatah Okoiti | - | Petitioner on the Kenya Roads Bill 2021 - <i>virtually</i> |
| 2. Dr. Eng. Timothy Okech   | - | Institution of Engineers of Kenya                          |
| 3. Eng. Nathaniel Matalanga | - | President, Institution of Engineers of Kenya               |
| 4. Eng. Margaret N. Ogai    | - | Engineers Board of Kenya                                   |
| 5. Ms. Nancy Moraa          | - | ICPAK  |
| 6. Mr. Nelson Ogallo        | - | ICPAK  |
| 7. Ms. Sheila Mwathi        | - | ICPAK  |
| 8. Eng. Isiah Mutonyi       | - | IEK  |
| 9. Eng. Peter M. Mundinia   | - | DG, Kenya National Highways Authority                      |
| 10. Eng. Francis Gitau      | - | Infrastructure Secretary                                   |
| 11. Prof. Paul M. Maringa   | - | Principal Secretary, Infrastructure                        |
| 12. FCPA Hesbon Omollo      | - | ICPAK, Council Member                                      |
| 13. Mr. Wycliffe Nyakina    | - | IHRM   |
| 14. Eng. Maurice Nabende    | - | Director, KIHBT  |
| 15. Eng. S. K. Kogi         | - | CE (MTRD), Infrastructure                                  |
| 16. Mr. Rashid Mohammed     | - | DG, Kenya Roads Board                                      |
| 17. Eng. Silas M. Kinoti    | - | DG, Kenya Urban Roads Authority                            |

18. Eng. Philemon K. Kandie	-	Ag. Director General, KeRRA
19. CHRP Quresha Abdullahi	-	Executive Director, IHRM
20. Mr. Lloyel Wachira	-	Legal & Compliance, IHRM
21. Dr. Martin Gachukia	-	Registrar and Ag. CEO, KISM
22. Mr. Samson Maundu	-	Sen. Parliamentary Counsel, AG's Office
23. Ms. Catherine Butaki	-	KeRRA - <i>virtually</i>
24. Mr. Jackson Magundu	-	KeRRA - <i>virtually</i>
25. Mr. Dan Manyasi	-	KeRRA - <i>virtually</i>
26. Eng. Peter Gichohi	-	
27. Eng. Justus Otware	-	
28. Mr. J. Mbae	-	
29. Mr. Robe Aberdare	-	

**MIN No. TPWH 193/2021: PRELIMINARIES**

The Chairman called the meeting to order at ten o'clock followed by a word of prayer. The Chairman informed the Honorable Members that the Committee was meeting stakeholders to receive their views on the Kenya Roads (Amendment) Bill 2021. The Committee noted that in response to the advertisements dated 11<sup>th</sup> June 2021 and 2<sup>nd</sup> July 2021, the Committee received memoranda from the following:

1. Mr. Okiya Omtata Okiiti
2. State Department for Infrastructure
3. Office of the Attorney General
4. Kenya Roads Board
5. Institute of Certified Public Accountants of Kenya
6. Kenya Institute of Supplies Management
7. Institute of Human Resource Management
8. The Institution of Engineers of Kenya

The agenda of the meeting was therefore adopted after being proposed by the Hon. Ali Wario, MP and seconded by the Hon. Tom Odege, MP.

**MIN No. TPWH 194/2021: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS**

Confirmation of minutes of the previous sitting was deferred.

**MIN NO. TPWH 195/2021: SUBMISSIONS FROM MR. OKIYA OMTATA OKOITI ON THE KENYA ROADS (AMENDMENT) BILL 2021 (BILL NO. 13 OF 2021)**

Mr. Okiya Omtatah referred to his memorandum to the Committee, through the Clerk of the National Assembly, dated 18<sup>th</sup> June 2021 on the Kenya Roads (Amendment) Bill 2021. He expressed appreciation to the Committee for the opportunity to make his oral submissions. In his submissions, he stated that there was misrepresentation in the memorandum of objects and reasons as provided for in the Bill; which in his opinion, was not an innocent error. He stated that when the advert dated 11<sup>th</sup> June 2021 came up, it still contained the misinformation, and that is when he took it upon himself to challenge the proposed Bill in Court. He submitted that the public should not be misled. He however took note of the subsequent advert of clarification dated 2<sup>nd</sup> July 2021.

Mr. Omtatah further submitted that as regards to the proposed changes to the tenure of the Director General, it was not clear if the changes in law applied retrogressively or progressively. He was concerned on whether the proposed changes were meant to benefit the current office

holders or whether they were indeed made for posterity. He claimed that the amendment could have been brought to specifically benefit the Director General for the Kenya National Highways Authority. Mr. Omtatah therefore proposed that the three-year term (renewable) would be ideal and that there was no justification for the proposed five-year term.

On the qualifications for the position of the Director General, Mr. Omtatah submitted that leadership positions should be opened to everyone and that capacity to run the organization should be the main consideration. He explained that the DG positions should be differentiated with other technical requirements. He gave an example of Kenyatta National Hospital and Nairobi Hospital as one of many organizations which are efficiently run by people from other fields. He explained that this was possible because these are management functions which require a variety of skills such as in finance and administration among others, and that the proposal to restrict the position to engineers was not justifiable. He recommended that the National Assembly rejects the proposal.

**MIN NO. TPWH 196/2021:**

**SUBMISSIONS FROM INSTITUTION OF  
ENGINEERS OF KENYA (IEK) ON THE KENYA  
ROADS (AMENDMENT) BILL 2021**

The IEK referred to their memorandum to the Committee, through the Clerk of the National Assembly, dated 8<sup>th</sup> July 2021 on the Kenya Roads (Amendment) Bill 2021. They submitted that they were in support of the proposals contained in the Bill.

They indicated that they initially proposed not to change the term of office from three to five years, because they did not want it to coincide with elections. But later accepted the five years change upon realizing that the five-year tenure will not occasion any inconvenience.

Under clause 14 (a), the requirement of a Master's Degree was not explicitly spelled out in the current provision. They proposed an amendment to add: "a Master's degree or higher in a related field". They explained that this addition would add value to the post graduate qualification to make it relevant to the primary mandate of the Authority.

Under clause 14(b), they submitted that the current clause reads "is registered with the Engineers Board of Kenya". They proposed that it should read: "is registered with the Engineers Board of Kenya as a Professional Engineer or higher category". They explained that category of registration should be specified to preclude those who are registered at the Graduate Level and cannot therefore bear professional responsibility or temporary holders of licenses as is the case for foreign professionals.

In the same clause 14(b), they noted that the requirement for IEK membership has been dropped. They therefore recommended an amendment to add the words: "and is a member of the Institution of Engineers of Kenya". They explained that membership of IEK should be maintained to ensure that the person appointed at the helm of the organization is not only a fully qualified professional but maintains contacts with his professional peers within the Engineering fraternity for the purpose of continuous professional development to keep abreast with latest technological developments, mentorship and professional accountability. This will enable him to inspire professionalism in the organization with the benefit of strengthening the Authority/Institution.

Under clause 14(c), they noted that Post Registration experience was being reduced from 15 to 10 years. They explained that the requirement for 15 years post registration experience was critical. They submitted that 10 years post registration experience was rather too low for requisite industrial exposure at management level necessary for one to exercise the level of sound professional judgement required of the Director General. Under clause 14(d), they noted

that there was a typographical error and therefore recommended the substituting of the word “experiment” with “experience”.

**MIN NO. TPWH 197/2021:**

**SUBMISSIONS FROM THE INSTITUTE OF  
CERTIFIED PUBLIC ACCOUNTANTS OF  
KENYA (ICPAK) ON THE KENYA ROADS  
(AMENDMENT) BILL 2021**

ICPAK referred to their memorandum to the Committee, through the Clerk of the National Assembly, dated 30<sup>th</sup> June 2021 on the Kenya Roads (Amendment) Bill 2021.

They declared support for clause 2 of the Bill, but further submitted that re-appointment for one more term should be subject to performance evaluation by the board. They therefore proposed an amendment to Clause 2 to read “the Director-General shall hold office for a term of five years and shall be eligible for re-appointment for one more term subject to performance evaluation by the board.”

On clause 3, they submitted that the proposed qualification for the Director General was discriminatory by limiting the qualifications of Director General to civil engineer. They explained that the functions of a Director General are not technical or regulatory in nature to warrant specific professional competence and skills. They further noted that a Master’s Degree may not be necessary since it is a leadership position.

In addition to the two proposals, the Institute also proposed other amendments to the Kenya Roads Act for consideration by the Committee. This includes amendments to Section 5(2), Section 8(2) and Section 11(2) on Board members tenure and amendment to the Third Schedule on Board Committees and on the Secretary to the Board.

**MIN NO. TPWH 198/2021:**

**SUBMISSIONS FROM THE KENYA INSTITUTE  
OF SUPPLIES MANAGEMENT (KISM) ON THE  
KENYA ROADS (AMENDMENT) BILL 2021**

KISM referred to their memorandum to the Committee, through the Clerk of the National Assembly, dated 9<sup>th</sup> July 2021 on the Kenya Roads (Amendment) Bill 2021. They proposed amendments to Section 14(a) & (b) of the Kenya Roads (Amendments) Bill, 2021 by deleting the whole of subsection (a) & (b) providing that, “A person shall be qualified for appointment as Director General if such a person 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 has at least fifteen years post-registration experience in the field of road and highway engineering. In its place, they recommended to replace it with the following requirements:

- a) holds a degree in procurement and supply chain management, human resource management, finance, accounting, law or engineering from a university recognized in Kenya;
- b) has knowledge and at least ten years’ experience in the relevant field;
- c) is a member of a relevant professional body and in good standing;
- d) has served in a senior management position for a period of at least five years; and
- e) satisfies the requirement of Chapter Six of the Constitution.

**MIN NO. TPWH 199/2021:**

**SUBMISSIONS FROM THE INSTITUTE OF  
HUMAN RESOURCE MANAGEMENT (IHRM)  
ON THE KENYA ROADS (AMENDMENT) BILL  
2021**



The IHRM referred to their memorandum to the Committee, through the Clerk of the National Assembly, dated 7<sup>th</sup> July 2021 on the Kenya Roads (Amendment) Bill 2021. They proposed amendments to Section 14(a) & (b) of the Bill by deleting the whole of subsection (a) & (b) and replace it with the following requirements:

- a) holds a degree in human resource management, finance, accounting, law or engineering from a university recognized in Kenya;
- b) has knowledge and at least ten years' experience in the relevant field;
- c) is a member of a relevant professional body and in good standing;
- d) has served in a senior management position for a period of at least five years; and
- e) satisfies the requirement of Chapter Six of the Constitution.

**MIN NO. TPWH 200/2021:**

**SUBMISSIONS FROM THE STATE  
DEPARTMENT FOR INFRASTRUCTURE ON  
THE KENYA ROADS (AMENDMENT) BILL 2021**

The State Department for Infrastructure was supported by the Kenya Roads Board, Engineers Board of Kenya and the Office of the Attorney General. They were all in support of the proposed Kenya Roads (Amendment) Bill 2021. The Ministry was in support of the Bill, and provided clarification on issues raised by Members as well as those raised by other stakeholders.

The Principal Secretary submitted that there was no big difference between a registered and a professional engineer. Regarding the post for Director General of the authorities, he submitted that office administration was an important aspect of that office and that you also need somebody who is competent enough to handle the gravity of the road sector. He explained that a lot is required in terms of professional knowledge at the level of the DG.

While supporting the PS submissions, the Engineers Board of Kenya observed recent accidents in county government buildings sadly point to a lack of technical competence by those who were in charge of those sectors, and that to avert those scenarios, it was necessary to go for highly trained and technical candidates. They explained that EBK supported the Bill as it will bring in professionalism. They further recommended an amendment to clause 3 of the Bill so that the new section 14(b) could read "is registered with the Engineers Board of Kenya as a professional engineer or higher". It was noted that there were three types of engineers namely; graduate engineers, professional engineers and consulting engineers.

Responding to Members questions, the office of the Attorney General explained that if the National Assembly opens up the competence requirement to include other professionals, then that would still be in order and well within the powers of the National Assembly.

**MIN No. TPWH 201/2021:**

**ADJOURNMENT**

There being no other business, the sitting was adjourned at two o'clock. Next meeting to be held same day on Wednesday, the 28<sup>th</sup> day of July 2021, at 2:30pm.

Signed.....

(Chairperson)

Date.....3 / 8 / 2021

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# (ii)

## Adoption list of Members



**Adoption of the Report on the Consideration of the Kenya Roads (Amendment) Bill, 2021**  
**(National Assembly Bill No. 13 of 2021)**

We, the Members of the Departmental Committee on Transport, Public Works and Housing, have, pursuant to Standing Order 199, adopted this Report and affixed our signatures to affirm our approval and confirm its accuracy, validity and authenticity:

1. Hon. David Pkosing, CBS – Chairperson

  
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2. Hon. Gathoni Wamuchomba, HSC – Vice Chairperson

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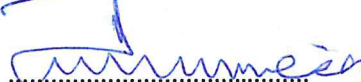
3. Hon. Abdul Rahim Dawood

  
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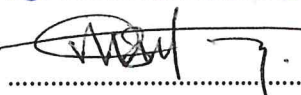
4. Hon. David Njuguna Kiaraho

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5. Hon. Johnson Many Naicca

  
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6. Hon. Omar Mwinyi Shimbwa

  
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7. Hon. Peris Pesi Tobiko, CBS

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8. Hon. Samuel Arama

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9. Hon. Ahmed Abdisalan Ibrahim

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10. Hon. Ahmed Bashane Gaal

  
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11. Hon. Ali Wario Guyo

  
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12. Hon. Dominic Kipkoech Koskei

  
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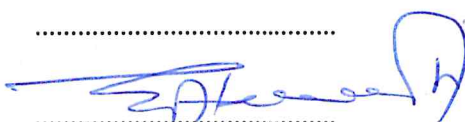
13. Hon. George Aladwa Omwera

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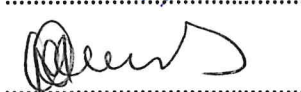
14. Hon. Gideon Mutemi Mulyungi

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15. Hon. Kulow Maalim Hassan

  
.....

16. Hon. Mercy Wanjiku Gakuya

  
.....

17. Hon. Janet Wanyama Nangabo

.....

18. Hon. Shadrack John Mose

  
.....

19. Hon. Tom Mboya Odege

  
.....



(iii)  
Newspaper  
Advertisement  
inviting the public to make  
representations on the Bill





**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**  
**TWELFTH PARLIAMENT- FIFTH SESSION**

In the Matter of Article 118(1) (b) of the Constitution  
 And  
 In the Matter of Consideration by the National Assembly of;

1. The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020);
2. The Pharmacy and Poisons (Amendment) Bill (National Assembly Bill No. 1 of 2021);
3. The Health (Amendment) Bill (National Assembly Bill No. 14 of 2021);
4. The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021);
5. The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021);
6. The Community Groups Registration Bill (National Assembly Bill No. 20 of 2021);
7. The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021);
8. The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021);
9. The Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);
10. The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020);
11. The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020);
12. The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020);
13. The Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021);
14. The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021).

**SUBMISSION OF MEMORANDA**

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the aforementioned Bills, whose objects are as follows;

**The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020)** sponsored by Hon. Paul Mwirigil, MP, Igembe South Constituency, seeks to amend the Higher Education Loans Board Act in order to provide that a loanee shall commence the repayment of his or her loan once he or she secures employment. The amendment is meant to cushion unemployed graduates from being charged interest on the loan before they have secured employment.

**The Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly Bill No. 1 of 2021)** sponsored by Hon. Alfred Keter, MP, Nandi Hills Constituency, seeks to amend the Pharmacy and Poisons Act to prohibit the sale or dispensing of medicine without written prescription from a registered medical practitioner.

**The Health (Amendment) Bill, 2021 (National Assembly Bill No. 14 of 2021)** sponsored by Hon. Moses Mwambu Wekesa Mabonga, MP, Bumula Constituency, seeks to amend the Health Act No. 21 of 2017 to provide that the National government and county governments shall, in consultation through the existing inter-governmental relations mechanism establish regional cancer centers; to make it an offence for a person in-charge of a Public Health facility to demand or permit of payments of advance medical fees as pre-condition for the provision of medical services; to make it an offence for person in-charge of a Public Health facility to detain a body of deceased person as means of enforcing settlement of outstanding medical bills and to provide for regulation on levying of charges for the practice of conventional medical practice.

**The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021)** seeks to provide for the establishment and operationalization of the National Electronic Single Window System in order to facilitate trade, the establishment of the Kenya Trade Network Agency, to provide for electronic transactions, and for connected purposes.

**The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021)** seeks to provide for development, regulation and promotion of the Coffee Industry, provide for establishment, powers and functions of the Coffee Board of Kenya.

**The Community Groups Registration Bill, 2021 (National Assembly Bill No. 20 of 2021)** seeks to provide a regulatory framework for the registration and regulation of community groups and connected purposes.

**The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021)** sponsored by Hon. David Pkosing, MP, Pokot South Constituency, seeks 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.

**The Computer Misuse and Cybercrimes (Amendment) Bill, 2021 (National Assembly Bill No. 11 of 2021)** sponsored by Hon. Aden Bare Duale, MP, Garissa Township Constituency, seeks to amend The Computer Misuse and Cybercrimes Act, 2018 to provide for the prohibition against the sharing of pornography through the internet and prohibit use of electronic mediums to promote terrorism, extreme religious and cult activities.

**Kenya Industrial Research and Development Institute Bill, 2021 (National Assembly Bill No. 44 of 2021)** seeks to establish the Kenya Industrial Research and Development Institute, and for connected purposes. It further provides for the promotion of research, development, technology and innovation in industrial and allied technologies, and for initiation and support of industrial development.

**The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020)** sponsored by Hon. David Gikaria, MP, Nakuru Town East Constituency, seeks to amend the National Construction Authority Act, No. 41 of 2011 to ensure women, youth and persons living with disabilities with start-up businesses who apply to be registered as contractors under category six, seven and eight are exempted from paying the prescribed fee. The amendment seeks to recognize women, youth and persons living with disabilities as marginalized groups and to cushion them from the burden of paying registration fees.

**The Kenya Deposit Insurance (Amendment) Bill, 2020 (National Assembly Bill No. 43 of 2020)** sponsored by Hon. Abdul Rahim Dawood, MP, Imenti North Constituency, seeks to amend section 28 of the Kenya Deposit Insurance Act, 2012 in order to increase the maximum amount a person with an account with an institution under liquidation is to be paid by the Kenya Deposit Insurance Corporation. It further seeks to delete the provision limiting the maximum amount a person is to be paid by the Corporation despite having different accounts.

**The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill, 2020 (National Assembly Bill No. 49 of 2020)** sponsored by Hon. Benjamin Gathiru Mwangi, MP, Embakasi Central Constituency, seeks to amend the Public Procurement and Asset Disposal Act, 2015 to enhance the amount for tenders where Kenya citizens are given

exclusive preference from the sum of five hundred million shillings to twenty billion shillings. This is to protect the Kenyan traders from foreign competitors.

**The Irrigation (Amendment) Bill, 2021 (National Assembly Bill No. 12 of 2021)** seeks to amend the Act by expanding the administration of irrigation matters to include management and regulation of irrigation matters. The Bill further seeks to amend the Act to harmonize the provision of the Irrigation Act, Water Act and Water Resources Management Rules, 2007.

**The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021)** seeks to amend the Tax Appeals Tribunal Act, 2013 to address the challenges affecting the performance of the Tax Appeals Tribunal to facilitate the expedition of tax disputes in the country.

Pursuant to Standing Order 127(1) of the National Assembly Standing Orders, the Bills proposing amendments to the various Acts of Parliament are committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:

SCHEDULE		
No.	BILL	COMMITTEE
1.	The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37)	Education and Research
2.	The Pharmacy and Poisons (Amendment) Bill (National Assembly Bill No. 1 of 2021)	Health
3.	The Health (Amendment) Bill (National Assembly Bill No. 14 of 2021)	
4.	The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021)	Communication, Information and Innovation
5.	The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021)	Agriculture and Livestock
6.	The Community Groups Registration Bill (National Assembly Bill No. 20 of 2021)	Labour and Social Welfare
7.	Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021)	Trade, Industry and Cooperatives
8.	The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021)	Transport, Public Works and Housing
9.	The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020)	Finance and National Planning
10.	The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020)	
11.	The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020)	Environment and Natural Resources
12.	The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021)	
13.	The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021)	
14.	Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021)	

The Bills were read a First Time pursuant to Standing Order 127(3) on 8<sup>th</sup> and 9<sup>th</sup> June 2021. Copies of the Bills are available at the National Assembly Table Office, or on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

The memoranda may be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke); to be received on or before Friday 18<sup>th</sup> June, 2021, at 5.00 pm.

MICHAEL SIALAI, CBS  
 CLERK OF THE NATIONAL ASSEMBLY

11<sup>th</sup> June 2021







**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**  
**TWELFTH PARLIAMENT – FIFTH SESSION**

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And

**In the Matter of Consideration by the National Assembly of;**

- |  |  |
|--|--|
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6.	The Community Groups Registration Bill (National Assembly Bill No. 20 of 2021)	Labour and Social Welfare
7.	Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);	Trade, Industry and Cooperatives
8.	The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021)	Transport, Public Works and Housing
9.	The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020)	
10.	The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020)	Finance and National Planning
11.	The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020)	
12.	The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021)	
13.	The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021)	Environment and Natural Resources
14.	Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021)	

The Bills were read a First Time pursuant to Standing Order 127(3) on 8<sup>th</sup> and 9<sup>th</sup> June 2021. Copies of the Bills are available at the National Assembly Table Office, or on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

The memoranda may be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke); to be received on or before Friday 18<sup>th</sup> June, 2021, at 5.00 pm.

MICHAEL SIALAL, CBS  
 CLERK OF THE NATIONAL ASSEMBLY  
 11<sup>th</sup> June 2021





## National News

**The split** According to MPs, ruling party has neglected members, only calling meetings to punish perceived rebels

# We're not party to Jubilee retreat, DP Ruto allies say

Kang'ata says the planned merger with ODM has alienated many key members

BY ONYANGO K'ONYANGO

Deputy President William Ruto's allies have dismissed a planned Jubilee Party retreat, saying they have shifted to the United Democratic Alliance (UDA).

The two-day retreat will be immediately after the July 15 Kiambaa parliamentary by-election, where Dr Ruto's UDA is facing off with President Uhuru Kenyatta's Jubilee, the first direct conflict between the two parties in the President's home county.

Jubilee Deputy Secretary General Joshua Kutuny said the retreat would bring together governors, MPs and county assembly leadership allied to the President.

"The party is restructuring. We will hold a two-day retreat two

three weeks before grassroots activation," Mr Kutuny said.

"This will ensure our revamping plan is thought out and everybody contributes."

But the Dr Ruto's allies, who have for long demanded a meeting of ruling party leaders, said they are no longer interested in the affairs of Jubilee.

Murang'a Senator Irungu Kang'ata said the Jubilee-Orange Democratic Movement (ODM) coalition talks have alienated many party members.

"I won't attend that meeting since the agenda is a merger with ODM," Senator Kang'ata said.

Keiyo South MP Daniel Rono said Jubilee is "too dictatorial to invite those with divergent opinions".

"We built the party but it is mistreating us. If one has a different



Kapseret MP Oscar Sudi addresses reporters at his home in February. He says many allies of the DP have left Jubilee. FILE INATION

opinion from the party's, he is accused of disrespecting the President. This is why we will not be invited to the retreat. They fear the truth," Mr Rono said.

Kapseret MP Oscar Sudi told the Daily Nation that he cannot attend such a meeting even if invited.

"I left Jubilee long ago. Our focus is on UDA. It is only Ruto who is left in Jubilee," Mr Sudi said.

Soy MP Caleb Kositany, who was replaced by Mr Kutuny as Jubilee deputy secretary general, said no ally of the Deputy President would be at the retreat.

"The Jubilee-ODM merger is taking us back to the tribal kingpins we destroyed in 2017. I am in UDA though Jubilee sponsored me to the National Assembly. I cannot resign because the country is going into a General Election next year," Mr Kositany said.

Topping the agenda at the retreat is a transition plan since the President is expected to retire next year.

As part of preparations for the retreat, the party's technical committee meets today.

"The team will draft rules of engagement on areas we should focus on," Mr Kutuny said.

"Jubilee has a clear plan on how to manage the situation ahead. We knew these things would happen. The strategy was to let the enemy do whatever he wanted

Jubilee has a plan on how to manage the situation. The strategy was to let the enemy do whatever he wanted and then Jubilee attacks later.

Joshua Kutuny



ed and then Jubilee attacks later," he said.

Mr Kutuny added that President Kenyatta is working on a multi-pronged strategy that would destabilise groups saying he is not in control of the 2022 succession.

"We have a plan that will shock many when the right time comes. Allowing people to think the President is not doing anything is part of the strategy," he said.

The DP's camp accuses Jubilee bosses of failing to consult members on issues affecting the party, saying meetings are only called to punish perceived rebels.

"Jubilee is damaged. There is no constructive engagement," Dr Ruto said on Thursday last week.

onyangooluoch85@gmail.com



### REPUBLIC OF KENYA NATIONAL ASSEMBLY TWELFTH PARLIAMENT—FIFTH SESSION

In the matter of consideration by the National Assembly: The Kenya Roads (Amendment) Bill, 2021

#### CLARIFICATION AND INVITATION FOR SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees".

The National Assembly, by newspaper advertisements published on Friday, June 11, 2021, invited submission of memoranda on fourteen (14) Bills, including the Kenya Roads (Amendment) Bill, 2021 (National Assembly Bills No. 13 of 2021). The objects and reasons for the Bill as replicated in the advertisement inadvertently refer to the Bill as containing amendments to the "term of office and qualifications of the Director-General of the Kenya Roads Board".

This is to therefore clarify that the Kenya Roads (Amendment) Bill, 2021, proposes to-

- amend section 13 of the Kenya Roads Act, 2007 to change the term of office of a Director-General appointed under the Kenya Roads Act, 2007 from three (3) to five (5) years. Currently, the Director-Generals of the Kenya National Highways Authority, the Kenya Urban Roads Authority and the Kenya Rural Roads Authority are appointed under the Act;
- amend section 14 of the Kenya Roads Act, 2007 to change the qualifications for appointment as a Director-General of the Kenya National Highways Authority, the Kenya Urban Roads Authority and the Kenya Rural Roads Authority; and
- amend section 38 and section 44 of the Kenya Roads Act, 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 Comptroller and Auditor-General.

The provisions of the Kenya Roads Act, 2007 that the Bill seeks to amend are reproduced verbatim in the Bill.

The Bill was read a First Time pursuant to Standing Order 127(3) of the National Assembly Standing Orders on 10<sup>th</sup> June, 2021 and committed to the Departmental Committee on Transport, Public Works and Housing for purposes of facilitating public participation.

Pursuant to Article 118 (1)(b) of the Constitution, the Clerk of the National Assembly invites interested members of the public to submit any additional written memoranda regarding the Bill. The written Memoranda may be forwarded to the Clerk of the National Assembly, P. O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi; or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke); to be received on or before Friday, 9<sup>th</sup> July, 2021 at 5:00 pm.

The Bill is available at the National Assembly Table Office and can be accessed on <http://parliament.go.ke/the-national-assembly/house-business/bills>.

MICHAEL SIALAI, ERS  
CLERK OF THE NATIONAL ASSEMBLY  
2<sup>nd</sup> July, 2021

"For the Welfare of Society and the just Government of the People"  
"The National Assembly speaks for you. Our results speak for themselves"



### REPUBLIC OF KENYA COUNTY ASSEMBLY OF KISUMU



#### TENDER NOTICE

The County Assembly of Kisumu invites sealed tenders from eligible, qualified and competent bidders for the following works:

Tender No.	Tender Name	Tender Security	Eligible Group
CAK/OT/ UMCS/2020-2021/06/01	Proposed Construction of Ultra-Modern Kisumu County Assembly Chambers, Offices and Associated Works	Kshs. 8,000,000 in form of a guarantee from a reputable bank or an Insurance Company approved by PPRA.	Open to firms registered in Kenya with National Construction Authority from class 2 (two) and above
IFMIS NEGOTIATION NO. 888495			

The tender documents are **downloadable free of charge from the County Assembly of Kisumu website: [www.kisumuassemblies.go.ke](http://www.kisumuassemblies.go.ke)** or IFMIS supplier portal - <http://supplier.treasury.go.ke>. Bidders are advised to forward their details either to the procurement office for purposes of recording or via [kisumuassemblies@gmail.com](mailto:kisumuassemblies@gmail.com)

Interested eligible tenderers may obtain further information/clarification from the Procurement Office of County Assembly of Kisumu, during normal working hours from 8:00 am to 5:00 pm on Monday to Thursday and 8:00 am to 4:00 pm on Friday, except on weekends and public holidays.

Completed Tender Document(s) in sealed envelopes, bearing no indication of the name of the firm bidding, with the contract number & name clearly marked on top should be deposited in the tender box located at the County Assembly of Kisumu, Administration Block addressed to the:

The Clerk  
County Assembly of Kisumu,  
P.O. Box 86-40100  
Kisumu.

Bidders must respond online through IFMIS Supplier Portal using IFMIS Negotiation No. 888495 and also submit original tender document so as to reach not later than 11:00 am (East African Time) on Thursday 15<sup>th</sup> July, 2021. The tenders will be opened immediately thereafter at the County Assembly Boardroom. All bidders or their representatives who choose to attend are invited. Tenders received after the stated time or date will be returned to the bidders unopened.

Clerk  
County Assembly of Kisumu









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## CALL FOR APPLICATIONS

The United States African Development Foundation (USADF), in partnership with the Stanbic Kenya Foundation (SKF), invites applications for grant financing and local support from small and medium enterprises, cooperatives, and producer groups to help them address gaps in their internal systems and capabilities to 100% meet investment requirements by commercial investors.

Applications will only be accepted from registered private entities operating in Kenya.

## Who is eligible?

SMEs to be considered are only those that are 100% African-owned and managed, legally registered in Kenya, with basic functional management and financial controls for at least 2 years and banking history of no less than 12 months. Applicants must have applied for commercial investment in the past but the application was denied due to internal systems and capability gaps.

## Successful applicants must:

- Complete the standard USADF/SKF application form.
- Have a clearly identified and well-defined problem that can be addressed with the grant funding to make the enterprise investment ready.
- Be able to identify a path for growth after the USADF/SKF grant ends with a clear investment plan.
- Be able to contribute at least 50% of the total cost of addressing the identified problem.
- Have a clearly defined market opportunity to grow revenues that can increase incomes.
- If selected, be willing to comply with minimum funds usage reporting requirements applicable to the grant.
- If selected, be willing to share details and evidence of why their past application for commercial investment was declined.

All applications must be submitted electronically to this email [usadf@usadf.gov](mailto:usadf@usadf.gov) no later than midnight July 22, 2021.

For more details about USADF and SKF as well as application form, go to: [www.usadf.gov/apply](http://www.usadf.gov/apply) or [www.stanbicbank.co.ke](http://www.stanbicbank.co.ke)

Stanbic Bank Kenya Limited is licensed and regulated by the Central Bank of Kenya

**Stanbic Bank. IT CAN BE.**  
A member of Standard Bank Group

## CHANGES TO THE BOARD OF CIC INSURANCE GROUP PLC

The Capital Markets Act, Chapter 485A of the Laws of Kenya  
The Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations

## APPOINTMENT OF NEW BOARD CHAIRMAN



The Board of Directors is pleased to announce the election of Dr. (h.c) Nelson C. Kuria OGW, MBS, FIODK as the new Chairman of the Board with effect from 29th June 2021. Dr. Kuria was appointed as an independent Non-Executive Director of the Board on 29th September 2020.

Dr. Kuria has a wealth of experience in Insurance and Development Finance having worked for 36 years in various private and public financial institutions including being a former Group CEO of CIC Insurance Group PLC before retiring in February 2015.

Dr. Kuria holds a Bachelor of Arts in Economics from the University of Nairobi and a Masters in Leadership Studies from the International Leadership University (ILU). He has also attended executive leadership training in Stanford Graduate School of Business.

In the insurance industry he was honored with the Lifetime Achievement Award in 2012. In 2017, he was awarded an Honorary Doctorate in Leadership by the Swiss Management Academy and in 2019, he was given the award of Fellow member of the Institute of Directors (IOD) of Kenya for his contribution in the development of corporate governance in Kenya.

He is a past chairman of the Association of Kenya Insurers (AKI). He has served as chairman of Enweath Financial Services, deputy chairman of Federation of Kenya Employers (FKE), Association of Microfinance Finance Institutions of Kenya (AMFI) and Co-operative University College. He has been a board member of many organizations, notably Kenya Re, College of Insurance, Takaful Insurance of Africa, Kenyatta National Hospital, Habitat for Humanity and the International Co-operative & Mutual Insurance Federation (ICMIF) - UK. Dr. Kuria was the pioneer chairman of the African Insurance Organization (AIO) Microinsurance Insurance Working Group. He has also served as a deacon and Church Secretary of Christ Is The Answer Ministries (CITAM).

In 2013 Dr. Kuria was appointed as a member of the Presidential Task Force on Parasitoid Reforms.

Currently, he is Chairman of Africa International University Council, Smpg Microfinance Bank and Institute of Directors of Kenya, Council member of Kenya Society of Professional Co-operators and Trustee of CITAM.

In December 2020 he was appointed Chairman of the National Co-operative Policy Operationalization Task Force which is still going on.

The Board takes this opportunity to congratulate Dr. Kuria on his election as the Chairman of the Board of CIC Insurance Group PLC.

## APPOINTMENT OF VICE CHAIRMAN



The Board of Directors is pleased to announce the appointment of Mr. James Njiru Njiru as the Vice Chairman of CIC Insurance Group PLC. Mr. Njiru is also the Chairman of Co-operative Insurance Society Ltd (CIS), Chairman of Nawiri Sacco Society. He is also a Director of Coop. Holdings Co-operative Society and the Cooperative Bank of Kenya Ltd. Mr. Njiru is a member of Board of Management for various schools in the Eastern Region. He holds a diploma in Business Management from the Kenya Institute of Management. He is also a member of the Institute of Directors of Kenya.

The Board takes this opportunity to congratulate Mr. Njiru on his appointment as the Vice Chairman of the Board of CIC Insurance Group PLC.

## RETIREMENT OF THE CHAIRMAN



Mr. Magomere joined the Group as a director in 1988. Subsequently, he was elected Chairman of the Board of CIC Group in 2004 thus over 16 years of service as the Chairman.

Mr. Magomere brought immense value to the Company overseeing its growth from a small insurer to one of the leading insurers in Kenya and the region.

The Board of Directors and staff wish to accord their great appreciation for his outstanding contribution and leadership during his term.

## RETIREMENT OF DIRECTOR



Ms. Jyoti Patel joined the Board of CIC Group in 2018 and was the Chair of the Audit Committee among seating in other subsidiaries. The Board takes this opportunity to thank Ms. Patel for her invaluable work over the years.

By Order of the Board

Gail Odongo  
Group Company Secretary  
29th June 2021

## CIC INSURANCE GROUP PLC.

+254 020 282 3000, 0703 099 129 • call@ci.co.ke • www.ci.co.ke  
CICGroupPLC • CICGroupBLC • CICGroupPLC



**REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT—FIFTH SESSION**

In the matter of consideration by the National Assembly: The Kenya Roads (Amendment) Bill, 2021

**CLARIFICATION  
AND  
INVITATION FOR SUBMISSION OF MEMORANDA**

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This is to therefore clarify that the Kenya Roads (Amendment) Bill, 2021, proposes to—

- amend section 13 of the Kenya Roads Act, 2007 to change the term of office of a Director-General appointed under the Kenya Roads Act, 2007 from three (3) to five (5) years. Currently, the Director-Generals of the Kenya National Highways Authority, the Kenya Urban Roads Authority and the Kenya Rural Roads Authority are appointed under the Act;
- amend section 14 of the Kenya Roads Act, 2007 to change the qualifications for appointment as a Director-General of the Kenya National Highways Authority, the Kenya Urban Roads Authority and the Kenya Rural Roads Authority; and
- amend section 38 and section 44 of the Kenya Roads Act, 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 Comptroller and Auditor-General.

The provisions of the Kenya Roads Act, 2007 that the Bill seeks to amend are reproduced verbatim in the Bill.

The Bill was read a First Time pursuant to Standing Order 127(3) of the National Assembly Standing Orders on 10<sup>th</sup> June, 2021 and committed to the Departmental Committee on Transport, Public Works and Housing for purposes of facilitating public participation.

Pursuant to Article 118 (1)(b) of the Constitution, the Clerk of the National Assembly invites interested members of the public to submit any additional written memoranda regarding the Bill. The written Memoranda may be forwarded to the Clerk of the National Assembly, P. O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi; or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke); to be received on or before, Friday, 9<sup>th</sup> July, 2021 at 5:00 pm.

The Bill is available at the National Assembly Table Office and can be accessed on <http://parliament.go.ke/the-national-assembly/house-business/bills>.

**MICHAEL SALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY  
2<sup>nd</sup> July, 2021**

"For the Welfare of Society and the just Government of the People"  
"The National Assembly speaks for you, Our results speak for themselves"

## COUNTY GOVERNMENT OF VIHIGA



## COUNTY PUBLIC SERVICE BOARD

P O BOX 880 -50300, MARAGOLI

Email: [Cpsbvihiga@yahoo.com](mailto:Cpsbvihiga@yahoo.com)

"Transforming Public Service"

## CAREER OPPORTUNITIES

The County Government of Vihiga invites applications from suitably qualified persons to fill the following vacant positions Pursuant to Sections 5 and 17 of the Office of the County Attorney Act, 2020

1. POSITION OF COUNTY ATTORNEY, JOB GROUP "T" - (1 POST)
2. POSITION OF COUNTY SOLICITOR, JOB GROUP "S" - (1 POST)

Applicants are expected to specify the category applied for.

Key responsibilities and job specifications for the above positions are available on the official County website [www.vihiga.go.ke](http://www.vihiga.go.ke). All applications from interested and qualified candidates must be submitted on or before **Friday 30<sup>th</sup> July, 2021** to the Secretary/CEO Vihiga County Public Service Board.

Only qualified persons will be contacted.

**THE SECRETARY/CEO  
VIHIGA COUNTY PUBLIC SERVICE BOARD  
P.O BOX 880-50300  
MARAGOLI.**





(iv)

# Memorandum

on the Bill, from the  
public and stakeholders





SUBMISSIONS FROM

**Mr. Okiya Omtata Okiiti**



*D/DC's*  
*Please seal*  
*21/06/21*

OKIYA OMTATAH OKOITI,  
ROOM 4, FLOOR B1, BLOCK A,  
WESTERN WING, NSSF BUILDING,  
BISHOPS ROAD,  
P. O. BOX 60286-00200,  
**NAIROBI.**  
Phone: 0722 684 777  
Email: [okiyaomtatah@gmail.com](mailto:okiyaomtatah@gmail.com)

18 June 2021

Clerk of the National Assembly  
Office of the Clerk  
Main Parliament Buildings  
P. O. Box 41842-00100  
Nairobi.  
Email: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

*Salim Ahmed*  
*pls facilitate consideration*  
*na n/n*  
*21/6/21*

Attn: Transport, Public Works and Housing Committee

Dear Sir,

**REF: MEMORANDUM ON ON THE KENYA ROADS (AMENDMENT) BILL, 2021**

Kindly, allow me to comment on the Bill as follows:

1. The principal object of the Bill is in Sections 2 and 3 of the Bill, which seek to amend sections 13 and 14 of the Roads Act, No. 2 of 2007 to change the terms of office of and the qualifications for appointment of the Director Generals of the Kenya National Highways Authority (KENHA), the Kenya Rural Roads Authority (KERRA), and the Urban Roads Authority (KURA), which are the three authorities established under the Kenya Roads Act 2007.
2. The remaining sections 4 and 5 of the Bill seek to make mere editorial changes to sections 38 and 44 of the Roads Act, No. 2 of 2007.



3. Contrary to the above and in the most deceptive of ways, it is misleadingly stated in part in the Bill's Memorandum of Objects and Reasons, which is dated 19<sup>th</sup> April, 2021, that:

*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. [Emphasis added.]*

4. On Friday, June 11, 2021, pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly published an advert in the media inviting members of the public and relevant stakeholders to submit memoranda on seven Bills, including the Kenya Roads (Amendment) Bill, 2021.
5. To make matters worse, concerning contents of the Kenya Roads (Amendment) Bill, 2021, the advert also deceptively states that:

*The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021) sponsored by the Hon. David Pkosing, MP, Pokot South Constituency, seeks 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. [Emphasis added.]*

6. I am aggrieved that whereas the Bill seeks to amend the terms of service and qualifications of the Director Generals of KENHA, KERRA, and KURA, both the Bill's Memorandum of Objects and Reasons and the advert CONCEAL THE TRUTH in the following two ways:
  - a. By misleadingly claiming that 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.
  - b. By failing to refer to the appointment of the Director-Generals of KENHA, KERRA, and KURA who are appointed under sections 13 and 14 of the Roads Act, No. 2 of 2007, and instead referring to the appointment of the Director-General of the Kenya Roads Board who is appointed under Section 12 of the Kenya Roads Board Act, No. 7 of 1999 and is NOT appointed under any provisions of the Kenya Roads Act 2007Act.
7. I posit that the errors in both the Memorandum and in the advert are deliberate and are designed to conceal from the public the truth about the intended amendments to the terms of office of and the qualifications for the Director-Generals of KENHA, KERRA, and KURA.
8. The errors are deliberate because National Assembly Standing Order 114(2) provides for the scrutiny by the Clerk of draft Bills. And Order 114(3)(a)(i) provides for Private Members Bills such as the instant one to be submitted to the relevant Departmental Committee for prepublication scrutiny.

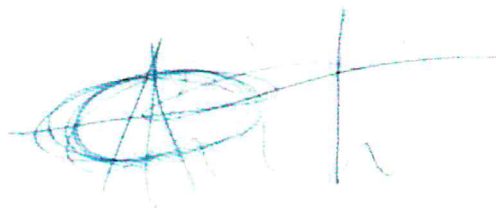
9. I also point out that the deliberate and substantive reference in the Bill's Memorandum of Objects and Reasons to the Director General of the Kenya Roads Board and not to the Director-Generals of KENHA, KERRA, and KURA, is a reference to the Kenya Roads Board Act, No. 7 of 1999 and NOT to the Kenya Roads Act No. 2 of 2007, and that means that the Bill does not have a valid Memorandum of Objects and Reasons.
10. Further, apart from violating the requirements in law for transparency and accountability, and the obligation to present to the public timely, accurate information, the decision to conceal the truth that the Bill seeks to amend the terms of office of and the qualifications for the Director-Generals of KENHA, KERRA, and KURA will have a direct negative impact on the quality of public participation in the law making process.
11. It must be clearly and accurately stated for all and sundry that the Bill seeks to amend the terms of service and qualifications of the Director-Generals of KENHA, KERRA, and KURA. Any and all references to the Director-General of the Kenya Roads Board must be removed from both the Bill and the advert.
12. In the circumstances, it is necessary that this Honourable Committee intervenes to protect the legislative process from such wanton abuse by quashing both the Bill and the advert and demanding that the National Assembly publishes accurate information on the Bill in both Memorandum and in the advert calling on stakeholders and the general public to participate in the legislative process.
13. I disagree with the requirement that the Director-Generals of KENHA, KERRA, and KURA (CEOs) should be engineers. Not only is it discriminatory to require that the positions should be filled by engineers; it is nonsensical to do so in the modern world for top the leadership positions in the organisations.

14. The position of a DG (CEO) is a leadership/management not technical assignment. And around the world these positions have been opened up to all professionals. What is required is the ability to administer them, and lead the technical personnel deployed in the organisations.
15. In Kenya, the position of CEO has been opened up with remarkable results, especially in the big hospitals which are no longer run by medical doctors. Examples are Kenyatta National Hospital and Nairobi Hospital. Further and in particular the mix in CEOs in Kenya includes the following:
- (a) Kenya Power - CEO is accountant
  - (b) KENGEN - CEO is a lawyer
  - (c) KETRACO - CEO is Accountant
  - (d) Rural Electrification & Renewal Energy REREC - CEO is an accountant
  - (e) GDC Eng Jared Othieno - CEO is engineer
  - (f) KPC - CEO is Chemist
  - (g) NuPEA ( nuclear Power and Energy) - CEO is an engineer
  - (h) R.E.A - Peter Mbugua - CPA-K
  - (i) NUCLEAR - Eng Collins Juma - Engineer
  - (j) KETRACO - Baraza - Finance/CPA
  - (k) KENGEN - Rebecca Miano - Lawyer
  - (l) KPLC - Bernard Ngugi - Supply Chain Expert and CPA
  - (m) K. PIPELINE - Dr Macharia Irungu - Chemist
  - (n) EPRA - Acting Daniel Kiptoo - Finance/CPA
  - (o) 8.NOC - Gideon Leparan - Strategic Planning/Economist
  - (p) Kitui Water - CPA G. KIITA
  - (q) Mavoko WSP - CPA M. Mangeli
  - (r) Nakuru Rural WSP - FCPA R. Korir
  - (s) Malindi WSP - Gerald Mwambire

- (t) Kisumu Water - Thomas Odongo
- (u) Meru Water - Joseph Mberia
- (v) Mombasa Water - Anthony Njaramba
- (w) Mathira Watet - CPA David Gathogo
- (x) Water Sector Trust Fund - CEO Ishmael Shaiye
- (y) Kenya airports Authority- Banker
- (z) TARDA- management expert

16. With the above, there is no basis for demanding that the DGs must be engineers.

Yours faithfully



---

OKIYA OMTATAH OKOITI  
THE PETITIONER



SUBMISSIONS FROM

**Institute of Certified Public Accountants of Kenya  
(ICPAK)**





Our Ref: ICPAK/CE-PPR/06/2021

30<sup>th</sup> June 2021

**Mr. Michael R. Sialai, CBS**  
Clerk of the National Assembly  
Parliament Buildings  
P.O Box 41842 – 00100

**NAIROBI**

Dear Mr. Sialai.

**RE: ICPAK SUBMISSION ON THE KENYA ROADS (AMENDMENT) BILL, 2021**

The Institute of Certified Public Accountants of Kenya (ICPAK) is a statutory body of accountants with the mandate to develop and regulate accountancy profession in Kenya. The Institute is further mandated under Sec 8 of the Accountants' Act of 2008 to advise the Cabinet Secretary for Finance on matters relating to governance and accountability in all sectors of the economy.

The Institute is dedicated to enhancing its contribution and that of its members to the national economic growth and development agenda.

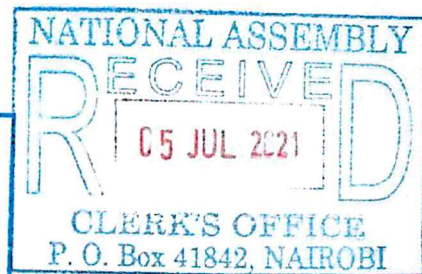
Following the Public Notice calling for comments on the Kenya Roads (Amendment) Bill, 2021, the Institute has reviewed the same and developed the attached set of submissions for your consideration.

We would be glad, given the opportunity, to make oral submissions to the relevant committee vide the online platforms on areas that may require further clarification. Please do not hesitate to contact the undersigned vide [ceo@icpak.com](mailto:ceo@icpak.com).

We appreciate the continued support to the profession and look forward to your response.

Yours Sincerely,

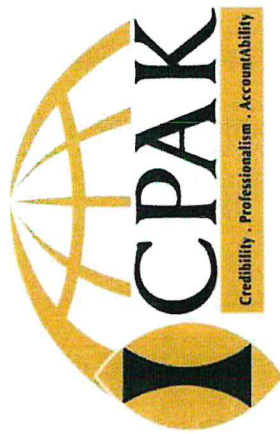
**CPA EDWIN MAKORI**  
**CHIEF EXECUTIVE OFFICER**



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Harambee Avenue

**A world class professional accountancy institute.**



**Institute of Certified Public Accountants of Kenya**

---

**SUBMISSION**

**ON**

**KENYA ROADS (AMENDMENT) BILL, 2021**

---

**JUNE 2021**



## INTRODUCTION

The Institute of Certified Public Accountants of Kenya (ICPAK) is a statutory body of accountants established under the Accountants Act of 1978, and as repealed under the Accountants Act Number 15 of 2008, mandated to develop and regulate the Accountancy Profession in Kenya. It is also a member of the International Federation of Accountants (IFAC), the global umbrella body for the accountancy profession and Pan Africa Federation of Accountants (PAFA), the continental body of Accountants.

## SUBMISSION OF THE KENYA ROADS (AMENDMENT) BILL, 2021

The Institute has reviewed the Kenya Roads (Amendment) Bill, 2021 and has developed the following for specific consideration and adoption.

#	Provision	Concern	Recommendation	Justification
1.	Clause 2 <b>Director General</b>	The Institute supports this amendment. However, appointment for one more term should be subject to performance evaluation by the board.	Amend Clause 2 to read; The Director-General shall hold office for a term of five years and shall be eligible for appointment for one more term subject to performance evaluation by the board.	The road projects are long-term and therefore as the Chief Executive Officer, the two three-year terms may end before completion of some key projects.
2.	Clause 3 <b>Qualifications of Director General</b>	A Master's Degree may not be necessary since we are dealing with leadership.	Amend Clause 3(a) to read: <i>3(a) holds a bachelor's degree in civil engineering from a university recognized in Kenya;</i>	The Director General position requires managerial and leadership experience to steer the growth of the institutions.

In addition to these, the Institute also proposes the following amendments to the Kenya Roads Act for consideration.

#	Section	Concern	Proposal	Justification
1.	5(2), 8(2) & 11(2) <b>Board members tenure</b>	There is lack of succession planning in the boards since the terms of all the members' lapse at the same time.  There is need to address this matter by way of providing for staggered terms.	Provide for staggered terms for the members to ensure a phased transition.  A third of the members should retire in the first two years of the term	This ensures seamless transition and continuity in the management of Boards created.
2.	Third Schedule <b>Board Committees</b>	There is no cap on the number of committees that a Board may establish in carrying out its duties. This is subject to abuse by the Authorities.	A Board should establish a maximum of four committees; an Audit committee and three other committees to cover the following functions: <ul style="list-style-type: none"> <li>• Governance</li> <li>• Risk</li> <li>• Compliance</li> <li>• Finance</li> <li>• Technical matters</li> <li>• Strategy</li> <li>• Human Resources</li> </ul> A Board shall be at liberty to establish such ad hoc committees as required to deal with any ad hoc matters requiring focused attention.	This is to be in line with best practice governance practices as laid out in the Mwongozo Code.
3.	Third Schedule <b>Secretary to the Board</b>	<b>Board Secretaries</b> Currently, the Director Generals of the three authorities (Kenya National Highways Authority, Kenya Urban Roads Authority and Kenya Rural Roads Authority) serve as secretaries to the respective boards.	Each Authority should recruit a Corporate Secretary qualified in terms of the provisions of the Certified Public Secretaries of Kenya Act to serve as secretary to the board.	This is to be in line with best practice governance practices as laid out in the Mwongozo Code.

SUBMISSIONS FROM

**Kenya Institute of Supplies Management**

**(KISM)**







## KENYA INSTITUTE OF SUPPLIES MANAGEMENT

“Promoting Professionalism in Supply Chain Management”

KISM Tower, 12<sup>th</sup> Flr | Ngong Road | P.O. Box 30400-00100 NBI, Kenya  
Mobile: 0721-244828; 0717-004842; 0733-333226 | Email: [admin@kism.or.ke](mailto:admin@kism.or.ke) | Website [www.kism.or.ke](http://www.kism.or.ke)

**KISM.2021/2131**

**9<sup>th</sup> July 2021**

Michael Sialai  
Clerk,  
National Assembly,  
P.O. Box 41842 – 00100,  
NAIROBI.

Dear

**RE: THE KENYA ROADS (AMENDMENTS) BILL, 2021**

---

We make reference to a public notice on clarification and invitation for submission of Memoranda on the Kenya Roads (Amendment) Bill, 2021.

The Kenya Institute of Supplies Management (KISM) is a corporate body established through an Act of Parliament, the “Supplies Practitioners Management Act, (2007)”. KISM is mandated to make provision for the training, registration and licensing of supplies practitioners; to regulate their practice and for connected purposes. The Institute serves as the National body for Procurement and Supply Chain Professionals in the private and public sectors in Kenya.

Pursuant to this, the Institute has taken an initiative to review the Bill and hereby submit the attached memoranda, for your reference and kind consideration.

Yours sincerely,

Dr. Martin Gachukia,  
**Registrar/Ag. Chief Executive Officer.**

Encl. KISM written memoranda

# A PUBLIC SUBMISSION



# KENYA INSTITUTE OF SUPPLIES MANAGEMENT

*"Promoting Professionalism in Supply Chain Management"*

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Mobile: 0721-244828; 0717-004842; 0733-333226 | Email: [admin@kism.or.ke](mailto:admin@kism.or.ke) | Website [www.kism.or.ke](http://www.kism.or.ke)

**By the Kenya Institute of Supplies Management (KISM)**

.....  
THE CONSTITUTION OF KENYA  
Articles 1, 2, 3, 4, 10, 27, 28, 29, 35 and 47

THE KENYA ROADS (AMENDMENTS) BILL, 2021

NATIONAL ASSEMBLY STANDING ORDERS  
(Public Petition)

.....  
A submission for the proposed amendment of the Kenya Roads (Amendments) Bill, 2021. A Bill already in the National Assembly. Section 14(a) & (b) of the Bill mischievously provides that, "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.

.....  
To: THE NATIONAL ASSEMBLY  
PARLIAMENT BUILDINGS  
P.O BOX 41842-00100  
NAIROBI

**I, DR. MARTIN K. GACHUKIA** a citizen of the Republic of Kenya is a Supplies Management Professional practicing in Nairobi and the Acting Chief Executive Officer of the Kenya Institute of Supplies Management (KISM). The Institute is a statutory





# KENYA INSTITUTE OF SUPPLIES MANAGEMENT

“Promoting Professionalism in Supply Chain Management”

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Mobile: 0721-244828; 0717-004842; 0733-333226 | Email: [admin@kism.or.ke](mailto:admin@kism.or.ke) | Website [www.kism.or.ke](http://www.kism.or.ke)

professional Body established under the Supplies Practitioners Management Act No.17 of 2007, its mandate is to make provision for the training, registration and licensing of Supplies Practitioners; to regulate their practice and for connected purposes.

**RECOGNISING** that the National Assembly has published The Kenya Roads (Amendments) Bill, 2021 whose principle object 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.

**CONCERNED** that the Bill seeks to amend the term of office and the qualifications for the Director-General of the Kenya Roads Board appointed under the Act contrary to the best Human Resource Management standards.

**ALARMED** that section 14 (a) requires a person to be appointed as Director General must be 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.

**DISTURBED** that section 14 (b) requires a person to be appointed as Director General must have at least fifteen years post-registration experience in the field of road and highway engineering.

**HAVING** to respect, uphold and defend the Constitution, the Supplies Practitioners Management Act No. 17 of 2007, I verily believe that section 14 (a) & (b) of the Kenya Roads (Amendments) Bill, 2021 is in total violation of the best Human Resource Management Professionals Standards in recruitment and selection.

**FEARFUL** that if provisions section 14 (a) & (b) of the Kenya Roads (Amendments) Bill, 2021 are allowed to pass in the National Assembly without amendments, the position of the Director-General will be reduced into a technical position instead of elevating it to a Strategic position that is wider and that encompasses all other aspects of management as opposed to narrowing it to a mere technical job.

**DRAW** the attention of the Honorable the National Assembly of Kenya to the misnomer hidden in section 14 (a) & (b) of the Kenya Roads (Amendments) Bill, 2021 to conceal and make the position of the Director General an exclusive position that can only be occupied by a person of specific class but not necessarily with a person with specific attributes and competencies.

**THE MISNOMER**



## KENYA INSTITUTE OF SUPPLIES MANAGEMENT

*"Promoting Professionalism in Supply Chain Management"*

KISM Tower, 12<sup>th</sup> Flr | Ngong Road | P.O. Box 30400-00100 NBI, Kenya

Mobile: 0721-244828; 0717-004842; 0733-333226 | Email: [admin@kism.or.ke](mailto:admin@kism.or.ke) | Website [www.kism.or.ke](http://www.kism.or.ke)

The misnomer in Section 14(a) & (b) of the proposed amendments of the Kenya Roads (Amendments) Bill, 2021 is that the section reduces the position of the Director General to a mere technical position.

All authorities have several technical staff who deal with technical matters of the authority. This therefore, should free the position of the DG to become a strategic position whose occupant deals with different aspects of management and not necessarily technical job. The position of DG must be a person who can lead teams to attain the main objectives of the authority.

The time has come for parliament of Kenya to intervene and inscribe best Procurement and Supply Chain Management practices in the recruitment and selection standards while amending the Kenya Roads (Amendments) Bill, 2021.

**THEREFORE, YOUR HUMBLE PETITIONER PRAYS** that the **HONOURABLE National Assembly of the Republic of Kenya** amends Section 14(a) & (b) of the Kenya Roads (Amendments) Bill, 2021 by deleting the whole of subsection (a) & (b) providing that, "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.

And in its place, replace it with the following requirements:

- a) holds a degree in procurement and supply chain management, human resource management, finance, accounting, law or engineering from a University recognized in Kenya;
- b) has knowledge and at least ten years' experience in the relevant field;
- c) is a member of a relevant professional body and in good standing;
- d) has served in a senior management position for a period of at least five years and
- e) satisfies the requirement of Chapter Six of the Constitution.

And your Petitioner, of National Identity Card Number **22021285**; Mobile Phone Number **0723953487**, will ever pray.

**Petitioner's**

Signature

Date 9<sup>th</sup> July, 2021

SUBMISSIONS FROM

**Institute of Human Resource Management**

**(IHRM)**





# SUBMISSION OF MEMORANDA

By the Institute of Human Resource Management (IHRM)

THE CONSTITUTION OF KENYA  
Articles 1, 2, 3, 4, 10, 27, 28, 29, 35 and 47

THE KENYA ROADS (AMENDMENTS) BILL, 2021

NATIONAL ASSEMBLY STANDING ORDERS  
(Public Petition)

D/DC  
9/7/21

A submission for the proposed amendment of the Kenya Roads (Amendments) Bill, 2021. A Bill already in the National Assembly. Section 14(a) & (b) of the Bill mischievously provides that, "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.

To: THE NATIONAL ASSEMBLY  
PARLIAMENT BUILDINGS  
P.O BOX 41842-00100  
NAIROBI



Submission by the Institute of Human Resource Management (IHRM) on the amendments of the Kenya Roads (Amendment) Bill, 2021

Mr. Salim Ahmed

PLS TNA

12/7/2021



I, **QURESHA ABDULLAHI** a citizen of the Republic of Kenya is a human resource Professional practicing in Nairobi and the Executive Director of the Institute of Human Resource Management (IHRM). The Institute is a statutory professional Body established under the Human Resource Management Professionals Act No.52 of 2012, its mandate is to promote the application of best HR management policies and practices at the work place through the promotion and development of professional standards of conduct and competence for HR Practitioners.

**RECOGNISING** that the National Assembly has published The Kenya Roads (Amendments) Bill, 2021 whose principle object 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 of the office of the Auditor General.

**CONCERNED** that the Bill seeks to amend the term of office and the qualifications for the Director-General of the Kenya Roads Board appointed under the Act contrary to the best Human Resource Management standards.

**ALARMED** that section 14 (a) requires a person to be appointed as Director General must be 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.

**DISTURBED** that section 14 (b) requires a person to be appointed as Director General must have at least fifteen years post-registration experience in the field of road and highway engineering.

**HAVING** to respect, uphold and defend the Constitution, the Human Resource Management Professionals Act No. 52 of 2012 I verily believe that section 14 (a) & (b) of the Kenya Roads (Amendments) Bill, 2021 is in total violation of the best Human Resource Management Professionals Standards in recruitment and selection.

**FEARFUL** that if provisions section 14 (a) & (b) of the Kenya Roads (Amendments) Bill, 2021 are allowed to pass in the National Assembly without amendments, the position of the Director-General will be reduced into a technical position instead of elevating it to a Strategic position that is wider and that encompasses all other aspects of management as opposed to narrowing it to a mere technical job.

**DISGUSTED** that the drafters of the Kenya Roads (Amendments) Bill, 2021 had an ulterior motive to conceal and make the position of the Director General an exclusive position that can only be occupied by a person of specific class but not necessarily with a person with specific attributes and competencies.

**DRAW** the attention of the Honorable the National Assembly of Kenya to the mischief hidden in section 14 (a) & (b) of the Kenya Roads (Amendments) Bill, 2021.



## THE MISCHIEF

The mischief in Section 14(a) & (b) of the proposed amendments of the Kenya Roads (Amendments) Bill, 2021 is that the section reduces the position of the Director General to a mere technical position.

All authorities have several technical staff who deal with technical matters of the authority. This therefore, should free the position of the DG to become a strategic position whose occupant deals with different aspects of management and not necessarily technical job. The position of DG must be a person who can lead teams to attain the main objectives of the authority.

The time has come for parliament of Kenya to intervene and inscribe best Human Resource Management recruitment and selection standards while amending the Kenya Roads (Amendments) Bill, 2021.

**THEREFORE YOUR HUMBLE PETITIONER PRAYS** that the **HONOURABLE National Assembly of the Republic of Kenya** amends Section 14(a) & (b) of the Kenya Roads (Amendments) Bill, 2021 by deleting the whole of subsection (a) & (b) providing that, "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.

And in its place, replace it with the following requirements:

- a) holds a degree in human resource management, finance, accounting, law or engineering from a University recognized in Kenya;
- b) has knowledge and at least ten years' experience in the relevant field;
- c) is a member of a relevant professional body and in good standing;
- d) has served in a senior management position for a period of at least five years and
- e) satisfies the requirement of Chapter Six of the Constitution.

And your Petitioner, of National Identity Card Number.....25067692....., Mobile Phone Number.....0720279132....., will ever pray.

Petitioner's Signature..........Date.....7<sup>th</sup> July 2021.....

*Submission by the Institute of Human Resource Management (IHRM) on the amendments of the Kenya Roads (Amendment) Bill, 2021*



SUBMISSIONS FROM

**The Institution of Engineers of Kenya**

**(IEK)**





## PROPOSED AMENDMENTS TO ROADS ACT (AMENDMENTS), BILL 2021

### COMMENTS ON THE BILL BY THE INSTITUTION OF ENGINEERS OF KENYA

#### (a) General Comments

The Kenya Roads Amendment Bill 2021 is a timely bill aimed at clarifying requirements and qualifications of the Director General of the various Road Authorities amongst other objectives. As members of the Engineering fraternity, we would recommend some changes to the provisions thereof to make the bill effective in the selection of well qualified professional engineers with the requisite education and experience who can not only perform their duties effectively but also act to inspire and strengthen the profession and its governing institutions, given the critical roles the authorities play in the practice of Engineering in the country.

#### (b) Specific Comments

Clause	CURRENT PROVISION	PROPOSED BILL	IEK Proposal	Rationale
2	Term of office for Director General is set at three years renewable once	Term of office for Director General is <b>increased to five</b> years	Maintain Term of office for Director General at 5 years or increase to six years.	The term of office for the Director General should not coincide with political /election cycles. That should be discouraged in order to ensure continuous uninterrupted operations even during election periods. There is need to ensure continuity and stability even during heightened political activities.



Clause	CURRENT PROVISION	PROPOSED BILL	IEK Proposal	Rationale
14 (a)	Requirement of a Masters Degree was not explicitly spelled out in the current provision	Holder of Masters degree	Add: "a Masters degree or <b>higher in a related field</b> "	This addition would add value to the post graduate qualification to make it relevant to the primary mandate of the Authority.
14(b)	Clearly defines the qualification as a registered Engineer	The Amendment simply states "is registered with the Engineers Board of Kenya".	The Amendment should read: "is registered with the Engineers Board of Kenya <b>as a Professional Engineer or higher category ...</b> "	The category of registration should be specified to preclude those who are registered at the Graduate Level and can not therefore bear professional responsibility or temporary holders of licences as is the case for foreign professionals.
	Requires one to be a member of the Institution of Engineers of Kenya.	The requirement for IEK membership has been dropped	The requirement for IEK membership should be maintained. Therefore add: <b>"and is a member of the Institution of Engineers of Kenya"</b>	Membership of IEK should be maintained to ensure that the person appointed at the helm of the organization is not only a fully qualified professional but maintains contacts with his professional peers within the Engineering fraternity for the purpose of continuous professional development to keep abreast with latest technological developments, mentorship and professional accountability. This will enable him to inspire professionalism in the organisation with the benefit of strengthening the Authority/Institution.
14(c)	At least fifteen years' post-registration	Post Registration experience is being reduced from 15 to 10 years	The Clause should read: <b>"has at least 15 years"</b>	Requirement for 15 years post registration experience is critical. 10 years post registration experience is rather too low for requisite industrial exposure at management level



Clause	CURRENT PROVISION	PROPOSED BILL	IEK Proposal	Rationale
	experience in the field of road and highway engineering is specified		post-registration experience in highway, road or transportation engineering"	necessary for one to exercise the level of sound professional judgement required of the Director General.
14(d)		The Amendment reads: "has at least 10 years <b>experiment</b> in managerial position within the roads sector"	This is a typo, Change the word "experiment" with "experience"	This is a Typo error

---

Eng. Nathaniel O. Matalanga, PE, FIEK  
President, Institution of Engineers of Kenya





SUBMISSIONS FROM

**Office of the Attorney General**



② D/DC's

Please bring to  
the attention of  
the Transport Committee  
24/06/21



OFFICE OF THE ATTORNEY-GENERAL  
&  
DEPARTMENT OF JUSTICE

Salim Ahmed  
To facilitate consideration  
28/6/21

Our Ref: AG/LDD/113/1/19

17<sup>th</sup> June, 2021

Hon. James Macharia, EGH  
Cabinet Secretary  
Ministry of Transport, Infrastructure,  
Housing, Urban Development & Public Works  
Transcom House, Ngong Road  
P.O. Box 52692 - 00200  
NAIROBI

① CNA/DC  
For your review and  
communication to Committee  
Jul 21/6

RE: THE KENYA ROADS (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY  
BILLS NO. 13 OF 2021)

This has reference to the Kenya Roads (Amendment) Bill, 2021 which was sponsored by Hon. David Pkosing, MP, the Chairperson of the Departmental Committee on Transport, Public Works and Housing of the National Assembly and was read for the first time in the National Assembly on the 10<sup>th</sup> June, 2021. A copy of the Bill is enclosed herewith for your ease of reference.

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; and with regard to the term of office of the Director-General of the Kenya Roads Board.

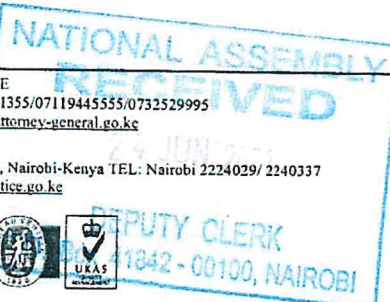
The Bill proposes to:

- amend section 13 (3) of the Act to provide that the term of the Director-General of the Kenya Roads Board shall be five years instead of three years;
- repeal and replace section 14 of the Act which deals with the qualifications required for a person to be appointed as the Director-General;
- amend section 38 of the Act to delete all references to "Controller and Auditor-General" and replace them with "Auditor-General" and delete all references to "Public Audit Act, 2003" and replace them with "Public Audit Act, 2015"; and



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E-MAIL: info.state.house@kenya.go.ke WEBSITE: www.attorney-general.go.ke  
DEPARTMENT OF JUSTICE  
CO-OPERATIVE BANK HOUSE, HAILLESELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337  
E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

ISO 9001:2008 Certified



- (d) amend section 44 of the Act to align the reporting functions of Auditor-General under the Act with the proposed amendments to section 38.

We have reviewed the Bill and identified the following issues that have significant policy and statutory implications:

#### Clause 2

Clause 2 of the Bill proposes to change the tenure of the Director-General from three years to five years. Please note that the amendment in its current form provides that a person appointed as the Director-General may serve one term of five years and be eligible to serve for one more term of five years.

#### Clause 3

- (a) Clause 3 proposes to repeal section 14 and replace it with a new section. The existing provision provides that for a person to be qualified to be appointed as the Director-General, that person shall:
  - (i) be registered with the Engineer's Registration Board of Kenya in the category of registered engineer in the field of highway engineering and be a member of the Institution of Engineers of Kenya; and
  - (ii) have at least fifteen years' post-registration experience in the field of road and highway engineering.
- (b) The relevant provisions of the proposed new section 14 provide that for a person to be appointed as the Director-General, that person shall possess the following qualifications:
  - (i) a bachelor's degree in civil engineering and a master's degree from a university recognized in Kenya;
  - (ii) be registered with the Engineers Board of Kenya; and
  - (iii) fifteen years' experience with at least ten years' post-registration experience.
- (c) The key differences between the two set of qualifications are:
  - (i) under the existing provision, the person must be registered with the Board in the category of registered engineer in the field of highway engineering while in the proposed provision, the person may be registered in any field of engineering; and
  - (ii) under the existing provision, the person must have fifteen years' post-registration experience while in the proposed provision, the period has been shortened to ten years.

The purpose of this letter is to seek your policy guidance on the Bill at your earliest convenience.

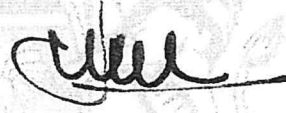


P. Kihara Kariuki  
ATTORNEY-GENERAL

Copies to: Dr. Joseph Kinyua, EGH  
Head of the Public Service  
Executive Office of the President  
Harambee House  
NAIROBI

Dr. Fred Matiang'i, EGH  
Chairperson & Cabinet Secretary  
National Development, Implementation and Co-ordination  
Cabinet Committee  
Ministry of Interior and Coordination of National Government  
Harambee House  
NAIROBI

Hon. Amos Kimunya, EGH  
Leader of the Majority Party  
National Assembly  
Parliament Building  
NAIROBI



Mr. Kennedy Ogeto CBS  
Solicitor-General

Encl.



SUBMISSIONS FROM

**Kenya Roads Board**







## KENYA ROADS BOARD

3<sup>rd</sup> Floor, Kenya Re Towers, Off Ragati Road, Upper Hill

P.O. Box 73718 - 00200, Nairobi, Kenya.

Tel: +254 (020) 2722865/6/8, Fax: +254 (020) 2723161

ISDN: +254 (020) 4980000, Cell: 0722 203418, 0733 334422

Email: [info@kreb.go.ke](mailto:info@kreb.go.ke) Website: [www.kreb.go.ke](http://www.kreb.go.ke)

Financing Road Maintenance

KRB/F/37/00/A/Vol. V (380)

18<sup>th</sup> June 2021

Mr. Michael R. Sialai, EBS  
Clerk of the National Assembly  
Clerk's Chambers  
Parliament Buildings  
NAIROBI

Dear Sir,

*DLS*  
*D/DC's*  
*please note/ deal*  
*25/06/21*  
*Salim Ahmed*  
*ptc sachate*  
*28/6/21*

**RE: INVITATION TO SUBMIT MEMORANDA - THE KENYA ROADS**  
**(AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 13 OF 2021)**

Reference is made to the Kenya Roads (Amendment) Bill, 2021 and the advertisement that appeared in The Standard Newspaper on 11<sup>th</sup> June 2021 inviting submission of Memoranda on the same.

The Board notes that:

*'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'.*

The Kenya Roads (Amendment) Bill seeks to amend the appointment of and the qualification for the Directors General of Kenya National Highways Authority, Kenya Rural Roads Authority and Kenya Urban Roads Authority. The reference made to the Director-General of Kenya Roads Board is therefore causing anxiety to the Board, and is misleading to the general public.

\* [ The Board submits that there is an error in the Memorandum of Objects and Reasons of the Kenya Roads (Amendment) Bill, 2021 and the advertisement inviting submissions on the same. You are therefore requested to correct the error by replacing all references to the Director-General of Kenya Roads Board with the

1

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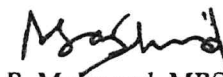


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Director-General of the other road agencies, namely Kenya National Highways Authority, Kenya Rural Roads Authority and Kenya Urban Roads Authority.

In conclusion, the Board supports the proposed amendments to the Kenya Roads (Amendment) Bill, 2021 subject to correction of the error noted above.

Yours *Sincerely,*

  
R. Mohamed, MBS  
DIRECTOR GENERAL

Copy to: Prof. Arch. Paul M. Maringa (PhD), CBS  
Principal Secretary  
State Department of Infrastructure  
Ministry of Transport and Infrastructure  
P. O. Box 30260 - 00100  
NAIROBI

SUBMISSIONS FROM

**State Department for Infrastructure**







**MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING,  
URBAN DEVELOPMENT AND PUBLIC WORKS  
STATE DEPARTMENT FOR INFRASTRUCTURE**

**Office of the Principal Secretary**

Telephone: +254-(0)-20-2723232  
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Email: [ps@infrastructure.go.ke](mailto:ps@infrastructure.go.ke)  
Website: [www.transport.go.ke](http://www.transport.go.ke)

WORKS BUILDING  
NGONG ROAD  
P.O. Box 30260-00100  
NAIROBI, KENYA

RE: MOTIHUD/I/A24.04

18<sup>th</sup> June 2021

**Michael R. Sialai, EBS**  
Clerk of the National Assembly  
Parliament Buildings  
**NAIROBI**

Dear Sir

**RE: INVITATION TO SUBMIT MEMORANDA - THE KENYA ROADS  
(AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO.  
13 OF 2021)**

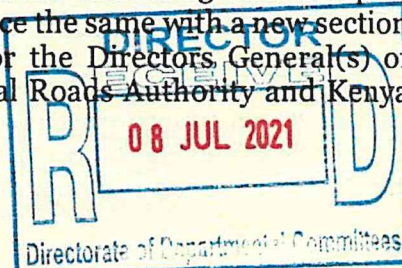
Reference is made to the Kenya Roads (Amendment) Bill, 2021 and the advertisement that appeared in The Standard Newspaper on 11<sup>th</sup> June 2021 inviting submission of Memoranda on the same.

The Memorandum of Objects and Reasons for the Kenya Roads (Amendment) Bill, 2021 states that:

*'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.'*

The Kenya Roads (Amendment) Bill seeks to amend section 13 and to repeal Section 14 of the Kenya Roads Act 2007 and replace the same with a new section for the appointment of and the qualification for the Directors General(s) of Kenya National Highways Authority, Kenya Rural Roads Authority and Kenya Urban Roads Authority.



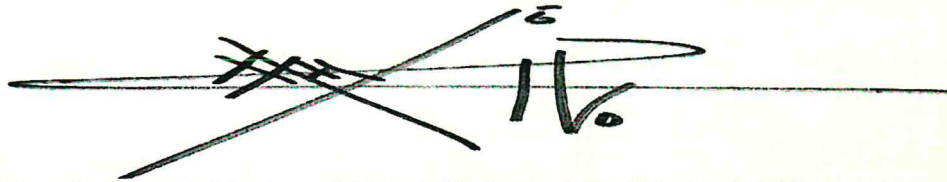


However, the Statement of Objects and Reasons in support of the bill erroneously refer to the Director-General of Kenya Roads Board provided for under the Kenya Roads Board Act 1999. It is noted all the proposed amendments relate to the Kenya Road Act 2007 and have no effect on the Kenya Roads Board Act 1999

The State Department of Infrastructure submits that there is an error in the Memorandum of Objects and Reasons of the Kenya Roads (Amendment) Bill, 2021 and the advertisement inviting submissions on the same.

To ensure the Kenya Roads (amendment) bill has a valid Memorandum of Objects and Reasons you are requested to correct the error by replacing all references to the Director-General of Kenya Roads Board with the Director-General(s) of the road agencies, namely Kenya National Highways Authority, Kenya Rural Roads Authority and Kenya Urban Roads Authority.

The State Department for Infrastructure supports the proposed amendments to the Kenya Roads (Amendment) Bill, 2021 subject to correction of the error noted above.



Prof. Arch. Paul M. Maringa (PhD), CBS, Corp. Arch (Maak), MKIP  
**PRINCIPAL SECRETARY**

**Copy to: James W. Macharia, EGH.**  
Cabinet Secretary  
Ministry of Transport, Infrastructure, Housing,  
Urban Development and Public Works  
**NAIROBI**

**Ken Ogeto, CBS**  
Solicitor General  
State Law Office and Department of Justice  
P.O. Box 40112-00100  
**NAIROBI**

**Eng. Peter M. Mundinia, EBS**  
Director General,  
Kenya National Highways Authority  
**NAIROBI**

**Eng. Philemon K. Kandie**  
A.g. Director General,  
Kenya Rural Roads Authority  
**NAIROBI**

**Eng. Silas M. Kinoti, MBS**  
Director General,  
Kenya Urban Roads Authority  
**NAIROBI**

**R. Mohamed, MBS**  
Director General,  
Kenya Roads Board  
**NAIROBI**



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END

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