

REPUBLIC OF KENYA



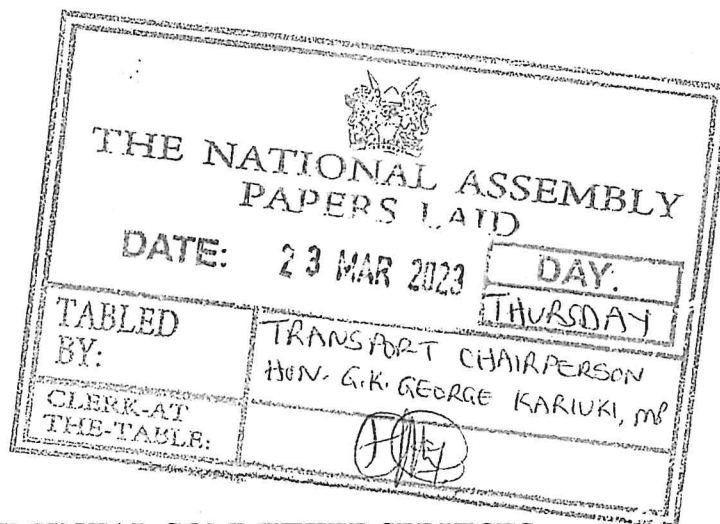
THE NATIONAL ASSEMBLY

Approved
SNA
22/3/23

THIRTEENTH PARLIAMENT – SECOND SESSION- 2023

DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

REPORT ON CONSIDERATION OF THE NATIONAL TRANSPORT AND SAFETY
AUTHORITY (AMENDMENT) (*NATIONAL ASSEMBLY BILLS NO. 43 OF 2022*)



CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

MARCH, 2023

TABLE OF CONTENTS

LIST OF ANNEXURES	2
CHAIRPERSON'S FOREWORD	3
EXECUTIVE SUMMARY	4
1.0 PREFACE	5
1.1 Mandate of the Committee	5
1.2 Committee Subjects.....	5
1.3 Oversight	7
1.4 Committee Membership	8
2.0 INTRODUCTION.....	11
2.1 Background Information.....	11
2.2 Summary of the Bill.....	11
3.0 PUBLIC PARTICIPATION IN THE REVIEW OF THE BILL.....	11
3.1 Submission by Hon. Simon Kingara, M.P.....	12
3.2 Submission by the Ministry of Roads and Transport	12
4. COMMITTEE OBSERVATIONS	15
5. COMMITTEE RECOMMENDATIONS.....	16

LIST OF ANNEXURES

- Annexure 1:** Signed list of Members who attended the sitting that considered and adopted the report
- Annexure 2** Minutes of the Committee on sittings considering the Bill and adoption of the report
- Annexure 3:** Copy of the National Transport and Safety Authority (Amendment) Bill (National Assembly Bills No. 43 of 2022)
- Annexure 4:** Correspondence to stakeholders requesting for submission of comments
- Annexure 5:** Newspaper advertisement inviting the public to submit memoranda on the Bill
- Annexure 6:** Written submissions received from stakeholders

CHAIRPERSON'S FOREWORD

The National Transport and Safety Authority Amendment) Bill (*National Assembly Bills No. 43 of 2022*) was read a first time on 15th February, 2023 and subsequently committed to the Departmental Committee on Transport and Infrastructure for consideration and reporting to the House pursuant to National Assembly Standing Order 127. The Bill seeks to amend the National Transport and Safety Authority Act, No 33 of 2012 to assign additional functions to the National Transport and Safety Authority. The proposed additional functions include, the establishment of systems and procedures for the regional registration and licensing of two and three wheeled public motorcycle taxis and the regional registration and licensing of drivers of two and three wheeled public motorcycle taxis by county governments, in consultation with the Authority.

While conducting public participation, the Committee placed advertisements in the print media of 23rd February, 2023, seeking comments from the public on the Bill pursuant to the provisions of Article 118 of the Constitution and Standing Order 127(3). The Committee received memoranda from the Kenya Association of Manufacturers. The Committee also vide a letter Ref. No. NA/ DDC/TI/2023/ (011) dated 22nd February, 2023 sought the views and comments on the Bill from the Attorney-General, the Principal Secretary for the State Departments for Transport and the Kenya Law Reform Commission.

The Committee further met the sponsor of the Bill, Hon. Simon Kinga'ra, M.P on Thursday, 9th March, 2023. On the same day, the Committee received both oral and written submissions from the Principal Secretary for the State Department for Transport who was accompanied by officials of the National Transport and Safety Authority.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Bill. I wish to express my appreciation to the Committee Members and the Committee Secretariat for their resilience and devotion to duty which made the consideration of the Bill successful. Finally, I wish to express gratitude to Members of the public who submitted their views and comments on the Bill in the course of public participation. Their views and commends indeed were vital in the consideration of the Bill.

On behalf of the Committee and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the report of the Committee on its consideration of the National Transport and Safety Authority (Amendment) (National Assembly Bills No. 43 of 2022).

HON. G.K. GEORGE KARIUKI, M.P

EXECUTIVE SUMMARY

The National Transport and Safety Authority Amendment) Bill (*National Assembly Bills No. 43 of 2022*) was read a first time on 15th February, 2023 and subsequently committed to the Departmental Committee on Transport and Infrastructure for consideration and reporting to the House pursuant to National Assembly Standing Order 127.

The Bill seeks to amend the National Transport and Safety Authority Act No. 33 of 2012 to assign additional functions to the National Transport and Safety Authority. The proposed additional functions include, the establishment of systems and procedures for the regional registration and licensing of two and three wheeled public motorcycle taxis and the regional registration and licensing of drivers of two and three wheeled public motorcycle taxis by county governments, in consultation with the Authority.

In order to fulfill the requirements of Article 118 of the Constitution, the Committee placed an advertisement in the print media of 23rd February, 2023 requesting for comments from the general public on the Bill. The Committee received memoranda from the Kenya Association of Manufacturers, (KAM) and also obtained the views and comments of the Principal Secretary for the State Department for Transport and the National Transport and Safety Authority during a meeting held on 9th March, 2023. The Committee considered all the submissions before making its recommendations.

Having considered the Bill and taken into account stakeholder views the Committee observed that the proposed amendments in the Bill were already provided for in the Transport and Safety Authority Act, No. 33 of 2012. Further, the NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the licensing of motorcycle taxis by the County Governments.

In view of the foregoing, the Committee recommends that the House rejects the National Transport and Safety Authority (Amendment) Bill (*National Assembly Bills No. 43 of 2022*) in its entirety. The Committee also recommends that the Cabinet Secretary for Roads and Transport should review the National Transport and Safety Authority (Operation of Motorcycles) (Amendment) Regulations 2022, to enforce compliance to the Act by *Boda Boda* operators and also to cater for emerging issues such as insecurity and safety in the *Boda Boda* Sector.

PART ONE

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Transport and Infrastructure is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -
 - 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. *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - d. *study and review all legislation referred to it;*
 - e. *study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - f. *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;*
 - g. *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);*
 - h. *examine treaties, agreements and conventions;*
 - i. *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - j. *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - k. *examine any questions raised by Members on a matter within its mandate.*

1.2 Committee Subjects

2. The Committee is mandated to consider the following subjects as per the Second Schedule of the Standing Orders:
 - i. Transport, including non-motorized transport;
 - ii. Construction and maintenance of roads;
 - iii. Rails, air and marine transport; Seaports and national integrated infrastructure policies and
 - iv. programmes; and
 - v. Transport safety.

1.3 Oversight

3. The Committee oversights the Ministry of Roads and Transport which has two state departments namely:
 - i. State department for Roads
 - ii. State department for Transport
4. Further, Committee oversights the State Department for Shipping and Maritime Affairs which is under the Ministry of Mining, Blue Economy, and Maritime Affairs.

1.4 Committee Membership

5. The Committee membership comprises: -

The Hon. G.K George Kariuki, M.P – **Chairperson**
Ndia Constituency
United Democratic Alliance Party

The Hon. Mutua Didmus Wekesa Barasa, M.P- **Vice- Chairperson**
Kimilili Constituency
United Democratic Alliance Party

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

The Hon. Elsie Muhanda, M.P.
Kakamega County
Orange Democratic Movement Party

The Hon. Naicca, Johnson Many, M.P
Mumias East Constituency
Orange Democratic Movement Party

The Hon. Chege John Kiragu, M.P.
Limuru Constituency
United Democratic Alliance Party

The Hon. Francis, Kajwang' Tom Joseph,
M.P.
Ruaraka Constituency
Orange Democratic Movement Party

The Hon. Abdirahman, Husseinweytan
Mohamed, M.P.
Mandera East Constituency

The Hon. Kiaraho, David Njuguna, M.P.
Ol Kalao Constituency
Jubilee Party

Orange Democratic Movement Party

The Hon. Kiunjuri Festus Mwangi, M.P.
Laikipia East Constituency
The Service Party

The Hon. Komingoi Kibet Kirui, M.P.
Bureti Constituency
United Democratic Alliance Party

The Hon. Bady, Bady Twalib, M.P.
Jomvu Constituency
Orange Democratic Movement Party

The Hon. Saney Ibrahim Abdi, M.P
Wajir North Constituency
Orange Democratic Movement Party

The Hon. Abdul Rahim Dawood, M.P.
North Imenti Constituency
Independent

The Hon. Jhanda Zaheer, M.P
Nyaribari Chache Constituency
United Democratic Alliance Party

1.5 Committee Secretariat

6. The Committee secretariat comprises: -

Ms. Tracy Chebet Koskei
Senior Clerk Assistant
Lead Clerk

Mr. Eric Kariuki
Research Officer II

Ms. Marlene Ayiro
Principal Legal Counsel

Mr. Mohamednur Abdulahi
Clerk Assistant III

Ms. Clare Choper Doye
Clerk Assistant III

Mr. Yusuf Moge
Fiscal Analyst II

Ms. Ivy Maritim
Media Relations Officer

2.0 INTRODUCTION

2.1 Background Information

7. The National Transport and Safety Authority (Amendment) Bill (*National Assembly Bills No. 43. Of 2022*) seeks to amend the National Transport and Safety Authority Act No. 33 of 2012 to assign additional functions to the National Transport and Safety Authority. The proposed additional functions include, the establishment of systems and procedures for the regional registration and licensing of two and three wheeled public motorcycle taxis and, the regional registration and licensing of drivers of two and three wheeled public motorcycle taxis by county governments, in consultation with the Authority.

2.2 Summary of the Bill

A. CLAUSE BY CLAUSE CONSIDERATION

8. The amendments proposed in the Bill are outlined below.
 - (a) **Clause 2** of the Bill proposes to amend section 4 (2) of the National Transport and Safety Authority Act No. 33 of 2012 by inserting the following new subparagraphs immediately after subparagraph (a)—
 - (aa) regulation of two and three wheeled public motorcycle taxis;
 - (ab) establish systems and procedures for the regional registration and licensing of two and three wheeled public motorcycle taxis;
 - (ac) establish system and procedures for registration and licensing of drivers of two and three wheeled public motorcycle taxis by county governments in consultation with the Authority;
 - (ad) issue public service vehicle badges to drivers of two and three wheeled public motorcycle taxis; and
 - (ae) regulate two and three wheeled public service motorcycle taxis;

3.0 PUBLIC PARTICIPATION IN THE REVIEW OF THE BILL

9. Article 118 (1) (b) of the Constitution of Kenya provides as follows: -

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees”

Standing Order 127(3) provides as follows-

“The Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its recommendations to the House”

10. In line with the Constitution and Standing Orders, the Committee placed advertisements in the print media on 23rd February, 2023. The Committee further invited relevant stakeholders namely; the Officer of the Attorney General and the Kenya Law Reform Commission to make submissions on the Bill vide a letter Ref: NA/DDC/TI/2022/010 dated 21st February, 2023 (Annex III) of the report.
11. The Committee received memoranda from the Kenya Association of Manufacturers, (KAM). On 9th March, 2023, the Committee received oral and written views and comments on the Bill from its sponsor, the Hon. Simon King'ara, M.P. The Committee, on the same date, also received submissions from Mr. Mohamed Dhagar, the Principal Secretary for the State Department for Transport who was accompanied by officials of the National Transport and Safety Authority.
12. The stakeholders submitted as follows:

3.1. Submission by Hon. Simon Kingara, M.P.

The Hon. Simon Kingara, M.P. for Ruiru Constituency and sponsor of the Bill appeared before the Committee on 9th March, 2023 and submitted as follows-

13. The formulation of the Bill emanated from the need to regulate the increase in the number of two (2) and three (3) wheeled motorcycle taxis and the increase in the usage of the taxis as a mode of transport in the country.
14. The definition of 'two or three wheeled motorcycle taxis was not provided for in the NTSA Act, 2012, however, during the meeting it was clarified that the National Transport and Safety Act No. 33 of 2012, in its interpretation of the word 'motor vehicle', makes reference to the Traffic Act (Cap 403) which defines a 'Motor Vehicle' *'as any mechanically propelled vehicle, excluding any vehicle running on a specially prepared way such as a railway or tramway or any vehicle deriving its power from overhead electric power cables or such other vehicles as may from time to time by rules under this Act be declared not to be motor vehicles for the purposes of this Act.'*
15. In a bid to regulate the *Boda Boda* operations, some counties have forced the operators to join Sacco societies. He also cited other countries in the region that had designed mechanisms to deal the *Boda Boda* sector such as Rwanda and the need for Kenya to replicate some of the lessons from the Country.
16. Failure to regulate the sector had led to and continued to cause the increase of cases of insecurity and lawlessness on the road and that the matter should be dealt with before it gets out of control.

3.2 Submission by the Ministry of Roads and Transport

Mr. Mohamed Daghar, Principal Secretary, State Department for Transport, appeared before the Committee on 9th March, 2023 accompanied by the National Transport and Safety Authority officials and submitted as follows-

17. Section 4(2) (a) of the NTSA Act empowers the Authority to undertake the registration of all motor vehicles including two and three wheeled motorcycle taxis.
18. By practice, all motorcycles in the country are registered when imported or assembled and issued with a registration number under the name of the dealer or assembler. It is when they are sold that the dealer transfers to the buyer as the owner.
19. The Fourth Schedule of the Constitution assigns the function of county road transport to County Governments. Licensing of taxis, whether motor vehicle or motorcycles that operates within the county is therefore a function of County Governments. The national Government cannot take over unless the Constitution is amended. The NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the licensing of motorcycle taxis by the County Governments.
20. The licensing of motorcycle taxis is already provided for under the regulations hence no need to introduce amendment to NTSA Act and that the issue of the registration of motorcycles by regions is not the best way to go.
21. If the national Government register motorcycles by region, it will be unclear what would happen to the registration once the motorcycle is disposed to another third or fourth owner residing in different regions.
22. The establishment of systems and procedures for the regional registration and licensing of drivers of two and three wheeled public motorcycle taxis by county governments in consultation with the Authority, section 4(2) (i) of the NTSA Act provides for the establishment of the procedures for the licensing and testing of drivers and this includes riders.
23. The United Nations Convention of Road Traffic 1968 to which Kenya is a party, provides for the recognition of national and not regional licenses and that the amendment would therefore be in conflict with the same.
24. The provision of public service vehicle badges to drivers of two and three wheeled public motorcycle taxis, Regulation 9(5) of the NTSA regarding the Operation of Motorcycles (Amendment) Regulations 2022 provide for the mandatory possession of a PSV badge of a rider as a requirement for licensing as a *Boda Boda* taxi rider. The purpose of the amendment is therefore already contained in law. Further he informed the Committee about the LN 121 of 2022 NTSA regarding the operation of Motor cycles (Amendment) 2022 Regulations that provide for the registration of *Boda Boda* taxis Saccos as well as their licensing by County Governments.

3.3 Submission by Kenya Association of Manufacturers

The Kenya Association of Manufacturers (KAM) in their written memorandum date 23rd January, 2023 and signed by Mr. Anthony Mwangi, the Chief Executive Officer submitted as follows-

25. Made a proposal to amend Clause (4) 2 (a) of the Act to provide for the provision of a single registration and licensing regime to be put in place, by introducing new paragraphs as follows:
 - (aa) regulation of two and three wheeled public motorcycle taxis;
 - (ab) establish systems and procedures for the regional registration and licensing of two wheeled public motor cycle taxis;
 - (ac) establish systems and procedures for the registration and licensing of drivers of two or three wheeled public motorcycle taxis by county governments in consultation with the Authority;
 - (ad) issue public service vehicle badges to drivers of two and three wheeled public motorcycle taxis; and
 - (ae) regulate two and three wheeled public service motor cycle taxis;"
26. The rationale for the amendment is that motorists and owners of two and three-wheeled public motorcycle taxis should only have to register once. There is no need to be registered and licenced across all the counties that they may traverse. Two or three wheeled public motorcycle taxis perform an invaluable public good of cheaply and efficiently transporting goods and services from one county to the next. They should be encouraged by reducing the regulatory burden in the form of a single registration and licencing system recognized in all counties. This will also increase compliance by all the eligible riders, which will increase revenues
27. Proposed an amendment for the creation of a shared database between National Transport and Safety Authority and the County Governments. The rationale for the amendment is that licensing of the riders should be as simple and efficient as possible. This will increase compliance and reduce bureaucracy. A database that is shared between the county governments and the National Transport and Safety Authority will greatly reduce the regulatory burden on the riders.
28. The agency also added that the database could also be useful for other government services that are shared between the national and county governments. They further noted that members of the public have been routinely subjected to harassment, violence and fraud from public service vehicle drivers. This has led to a drastic increase in lawlessness and violation of traffic rules on public roads.

4. COMMITTEE OBSERVATIONS

29. The Committee while considering the Bill made the following observations;

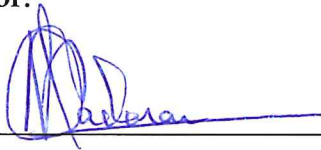
1. The proposed amendments in the Bill as formulated were already provided for in the National Transport and Safety Authority Act No. 33 of 2012;
2. The National Transport and Safety Authority (Amendment) Bill (*National Assembly Bills No. 43 of 2022*) emanated from issues of laxity in implementation, compliance and enforcements of the existing laws and regulations;
3. The NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the licensing of motorcycle taxis by the County Governments;
4. In March 2022 the Government launched a national registration process of two and three wheeled public service Motorcycles and the same is to be done in the NTSA Portal; and
5. There are in existence regulations formulated in 2015 that provide that the motorcycles should have a third party PSV insurance, riders to have a valid driving licence and operators to be members of a registered body corporate.

5. COMMITTEE RECOMMENDATIONS

30. Having considered the Bill and taken into account stakeholder views, the Committee recommends as follows-

1. The House rejects the National Transport and Safety Authority (Amendment) Bill (*National Assembly Bills No. 43 of 2022*) in its entirety; and
2. The Cabinet Secretary for Roads and Transport should review the National Transport and Safety Authority (Operation of Motorcycles) (Amendment) Regulations 2022, to enforce compliance to the Act by *Boda Boda* operators and also to cater for emerging issues such as insecurity and safety in the *Boda Boda* Sector.

SIGNED



DATE

22/08/2023

HON. G.K. KARIUKI, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRANSPORT AND
INFRASTRUCTURE

Annexure 1:

**Signed list of Members who attended the sittings that considered
and adopted the report**



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT- SECOND SESSION -2022

DEPARTMENTAL COMMITTEE ON TRANSPORT & INFRASTRUCTURE

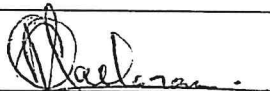

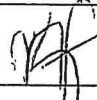

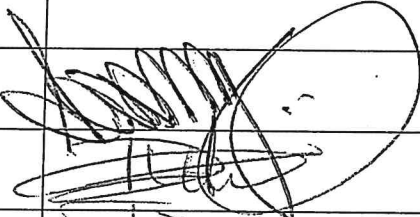

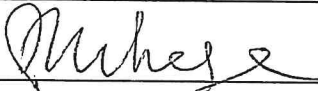

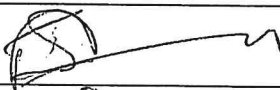

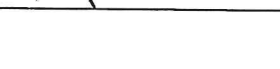
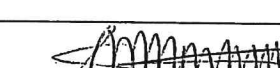

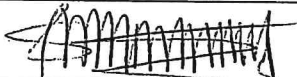
Adoption list for the Report on the National Transport and Safety (Amendment) Bill, 2022 (National Assembly Bills No. 43 of 2022)

DATE:

VENUE: SAWELA LODGE, NAIVASHA

START TIME:

END TIME:

	NAMES	SIGNATURE
1.	The Hon. GK George Kariuki, M.P - Chairperson	
2.	The Hon. Mutua Didmus Wekesa Barasa, M.P- Vice-Chairperson	
3.	The Hon. Kiunjuri, Festus Mwangi, M.P.	
4.	The Hon. Abdul Rahim Dawood, M.P.	
5.	The Hon. Arama Samuel, M.P.	
6.	The Hon. Bady, Bady Twalib, M.P.	
7.	The Hon. Francis, Kajwang' Tom Joseph M.P.	
8.	The Hon. Kiaraho, David Njuguna, M.P.	
9.	The Hon. Naicca, Johnson Many, M.P.	
10.	The Hon. Chege, John Kiragu, M.P.	
11.	The Hon. Elsie Muhanda, M.P.	
12.	The Hon. Saney, Ibrahim Abdi, M.P.	
13.	The Hon. Hussein Weytan, Mohamed, M.P.	
14.	The Hon. Jhanda Zaheer, M.P	
15.	The Hon. Komingoi, Kibet Kirui, M.P.	

Annexure 2:

**Minutes of the Committee on sittings considering the Bill and
adoption of the report**

**MINUTES OF THE SIXTEENTH SITTING OF THE DEPARTMENTAL COMMITTEE
ON TRANSPORT AND INFRASTRUCTURE HELD ON FRIDAY, 17TH MARCH 2023 AT
SAWELA LODGE, NAIVASHA AT 2:30 PM.**

MEMBERS PRESENT

1. The Hon. G.K George Kariuki, M.P – **Chairperson**
2. The Hon. Mutua Didmus Wekesa Barasa, M.P- **Vice- Chairperson**
3. The Hon. Kiunjuri, Festus Mwangi, M.P.
4. The Hon. Arama Samuel, M.P.
5. The Hon. Bady, Bady Twalib, M.P.
6. The Hon. Francis, Kajwang' Tom Joseph M.P.
7. The Hon. Kiaraho, David Njuguna, M.P.
8. The Hon. Naicca, Johnson Many, M.P.
9. The Hon. Chege, John Kiragu, M.P.
10. The Hon. Saney, Ibrahim Abdi, M.P.
11. The Hon. Hussein Weytan Mohamed, M.P.
12. The Hon. Jhanda Zaheer, M.P.
13. The Hon. Komingoi, Kibet Kirui, M.P

APOLOGIES

1. The Hon. Elsie Muhanda, M.P.
2. The Hon. Abdul Rahim Dawood, M.P

IN-ATTENDANCE

1. Mr. Emile N. Arao - Director General Kenya Civil Aviation Authority (KCAA)
2. Mr. Joseph K. Chebungei - Director Corporative Services (KCAA)
3. Mr. David Ndungi - Finance Manager (KCAA)

SECRETARIAT

1. Ms. Tracy Chebet Koskei - Senior Clerk Assistant
2. Ms. Clare Choper Doye - Clerk Assistant III
3. Mr. Mohamednur M. Abdullahi - Clerk Assistant III
4. Mr. Abdinasir Moge - Fiscal Analyst
5. Mr. Erick Kariuki - Research Officer
6. Ms. Ivy Maritim - Media relation Officer
7. Mr. Moses Moit - Audio Recording Officer
8. Mr. Moses Kariuki - Serjeant at Arms

MIN/ NO./TI/2023/077:

PRELIMINARIES

The Chairperson called the meeting to order at half past two O'clock (2:30pm) with a word of prayer. The Agenda of the meeting was adopted after being proposed and seconded by the Hon. Francis, Kajwang' Tom Joseph M.P and the Hon. Chege, John Kiragu, M.P. respectively.

The Chairperson informed the meeting was meant to consider among other things, the approved budget for the KCAA and list of projects undertaken by the Authority for the last five Financial Years. Further, the Chairperson welcomed the Director General for Kenya Civil Aviation Authority and other officials who were present for the meeting.

MIN./NO./TI/2023/078:

**CONFIRMATION OF MINUTES OF THE
PREVIOUS SITTING**

Confirmation of Minutes of the previous Sitting was deferred.

MIN./NO./TI/2023/079:

**SUBMISSION BY THE DIRECTOR GENERAL FOR
THE KENYA CIVIL AVIATION AUTHORITY**

Mr. Emile Arao, Director General for the Kenya Civil Aviation Authority while appearing before the Committee on Friday 17th March, 2023, submitted as follows;

The Director General informed the Committee that the Kenya Civil Aviation Authority is categorised as a regulatory State Corporation under the State Department of Transport, Ministry of Roads and is charged with the responsibility of ensuring air safety in Kenya and promoting the development of a dynamic and competitive civil aviation industry.

He further informed the Members of the mandate and functions of the Authority which includes: Aviation Safety and Security Oversight, Air Transport licensing and Regulation, Provision of Air Navigation Services in Kenya's Airspace, Provision of Aviation Training through the East African School of Aviation, Coordination of Search and Rescue among others.

The Director General submitted the legislative and policy gaps in the agency as follows;

- (a) Resolving the Air Passenger Service Charge (APSC) collection and remittance process by having the Kenya Revenue Authority (KRA) collect and remit directly to KCAA its share of the APSC without going through KAA as is the situation currently.
- (b) Review the PFMA regulation 219(2) to anchor approval to allow KCAA to factor in and retain Capital Budget for the subsequent financial year before remitting the 90% surplus to The National Treasury. The revenue earnings from the regulatory services were 6% of the total revenue compared to 61% revenue earnings from air navigation services during 2021/2 FY.
- (c) Amend the Value Added Tax, 2013 to include provision of domestic flight services to the list of zero rated supplies under the VAT Act 2013. Currently only international flight

services are zero rated. KRA assessed KCAA for prior year services and raised assessments that KCAA paid and continues to pay. Imposition of this tax which is currently not being levied will raise the cost of domestic flying by 16% that has to be borne by domestic passengers.

- (d) Explore the possibility of disengaging KRA from collection of KCAA revenues.
- (e) Amend the Civil Aviation Act 2013 to provide for submission of the Annual Report within six months after the end of the financial year to which it relates instead of the current three months.
- (f) Empower KCAA to issue Aeronautical Information Circular on all aviation matters and not only for aviation meteorology as currently provided under the Civil Aviation (Amendment) Act 2016.
- (g) Strengthening the Air Accident Investigation Department (AAID) to improve Kenya's compliance with ICAO Annex 13 requirements.

The Director General also submitted the Approved Budgets for the last Five Financial Years (2018/19, 2019/20, 2020/2021 and 2021/2022) and the Financial Year 2022/23.

	DESCRIPTI ON	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
	Source of Funding	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs
01	Appropriation -In-Aid (AIA)	7,200,000 ,000	8,114,000 ,000	3,934,574 ,593	5,987,806 ,213	7,315,005 ,845	8,114,989 ,598
02	Cash Reserves	1,356,297 ,110	541,914,8 67	1,985,996 ,449	1,058,043 ,239	206,631,1 18	754,379,7 88
03	GoK Grant	-	-	89,201,07 2	-	-	-
04	NUTRIP Grant	100,000,0 00	-	-	-	-	-
05	Donor Funding (IDA)	900,000,0 00	120,840,7 11	-	-	-	-
	Gross Total Funding	9,556,297 ,110	8,776,755 ,578	6,009,772 ,114	7,045,849 ,452	7,521,636 ,963	8,869,369 ,386
	Expenditure	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs

01	Recurrent Expenditure	6,680,508,146	6,587,833,868	5,146,968,090	5,982,245,020	6,626,892,086	7,582,183,874
02	Capital Expenditure	2,875,788,964	2,188,921,710	862,804,024	1,063,604,432	894,744,878	1,287,185,512
	Total Expenditure	9,556,297,110	8,776,755,578	6,009,772,114	7,045,849,452	7,521,636,963	8,869,369,386

The Director General further submitted the Recurrent Budget Absorption for the 2022/23 Financial Year that the total approved recurrent budget was Ksh. 6,871,740,137 As at 28th February, 2023, the total recurrent expenditure amounted to Ksh. 3,844,903,303 which translates to a budget absorption of 56.0 %.

The Committee heard that the Development Budget Absorption for the 2022/23 Financial Year that the total approved Development budget was Ksh. 894,744,878.00. As at 28th February, 2023, the total development budget expenditure amounted to Ksh. 90,078,060.76 which translates to a budget absorption of 10.07%.

The Committee was also informed that the Authority has implemented to completion, a total of 38 projects whose total cost was valued at Ksh. 2,831,656,330.37, there are a total of 82 ongoing projects whose total cost is Ksh.3,607,416,996. As of 28th February, 2023, The Authority had made payments amounting to Ksh. 272,940,906 related to 21 projects which is equivalent to 7.57 % of the total cost of the projects. The rest of the projects are in the procurement stages and initial implementation stages of implementation and payments have not been done.

The Committee was further informed that the Authority's major investments are in the provision of Air Navigation Services equipment and facilities and are guided by the Global Air Navigation Plan (GANP) which is approved at the international level for implementation by States who are members of the International Civil Aviation Organisation (ICAO) in order to achieve safe flow of global air traffic. As such the investments are undertaken to enable the growth of aviation and other businesses in the country and their returns can be considered from the wider economic benefits to the country.

The Director General submitted that Regulatory State Corporations are required to remit 90% of their surplus funds to the National Treasury. Since the Financial year 2014/15, the Authority has remitted a total of Ksh. 8,265,749,661 (91.97%) of the Ksh. 8,987,376,946 surplus funds generated to the National Treasury which has supported the government in implementation of various development programmes and projects.

In concluding his submission the Director General submitted the Challenges faced and proposed Mitigations as follows;

- (a) High cost of attracting and retaining qualified professional and technical staff – Offer of competitive terms of service to the flight safety inspectors and continuous building of capacity at the KCAA to increase the number of qualified inspectors.
- (b) Restrictive employment conditions based on Public Service pay structure - There is need to consider allowing KCAA to offer terms outside the approved ones by Salaries and Remuneration Commission. KCAA should be supported when it seeks consideration for exemption.
- (c) High cost of training of flight safety inspectors – Allocation and approval of adequate budgets for initial and currency training for staff.
- (d) Incompatible land uses around aerodromes which causes about 20 bird strikes per annum.
 - (i) Strict enforcement on land use plans.
 - (ii) Relocation of waste dump sites from near flight paths.
- (e) Security threats from possible launch of Manpads due to encroachment of airport land and settlements near the airports. Increase security surveillance around aerodromes.

Members Concerns and resolutions

The following matters arose:

- (a) Members were concerned that Cargo business has a lot of potential in the Country which is not adequately exploited by KCAA. Members noted that there was need for effective route planning and a revamped revenue department that can explore and advice on optimal solutions.
- (b) Members noted that the revenues generated by the School of aviation were quite low for an institution that trains air traffic controls from across the continent. Urgent measures should be instituted to revamp the institution to international standards to attract many students thereby generating increased revenues.
- (c) The Committee noted that KRA continued to collect air passenger service charge on behalf of KCAA which is against the repealed law. The Committee suggested that there was need to pursue the matter with KRA of the reasons as to why they have continued to collect the said revenues even after the law was repealed and transferring it to KCAA.

MIN/ NO./TI/2023/080:

CONSIDERATION AND ADOPTION OF THE REPORT ON CONSIDERATION OF THE NATIONAL TRANSPORT AND SAFETY

AUTHORITY (AMENDMENT) NATIONAL ASSEMBLY BILLS NO. 43 OF 2022)

The Committee considered and adopted its report on the National Transport and Safety Authority (Amendment) Bill. (National Assembly Bills No. 43 of 2022), after being proposed and seconded by the Hon. Komingoi, Kibet Kirui, M.P and the Hon. Chege, John Kiragu, M.P. respectively.

The Committee made the following Observation and Recommendations;

COMMITTEE OBSERVATIONS

1. The proposed amendments in the Bill as formulated were already provided for in the National Transport and Safety Authority Act No. 33 of 2012;
2. The National Transport and Safety Authority (Amendment) Bill (*National Assembly Bills No. 43 of 2022*) emanated from issues of laxity in implementation, compliance and enforcements of the existing laws and regulations;
3. The NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the licensing of motorcycle taxis by the County Governments;
4. In March 2022 the Government launched a national registration process of two and three wheeled public service Motorcycles and the same is to be done in the NTSA Portal; and
5. There are in existence regulations formulated in 2015 that provide that the motorcycles should have a third party PSV insurance, riders to have a valid driving licence and operators to be members of a registered body corporate.

COMMITTEE RECOMMENDATIONS

Having considered the Bill and the views by different stakeholders, the Committee recommends the following, That:

1. **The House rejects the National Transport and Safety Authority (Amendment) Bill (*National Assembly Bills No. 43 of 2022*) in its entirety; and**
2. **The Cabinet Secretary for Roads and Transport should review the National Transport and Safety Authority (Operation of Motorcycles) (Amendment) Regulations 2022, to enforce compliance to the Act by *Boda Boda* operators and also to cater for emerging issues such as insecurity and safety in the *Boda Boda* Sector.**

MIN/ NO./TI/2023/081:

**CONSIDERATION AND ADOPTION OF THE
REPORT ON CONSIDERATION OF THE
STATUTE LAW (MISCELLANEOUS
AMENDMENTS) BILL (NATIONAL ASSEMBLY
BILLS NO. 60 OF 2022)**

The Committee considered and adopted its report on the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bills No. 60 of 2022) and Safety Authority (Amendment), after being proposed and seconded by the Hon. Francis, Kajwang' Tom Joseph M.P. and the Hon. Mutua Didmus Wekesa Barasa, M.P. respectively.

The Committee made the following Observation and Recommendations;

COMMITTEE OBSERVATIONS

1. Pursuant to Article 157 of the Constitution, the Director of Public Prosecutions is required to exercise State powers of prosecution and may institute criminal proceedings against any person before any court;
2. In the Mombasa High Court Petition No. 18 of 2010 Maersk Kenya Limited and Others vs The Hon. Attorney General & others, the parties by consent agreed that Section 16 of the Merchant Shipping Act 2009 is inconsistent with Article 40 and 50 of the Constitution 2010. The Court therefore declared Section 16 unconstitutional null and void ab initio.
3. Statute laws (Miscellaneous Amendments) legislations also known as Omnibus Bills are meant to deal with minor and non-controversial amendments and not matters of a substantial nature such as the term of office of the Director-General.

COMMITTEE RECOMMENDATIONS

Having considered the Bill and the views by different stakeholders, the Committee recommends the following:

1. **That the proposed amendments to the Marine Insurance Act, Cap 390 be adopted as contained in the Statute Law (Miscellaneous Amendments) Bill, National Assembly Bills No. 60 of 2022**
2. **That the Proposed amendment to Section 16 of The Merchant Shipping Act No. 4 of 2009 be adopted as contained in the Statute Law (Miscellaneous Amendments) Bill, National Assembly Bills No. 60 of 2022.**

3. That the proposed amendment to Section 16 of The National Transport and Safety Authority Act, 2012 (No. 33 of 2012) on increasing the Tenure of office of Director-General to five (5) years be rejected.

MIN/ NO./TI/2023/082:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at five O'clock (5.00 pm) the next meeting was scheduled for the following day (Saturday 18th March 2023)z.

SIGNED.......... DATE 22/03/2023.....

HON GK GEORGE KARIUKI, MP

CHAIRPERSON

MINUTES OF THE THIRTEENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE HELD ON THURSDAY, 9TH MARCH 2023 IN COMMITTEE ROOM ON 5TH FLOOR, CONTINENTAL HOUSE PARLIAMENT BUILDINGS AT 12:30 PM

MEMBERS PRESENT

1. The Hon. Mutua Didmus Wekesa Barasa, M.P- Vice- Chairperson
2. The Hon. Kiunjuri, Festus Mwangi, M.P.
3. The Hon. Bady, Bady Twalib, M.P.
4. The Hon. Francis, Kajwang' Tom Joseph M.P.
5. The Hon. Naicca, Johnson Many, M.P.
6. The Hon. Chege, John Kiragu, M.P.
7. The Hon. Saney, Ibrahim Abdi, M.P.
8. The Hon. Husseinweytan Mohamed, M.P.
9. The Hon. Komingoi, Kibet Kirui, M.P

APOLOGIES

1. The Hon. GK George Kariuki, M.P – Chairperson
2. The Hon. Abdul Rahim Dawood, M.P
3. The Hon. Arama Samuel, M.P.
4. The Hon. Kiaraho, David Njuguna, M.P.
5. The Hon. Elsie Muhanda, M.P.
6. The Hon. Jhanda Zaheer, M.P.

FRIEND OF THE COMMITTEE

1. The Hon. Simon King'ara – Sponsor of the Bill

IN-ATTENDANCE

MINISTRY OF ROADS AND TRANSPORT

1. Mr. Mohamed Daghar - Principal Secretary State Department for Transport
2. Mr. Coswas Ngeso - Deputy Director National Transport and Safety Authority (NTSA)
3. Mr. Martin Eshiwani - Director Road Transport.

SECRETARIAT

1. Ms. Tracy Chebet Koskei - Senior Clerk Assistant
2. Mr. Mohamednur M. Abdullahi - Clerk Assistant III
3. Ms. Marleane Ayiro - Principal Legal

- | | |
|-----------------------|---------------------------|
| 4. Mr. Abdinasir Moge | - Fiscal Analyst |
| 5. Mr. Erick Kariuki | - Research Officer |
| 6. Ms. Ivy Maritim | - Media relation Officer |
| 7. Mr. Eugene Luteshi | - Audio Recording Officer |

MIN/ NO./TI/2023/057: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 12:45pm with a word of prayer from the Hon. Hon. Naicca, Johnson Many, M.P. The agenda of the meeting was adopted after being proposed and seconded by the Hon. Chege, John Kiragu, M.P. and the Hon. Hon. Naicca, Johnson Many, M.P. respectively.

The Vice-Chairperson informed the Committee that the main Agenda was consideration of the National Transport and Safety Authority (Amendment) Bill, 2022 (National Assembly Bills No. 43 Of 2022) and adoption of the draft report on the 2023 Budget Policy Statement.

The Vice-Chairperson thereafter welcomed the Principal Secretary for State Department Transport and officials of the National Transport and Safety Authority who were present for the meeting.

MIN./NO./TI/2023/058: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Confirmation of Minutes of the previous Sitting was deferred.

MIN./NO./TI/2023/059: SUBMISSION BY THE HON. SIMON KING'ARA, M.P REGARDING THE NTSA BILL, 2022

Hon. Simon King'ara appeared before the Committee to shed more light on the National Transport and Safety Authority (Amendment) Bill, 2022 (National Assembly Bills No. 43 Of 2022) and submitted as follows;

He informed the Committee that the Bill seeks to assign additional functions to the National Transport and Safety Authority by include the establishment of systems and procedures for registration and licensing of two and three wheeled motorcycle taxis.

The Honourable Member submitted that the need for the Bill emanated from the to regulate the increased number of two and three wheeled motorcycle taxis and increased usage of the taxis as a mode of transport in the country.

He noted that the definition of 'two or three wheeled motorcycle taxis was not provided for in the NTSA Act, 2012, however, it was clarified that the National Transport and Safety Act No. 33 of 2012, in its interpretation of the word 'motor vehicle', makes reference to the Traffic Act (Cap 403) which defines a 'Motor Vehicle' *'as any mechanically propelled vehicle, excluding any vehicle running on a specially prepared way such as a railway or tramway or any vehicle deriving its power from overhead electric power cables or such other vehicles as may from time to time by rules under this Act be declared not to be motor vehicles for the purposes of this Act.'*

The Honourable Member further noted that in a bid to regulate the *Boda Boda* operations, some counties have forced the operators to join a Sacco. He also cited other countries in the region who have designed mechanisms to deal the *Boda Boda* sector such as Rwanda and the need for Kenya to replicate some of the lessons from the Country.

He also submitted that failure to regulate the sector has led to increased cases of insecurity and lawlessness on the road and the matter should be dealt with before it gets out of control.

**MIN./NO./TI/2023/061: SUBMISSION BY THE PRINCIPAL
SECRETARY FOR TRANSPORT**

The Principal Secretary informed the Committee that Section 4(2) (a) of the NTSA Act empowers the Authority to undertake the registration of all motor vehicles including two and three wheeled motorcycle taxis.

He further informed the Committee that by practice, all motorcycles in the country are registered when imported or assembled and issued with a registration number under the name of the dealer or assembler. It is when they are sold that the dealer transfers to buyer as the owner.

The Principal Secretary submitted that the Fourth Schedule of the Constitution assigns the function of county road transport to County Governments. Licensing of taxis, whether motor vehicle or motorcycles that operates within the county is therefore a function of County Governments. The national Government cannot take over unless the constitution is amended. The NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the licensing of motorcycle taxis by the County Governments.

The Principal Secretary further submitted that the licensing of motorcycle taxis is already provided for under the regulations hence no need to introduce amendment to NTSA Act and that the issue of the registration of motorcycles by regions is not the best way to go.

The principal Secretary also brought to the attention of the Committee that if the national Government register motorcycles by region, it will be unclear what would happen to the registration once the motorcycle is disposed to another third or fourth owner who reside in different regions.

The Principal Secretary informed the Committee on the establishment of systems and procedures for the regional registration and licensing of drivers of two and three wheeled public motorcycle taxis by county governments in consultation with the Authority, section 4(2) (i) of the NTSA Act provides for the establishment of the procedures for the licensing and testing of drivers and this includes riders.

He further informed the Committee about the United Nations Convention of Road Traffic 1968 to which Kenya is a party, the law provides for the recognition of national and not regional licenses and that the amendment would therefore be in conflict with the same.

In concluding his submission, he stated that the provision of public service vehicle badges to drivers of two and three wheeled public motorcycle taxis, Regulation 9(5) of the NTSA regarding the Operation of Motorcycles (Amendment) Regulations 2022 provide for the mandatory possession of a PSV badge of a rider as a requirement for licensing as a bodaboda taxi rider. The purpose of the amendment is therefore already contained in law. Further he informed the Committee about the LN 121 of 2022 NTSA regarding the operation of Motor cycles (Amendment) 2022 Regulations that provide for the registration of bodaboda taxis saccos as well as their licensing by County Governments.

Members Concerns and resolutions

The Committee raised the following matters:

1. The amendments in their form are already provided for in the National Transport and Safety Authority Act No. 33 of 2012;
2. The National Transport and Safety Authority (Amendment) Bill (National Assembly Bills No. 43 of 2022) emanated from to issues laxity of compliance and enforcements of the existing laws and regulations;
3. In the National Transport and Safety Authority Act No. 33 of 2012 does not make interpretation of the word “ Motor Cycle’ even though it is defined in the Traffic Act(Cap 403);
4. The NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the licensing of motorcycle taxis by the County Governments.
5. In March 2022 the Government launched a national registration process of two and three wheeled public service Motorcycles and the same is to be done in the NTSA Portal; and
6. There are in existence regulations that were formulated in 2015 that provide that the motorcycles should have a third party PSV insurance, riders to have a valid driving licence and operators to be members of a registered body corporate.

Having considered the Bill and the views by different stakeholders, the Committee resolved as follows, That:

1. The House rejects the National Transport and Safety Authority (Amendment) Bill (National Assembly Bills No. 43 of 2022); and
2. The Cabinet Secretary for the Ministry of Roads and Transports reviews the National Transport and Safety Authority (Operation of Motorcycles) (Amendment) Regulations 2022, to enforce compliance to the Act by Boda Boda operators and also to cater for emerging issues such as insecurity and safety in the Boda Boda Sector.

**MIN./NO./TI/2023/065: CONSIDERATION AND ADOPTION OF THE
2023 REPORT ON THE 2023 BUDGET POLICY
STATEMENT**

The Committee considered and adopted its Report on 2023 Budget Policy Statement as per the Standing Order 199 and 232 (5), after being proposed and seconded by the Hon. Francis, Kajwang' Tom Joseph M.P. and the Hon. Bady, Bady Twalib, M.P, respectively.

The Committee made the following Observations and Recommendations:

General Observations

- i. All the State Departments under the oversight of the Departmental Committee on Transport and Infrastructure have been allocated ceilings below their budgetary requirements for implementation of various programmes, projects and activities.
- ii. Infrastructure projects require huge capital outlay for timely and meaningful contribution to the economy. However, the Sector has been struggling with issues emanating from inadequate funding resulting into non-completion of earmarked projects as well as accumulation of pending bills.

State Department for Roads

- iii. The State Department for Roads has been allocated a Net GoK ceiling of Kshs. 56.2 billion against its requirement of Kshs. 315.2 billion resulting into a funding shortfall of Kshs.225.8 billion. The Net GoK shortfall in funding will negatively affect road projects implementation resulting into delayed project completion, interest and other claims, abandoned projects, expensive projects and reduced confidence in Government in honoring its financial obligations and commitments.

- iv. The Outstanding GoK component under the State Department for Roads on the Contracted works amount to approximately **Kshs.900 billion** of which **Kshs.144 billion** is certified unpaid bills and the balance of works worth **Kshs.756 billion** is uncertified/undone works within the various contracts.
- v. Considering the fact that the outstanding GoK component under the State Department for Roads on the contracted works of **Kshs.900 billion**, rely on the GoK ceilings per year which averages at **Kshs.55 billion**, it is observed that it would take approximately 16 years to settle these works to completion.
- vi. The portfolio of projects in the State Department for Roads are not matched with the projected ceiling available to the Sub sector of roads over the medium term. The mismatch between the portfolio of projects and the resources available has mainly been caused by the rollout of the Roads 10,000 policy of upgrading 10,000 km to bitumen standards from the Financial Year 2014/2015. During the first year of its roll out, a ceiling of Kshs.92 billion was allocated. The understanding was that this allocation of Kshs.92 billion would continue being increased every subsequent financial year. However, the allocations started being reduced in subsequent years to average Kshs.55 billion over the last 5 years.

State Department for Transport

- vii. The State Department for Transport has been allocated **Kshs.62.57 billion** in the proposed 2023 BPS which translates to 13% of its resource requirement of Kshs. 484 billion. This has left out key programmes, projects and activities that are critical to the State Department for Transport in delivering its mandate.

State Department for Shipping and Maritime Affairs

- viii. The total resource requirement for the State Department of Shipping and Maritime Affairs for the Financial Year 2023/24 is Kshs. 5.68 billion comprising of Kshs.2.97 billion for recurrent and Kshs.2.61 billion for development. However, out of these requirements, the 2023 BPS proposed a resource allocation of Kshs 3.38 billion of which Kshs 2.34 billion is for recurrent and Kshs 1.05 billion is for development. The Department, therefore, has an overall shortfall of Kshs. 2,300M.
- ix. The State Department for Shipping and Maritime Affairs has been given eight (8) additional functions/mandates in the executive orders. However, the 2023 BPS does not provide the corresponding resources for the State Department to effectively deliver the additional functions.

- x. The State Department for Shipping and Maritime has only three (3) functional vehicles whose maintenance is very high due to frequency of usage in a bid to meet the needs of the Department.
- xi. Three (3) Chief Executive Officers of Kenya Maritime Authority, Bandari Maritime Academy and the Kenya National Shipping line, have been on an acting capacity for a long time.
- xii. That the Students of Bandari Maritime Academy (BMA) are not able to access Government Capitation since they are not under TVET.

COMMITTEE RECOMMENDATIONS

Following deliberations and engagements with the State Departments and Agencies, the Committee made the following recommendations:

Non-Financial Recommendations

- i. **In general**, The Committee recommends that all spending agencies prioritize their programmes, projects and activities to effectively implement their planed programmes, projects and activities aimed at achieving the performance targets towards supporting bottom up economic agenda in line with the Kenya Kwanza Manifesto.
- ii. Heavy taxation on purchase of spare parts is a major concern in the aviation industry. The Government should therefore institute measures to review the taxation levied in the aviation sector.
- iii. Transfer of Kenya Ferry Services to the Kenya ports Authority was a timely decision to improve efficiency of ferry services. There is therefore need to support Kenya Ports Authority in its effort to modernize the ferry services.
- iv. The National Transport and Safety Authority should reintroduce training for Boda- Boda operators to equip the operators with necessary safety skills.
- v. The State Department for Shipping and Maritime Affairs initiates the process of developing a policy framework with the Mother Ministry and the Ministry of Education to allow Bandari Maritime Academy students access the capitation like their counter parts in TVET institutions.

Financial Recommendations

The Committee recommends approval of the ceilings for each vote and programmes therein as submitted by the National Treasury in the 2023 BPS as follows;

- i. State Department for RoadsKshs. 220,875 million
- ii. State Department for TransportKshs. 62,576 million
- iii. State Department for Shipping and Maritime Affairs.....Kshs. 3,388 million

Further, the Committee recommends that the Budget and Appropriations Committee in consultation with the National Treasury provide resources to finance the following unfunded critical areas in the 2023/24 Financial Year.

a) State Department for Roads

- i. National Treasury considers an additional net GoK allocation of Kshs.145 billion to State Department of roads for the Financial Year 2023/2024 for settlement of pending bills and a further device a strategy of financing the entire road projects outstanding portfolio of Kshs.900 billion.

b) State Department for Transport (Kshs.24,921 million – wish list in order of priority)

- i. Refurbishment of Transcom HouseKshs. 60 million
- ii. Unpaid Pending Bill for the Kenya Railways Corporation – Construction and Completion of Relocation Units and Safety Infrastructure at Kibera and Mukuru, Nairobi.....Kshs.633 million
- iii. Approved Arbitration Proceedings Kenya Railways Corporation -instituted by Kenya Uganda Railways Holding Limited and RVR Investments(PTY) Limited against the Republic of Kenya and Republic of Uganda in London Court.....Kshs.1,000 million
- iv. Legal case for Kenya Railways Corporation, In the Matter of Arbitration Between VEE VEE ENTERPRISE Limited and the Ministry of Transport/Kenya Railways.....Kshs.321 million
- v. Approved additional Allocation to the Kenya Railways Corporation-*Payable to Consultants*. [Mukuru - Kibera Relocation Action Plan.....Kshs. 273 million
- vi. Pending bill for Construction of Hostels and Safety Training Facility at Kisumu Marine School.....Kshs. 340 million
- vii. Completion of on-going Capital Projects-Kenya Ports Authority.....Kshs. 2,325 million
- viii. Repair, Purchase of Equipment in the Central Workshop – Kenya Railways...Kshs.3,500 million
- ix. Railway City Development Phase I.....Kshs. 1,000 million
- x. LAPSSET Development Authority [LCDA] LAPSSET Funding Pending Payments/RequirementsKshs.821 million
- xi. NTSA data recovery Centre and digitization of Boda Boda riders and licences....Kshs.550 million

- xii. Acquisition of Aircraft Accident Investigation Equipment.....Kshs.600 million
- xiii. Construction and Rehabilitation of Airports /Airstrips Nationwide.....Kshs.13,498 million.

c) State Department for Shipping and Maritime Affairs (Kshs. 2,139.5 million – wish list)

- i. Eight additional functions/ mandatesKshs. 120 million
- ii. Purchase of additional vehicles to enhance movements for field work and general duties.....Kshs.100 million
- iii. Purchase of ICT EquipmentKshs. 15 million
- iv. Partitioning of the newly acquired office space at NSSF annexes building....Kshs.50 million
- v. Enhanced operational and maintenance budget line to cater for incidental cost such as fuel, stationery, computers and furniture etc.....Kshs. 50 million
- vi. Bandari Maritime Academy for recruitment of staff and cater for contracted services transferred from KPA.....Kshs. 76 million
- vii. Kenya National Shipping line (KNSL).....Kshs. 107.5 million of which Kshs. 74 million is to be transferred from the National Treasury to Kenya National Shipping line and Kshs. 33.5 million for office partitioning and acquisition of furniture for its new office premises following the restructuring.
- viii. Construction and equipping of advanced firefighting Certification Centre project to avail the full range of mandatory Standards of Training Certification and Watch keeping (STCW) courses for seafarers to ensure their employability onboard local and foreign going ships.....Kshs. 1,121 million
- ix. Development of a Modern Shipyard in Kisumu.....Kshs. 500 million

MIN./NO./TI/2023/066:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business the meeting was adjourned at Five Minutes Past Two O'Clock (2:00 pm). The next meeting will be on notice.

SIGNED..........DATE.....22/02/2023.....

HON. GK GEORGE KARIUKI, MP

CHAIRPERSON

Annexure 3:

**Copy of the National Transport and Safety Authority
(Amendment) Bill (National Assembly Bills No. 43 of 2022)**

SPECIAL ISSUE

Kenya Gazette Supplement No. 168 (National Assembly Bills No. 43)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2022

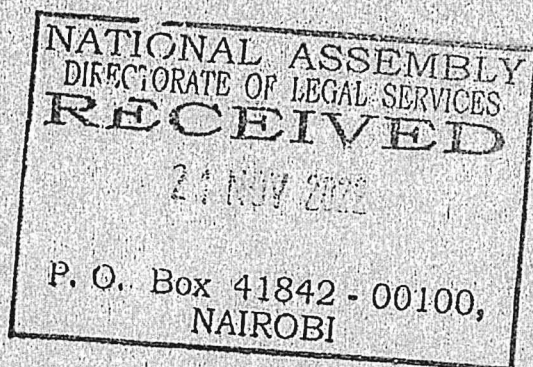
NAIROBI, 28th October, 2022

CONTENT

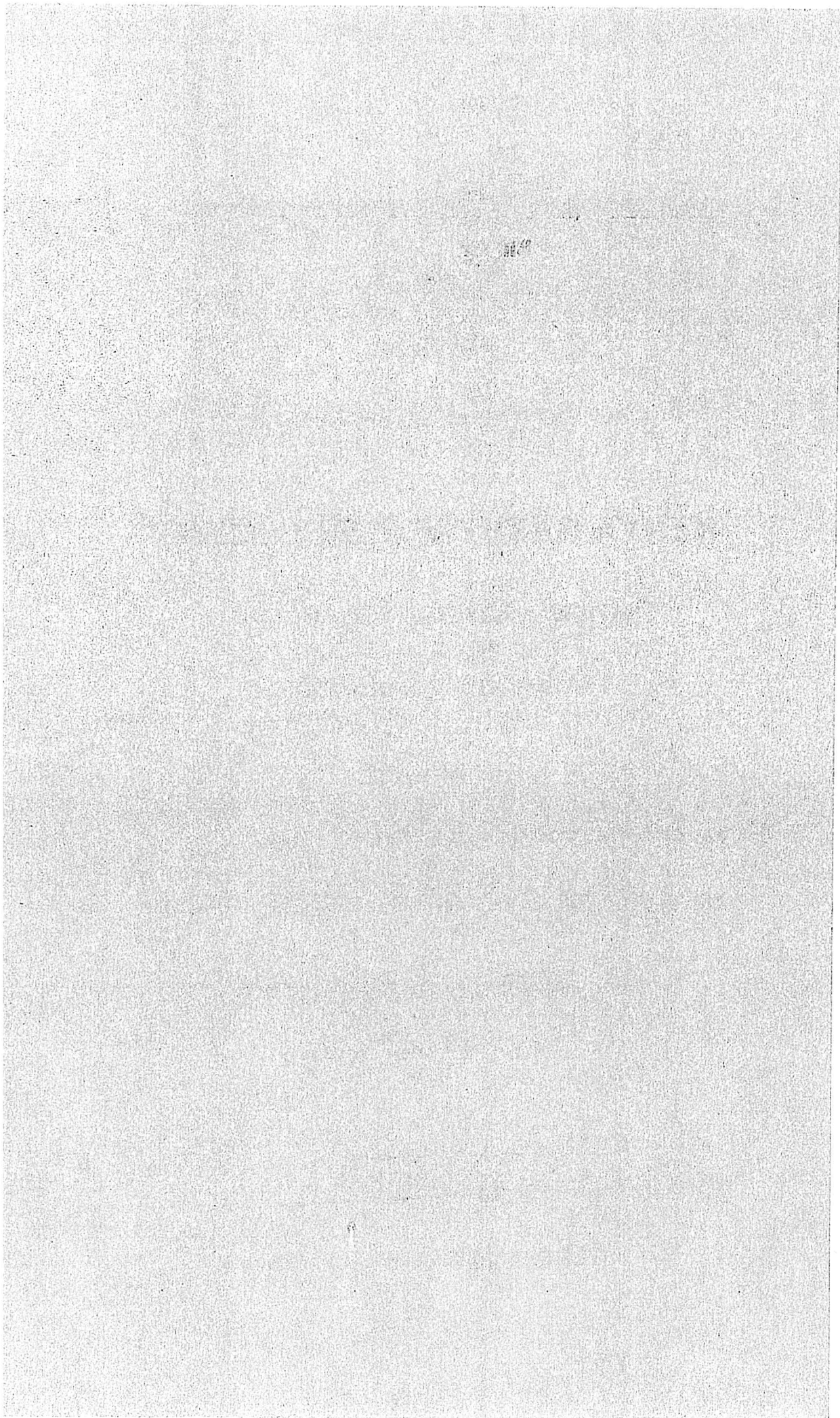
Bill for Introduction into the National Assembly—

PAGE

The National Transport and Safety Authority (Amendment) Bill, 2022 1165



PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI



**THE NATIONAL TRANSPORT AND SAFETY
AUTHORITY (AMENDMENT) BILL, 2022**

A Bill for

AN ACT of Parliament to amend the National Transport and Safety Authority Act, 2012 and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the National Transport and Safety Authority (Amendment) Act, 2022.

Short title.

2. Section 4 of the National Transport and Safety Authority Act, 2012 (in this Act, referred to as “principal Act”) is amended in subsection (2) by—

Amendment of
section 4 of No.
33 of 2012.

(a) inserting the following new subparagraphs immediately after sub paragraph (a)—

“(aa) regulation of two and three wheeled public motorcycle taxis;

(ab) establish systems and procedures for the regional registration and licensing of two and three wheeled public motor cycle taxis;

(ac) establish systems and procedures for the registration and licensing of drivers of two and three wheeled public motorcycle taxis by county governments in consultation with the Authority;

(ad) issue public service vehicle badges to drivers of two and three wheeled public motorcycle taxis; and

(ae) regulate two and three wheeled public service motor cycle taxis;

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons for the Bill

The principal object of this Bill is to amend the National Transport and Safety Act, No. 33 of 2012 to assign additional functions to the National Transport and Safety Authority; the proposed additional functions include, the establishment of systems and procedures for the regional registration and licensing of two and three wheeled public motor cycle taxis and, the regional registration and licensing of drivers of two and three wheeled public motor cycle taxis by county governments, in consultation with the Authority.

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

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

Statement on how the Bill affects county governments

This Bill concerns county governments in terms of Article 110 (1) of the Constitution as it affects the functions and powers of county governments set out under paragraph 5 of Part 2 of the Fourth Schedule to the Constitution.

Statement as to whether the Bill is a money Bill, within the meaning of Article 114 of the Constitution

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

Dated the 26th October, 2022.

SIMON NG'ANG'A KING'ARA,
Member of Parliament.

Section 4 of No. 33 of 2012 which it is proposed to amend—

4. (1) The functions of the Authority shall be to—

Functions of the
Authority.

- (a) advise and make recommendations to the Cabinet Secretary on matters relating to road transport and safety;
- (b) implement policies relating to road transport and safety;
- (c) plan, manage and regulate the road transport system in accordance with the provisions of this Act;
- (d) ensure the provision of safe, reliable and efficient road transport services; and
- (e) administer the Act of Parliament set out in the First Schedule and any other written law.

(2) In the performance of its functions under subsection (1), the Authority shall—

- (a) register and license motor vehicles;
- (b) conduct motor vehicle inspections and certification;
- (c) regulate public service vehicles;
- (d) advise the Government on national policy with regard to road transport system;
- (e) develop and implement road safety strategies;
- (f) facilitate the education of the members of the public on road safety;
- (g) conduct research and audits on road safety;
- (h) compile inspection reports relating to traffic accidents;
- (i) establish systems and procedures for, and oversee the training, testing and licensing of drivers;
- (j) formulate and review the curriculum of driving schools;
- (k) co-ordinate the activities of persons and organizations dealing in matters relating to road safety; and

- (l) perform such other functions as may be conferred on it by the Cabinet Secretary or by any other written law.

Annexure 4:

**Correspondence to stakeholders requesting for Submission of
comments**



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/TI/2023/014

28th February, 2023

Hon. Simon King'ara, M.P
Member of Parliament
Ruiru Constituency
Parliament Buildings
NAIROBI

Dear Hon King'ara

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT
AND INFRASTRUCTURE TO CONSIDER THE NATIONAL TRANSPORT
AND SAFETY AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY
BILLS No. 43 OF 2022)**

The Departmental Committee on Transport and Infrastructure is established under the National Assembly Standing Order 216 and is mandated to amongst others, *"study and review all legislation referred to it"*.

The National Transport and Safety (Amendment) Bill, 2022 (National Assembly Bill No. 43 of 2022) was published on 28th October, 2022 and Read a First Time in the House on 15th February, 2023. Pursuant to Standing Order 127(1), the Bill was subsequently referred to the Departmental Committee on Transport & Infrastructure to conduct stakeholders' engagement and report to the House. An advert requesting for memoranda was placed in the newspapers on 23rd February, 2023.

In that regard, the Committee has resolved to invite you to a meeting to deliberate and shed more light on the Bill. The meeting will be held on **Thursday 9th March, 2023**, in the **Committee Room on 2nd Floor, Continental House, Parliament Buildings at 9.30 am.**

The Liaison Officers facilitating this matter are **Ms. Tracy Chebet Koskei** who may be contacted on 0726416794 or email: tracy.koskei@parliament.go.ke; **Mr. Mohamednur M. Abdullahi** on tel. no. 0720928507 or email: mohamednur.abdullahi@parliament.go.ke; and **Ms. Clare Choper** on tel. no. 0721938018 or email: chopper.doye@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Encl.//



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

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Main Parliament Buildings

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Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/TI/2023/011

22nd February, 2023

Mr. Mohamed Daghar
Principal Secretary
State Department for Transport
Ministry of Roads and Transport
Transcom House, Ngong Road
NAIROBI

Mr. George Njao
Director General
National Transport and Safety Authority (NTSA)
316 Upper Hill Chambers, 2nd Ngong Avenue, Nairobi
P.O Box 3602 -00506,
NAIROBI

Dear

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND
INFRASTRUCTURE TO CONSIDER THE NATIONAL TRANSPORT AND
SAFETY AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS
No. 43 OF 2022)**

The Departmental Committee on Transport and Infrastructure is established under National Assembly Standing Order 216 and is mandated to amongst others, *"study and review all legislation referred to it"*.

Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

The National Transport and Safety (Amendment) Bill, 2022 (National Assembly Bills No. 43 of 2022), sponsored by the Hon. Simon King'ara MP, seeks to amend the National Transport and

Safety Act, No. 33 of 2012 to assign additional functions to the Authority to include the establishment of systems and procedures for the registration and licensing of two and three wheeled public motor cycle taxis.

The National Transport and Safety (Amendment) Bill, 2022 (National Assembly Bills No. 43 of 2022) was published on 28th October, 2022 and Read a First Time in the House on 15th February, 2023. Pursuant to Standing Order 127(1), the Bill was subsequently referred to the Departmental Committee on Transport & Infrastructure to conduct stakeholders' engagement and report to the House.

This is therefore to invite the Cabinet Secretary for the Ministry of Roads and Transport and the Director General for the National Transport and Safety Authority, to a meeting to present their submissions on the proposed amendment and justification. The meeting will be held on **Thursday 9th March, 2023**, in the **Committee Room on 2nd Floor, Continental House, Parliament Buildings at 10.00am.**

Kindly provide Twenty (20) hard copies of your submissions and a soft copy should be sent to the Office of the Clerk, via email: cna@parliament.go.ke to be received on or before **Tuesday, 7th March, 2023.**

Enclosed find a copy of the Bill for reference.

The Liaison Officers facilitating this matter is **Tracy Chebet Koskei** who may be contacted on **0726416794** or email: tracy.koskei@parliament.go.ke and **Mr. Mohamednur M. Abdullahi** who may be contacted on **0720928507** or email: mohamednur.abdullahi@parliament.go.ke.

Yours *Sincerely,*

PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

Encl.//

Copy to: **Hon. Kipchumba Murkomen, E.G.H**
Cabinet Secretary
Ministry of Roads and Transport
Transcom House - Ngong Road
NAIROBI

Hon. Simon King'ara, M.P
Member of Parliament
Ruiru Constituency
Parliament Buildings
NAIROBI



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

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Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/TI/2023/006

20th February, 2023

Hon. Justin B. N. Muturi, EGH

Attorney General of the Republic of Kenya
Office of the Attorney General and Department of Justice
Sheria house
Harambee Avenue
NAIROBI

Mr. Joash Dache

Secretary /Chief Executive Officer
Kenya Law Reform Commission (K.L.R.C)
P.O BOX 34999-00100.
NAIROBI

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL TRANSPORT AND
SAFETY AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY
BILLS No. 43 OF 2022)**

The above matter refers.

The Departmental Committee on Transport and Infrastructure is established under National Assembly Standing Order 216 and is mandated to amongst others, *‘study and review all legislation referred to it’*.

Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

The **National Transport and Safety Authority (Amendment) Bill, 2022 (National Assembly Bills No. 43 of 2022)** sponsored by the Hon. Simon King’ara MP seeks to amend the National Transport and Safety Act, No. 33 of 2012 to assign additional functions to the Authority to include the establishment of systems and procedures for the registration and licensing of two and three wheeled public motor cycle taxis.

The National Transport and Safety Authority (Amendment) Bill, 2022 (National Assembly Bills No. 43 of 2022) was published on 28th October, 2022 and Read a First Time in the House on 15th February, 2023. Pursuant to Standing Order 127(1), the Bill was subsequently referred

to the Departmental Committee on Transport & Infrastructure to conduct stakeholders' engagement and report to the House.

This is therefore to invite you to present your written submissions in a matrix format that indicates the Section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions and a soft copy should be sent to the Office of the Clerk, Main Parliament Building or email the same to cna@parliament.go.ke to be received on or before **Tuesday, 28th February, 2023**.

Enclosed find a copy of the Bill for reference.

The Liaison Officers facilitating this matter is **Tracy Chebet Koskei** who may be contacted on **0726416794** or email: tracy.koskei@parliament.go.ke and **Mr. Mohamednur M. Abdullahi** who may be contacted on **0720928507** or email: mohamednur.abdullahi@parliament.go.ke

Yours



JEREMIAH W. NDOMBI, MBS

For: CLERK OF THE NATIONAL ASSEMBLY

Encl.//

Annexure 5:

**Newspapers advertisement inviting the Public to submit
memoranda on the Bill**



SUPPLIER PREQUALIFICATION NOTICE 2023-2025

Kenya Women Microfinance Bank invites applications from interested, competent and eligible firms for pre-qualification for the under listed categories of goods, services and works for the period 2023-2025.

NO.	CATEGORY DESCRIPTION	NO.	CATEGORY DESCRIPTION
GENERAL			
1	Supply of printed stationery	48	Provision of hotel accommodation services
2	Supply of rubber stamps and seals	49	Provision of general investigative services, security training and due diligence
3	Supply of non-printed stationery	50	Provision of real estate agents' services
4	Supply of branded promotional materials (mail bags, branded t-shirts etc.)	51	Provision of insurance brokerage services
5	Supply of staff uniform	52	Provision of insurance services (underwriters only)
6	Supply, installation and maintenance of signage and branding	53	Provision of payroll services
7	Supply of furniture, fittings and furnishings	54	Provision of outsourced labour services
	Supply and maintenance of potted plants and flowers	55	Provision of towing services
	Supply and delivery of office consumables	56	Provision of security printing services (e.g. ATM card, cheque books)
10	Supply of newspapers, periodicals and magazines	57	Provision of financial audit/tax services
11	Supply of drinking water and water dispensers	58	Provision of car hire services including taxis, buses and minibuses
FACTORIES MANAGEMENT			
12	Supply of hardware tools and equipment	59	Provision of OSHA audit services
13	Supply and maintenance of firefighting equipment and fire suppression systems	60	Provision of energy audit services
14	Supply and maintenance of generators	61	Provisions of customer service survey services
15	Supply, installation and maintenance of ATM machines	62	Provision of translation services
16	Supply and maintenance of safes, fire resistant cabinets and strong room doors	63	Provision for lease of motor vehicles
17	Supply of note and coin counters, fake note detectors/UV lights and shredders	ICT EQUIPMENT AND RELATED SERVICES	
18	Supply of tyres and tubes	64	Supply of toners and computer consumables
19	Supply of LPG, fuel cards and diesel	65	Supply and maintenance of ICT equipment (computers, laptops, routers etc.)
20	Supply, installation and maintenance of air conditioning, refrigeration services and data centre cooling services	66	Supply and installation of software licenses e.g. anti-virus
21	Provision of office cleaning and sanitary services	67	Supply and installation of access control systems, intruder alarms, CCTV system and electric fencing
22	Provision of fumigation and pest control services	68	Provision, for lease and maintenance of access control systems, intruder alarm and CCTV system and electric fencing
23	Provision of vehicle storage	69	Supply and maintenance of power back-up systems ups, and power stabilizers
24	Provision of garbage disposal services	70	Supply and maintenance of telecommunication equipment (routers, "ABX" etc.)
25	Provision of asset tagging services	71	Provision of structured cabling works and networks maintenance services
26	Provision of garage for repair and maintenance of bank vehicles	72	Provision of leased printers and copiers
PROFESSIONAL SERVICES			
27	Provision of major building construction works	73	Provision of software development services
28	Provision of major drainage and plumbing works	74	Provision of IT consultancy services
29	Provision of major electrical installation, repair and maintenance works	75	Provision of website development and maintenance services
30	Provision of minor construction works, repairs and partitioning	76	Provision for lease of office equipment e.g. laptops, computers
31	Provision and maintenance of mechanical ventilation system	77	Provision of ICT audit and cybersecurity assessment services
32	Provision of architectural services	MARKETING	
33	Provision of interior design services	78	Provision of digital marketing services
34	Provision of mechanical engineering consultancy services	79	Provision of outdoor advertising services
35	Provision of electrical engineering consultancy services	80	Provision of print/media advertising services
36	Provision of civil structural engineers - consortium	81	Provision of PR & creatives services
37	Provision of quantity surveyor (QS) services	82	Provision of experiential marketing, communication and promotion services
38	Provision of air travel agency services (IATA registered)	83	Provision of research services
39	Provision of vehicle valuation services	HUMAN SERVICES	
40	Provision of property and land valuation services	84	Provision of pre-employment screening and background check services
41	Provision of international and local courier services	85	Provision of recruitment services
42	Provision of security guard services	86	Provision of HR consultancy services
43	Provision of cash-in-transit and offsite ATM management services	87	Provision of staff training services
44	Provision of event management services	88	Provision of team building services
45	Provision of catering services	LEGAL	
46	Provision of car tracking services	89	Provision of auctioneering and repossession services
47	Provision of photography and videography services	90	Provision of debt collection services
		91	Provision of legal services (Kisii, Migori, Kisumu, Kakamega, Kitale, Eldoret, Nakuru, Kericho, Machakos, Embu, Meru, Thika, Nairobi)

The supplier prequalification exercise will be conducted online via:



Tendersure™ platform is secure, transparent and provides an efficient prequalification process. Interested suppliers may access and register on www.tendersure.co.ke under the "Available Jobs" tab. Access to the prequalification will be granted upon payment of a non-refundable fee of KES 3,000.00 per category. All payments will be made via an online payment platform during the application process. Available payment methods include M-PESA, Visa Card and MasterCard amongst others. The online prequalification exercise closes on 17th March 2023 at 10pm EAT.

In case of any inquiry kindly contact us at help@tendersure.co.ke or +254 709 557 000.

All existing suppliers are required to participate alongside prospective suppliers in order to be evaluated and considered.

All participants who duly complete the prequalification process online will be notified of the outcome.

Prequalification is not a guarantee for business opportunity; bidders will be invited to submit their quotations on need basis based on the opportunities available. Kenya Women Microfinance Bank reserves the right to accept or reject any bid in whole or in part at its discretion.

Kenya Women Microfinance Bank is licensed and regulated by the Central Bank of Kenya (CBK).



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

In the matter of consideration by the National Assembly of:-

1. The Land (Amendment) (No.2) (National Assembly Bill No. 40 of 2022;
2. The National Transport & Safety Authority (Amendment) (National Assembly Bill No. 43 of 2022)
3. The Pensions (Amendment) (National Assembly Bill No. 44 of 2022)
4. The Cancer Prevention & Control (Amendment) (National Assembly Bill No. 45 of 2022)
5. The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022)
6. The Geriatric Bill, (National Assembly Bill No. 50) of 2022.

PUBLIC PARTICIPATION (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 following Bills:

The Land (Amendment) Bill (National Assembly Bill No. 40 of 2022) sponsored by Hon. Simon King'ara, MP.

The principal object of the Bill is to amend the Land Act, No. 6 of 2012 to provide for registration of public land and land set aside for public purpose.

The National Transport & Safety Authority (Amendment) (National Assembly Bill No. 43 of 2022) sponsored by Hon. Simon King'ara, MP.

The principal objective of the Bill is to amend the National Transport & Safety Act, No. 33 of 2012 to assign additional functions to the Authority to include the establishment of systems and procedures for the registration and licensing of two and three wheeled public motorcycle taxis.

The Pensions (Amendment) (National Assembly Bill No. 44 of 2022) sponsored by Hon. Abdul Dawood, MP.

The principal objective of the Bill is to amend the Pensions Act, Cap. 189 to provide for a timeline within which pension shall be payable to an officer.

The Cancer Prevention & Control (Amendment) (No. 2) (National Assembly Bill No. 45 of 2022) sponsored by Hon. Didmus Barasa, MP.

The principal objective of the Bill is to amend the Cancer Prevention & Control Act, 2012 to provide for training of health cadres in the specialized medical field of oncology, to facilitate cancer treatment as part of the provision of primary healthcare and incorporate the use of e-health and telemedicine.

The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022) sponsored by Hon. Abdul Dawood, M.P.

The principal objective of the Bill is to amend the Public Service (Values and Principles) Act, 2015 to require all state organs in the national and county governments and state corporations to submit annual reports on details of human resource in constitutional commissions, independent offices and County Public Service Boards and County Assembly Service Boards.

The Geriatric Bill (National Assembly Bill No. 50 of 2022) sponsored by Hon. Faith Wamuchomba, M.P.

The principal objective of the Bill is to give effect to Article 57 of the Constitution by establishing a legal framework for the treatment of elderly persons.

The Bills were Read a First Time on Tuesday, 15th and Wednesday, 16th February, 2023 and pursuant to Standing Order 127(1) of the National Assembly Standing Orders, committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:

SCHEDULE		
NO.	BILL	COMMITTEE
1.	The Land (Amendment) (No.2) (National Assembly Bill No.40 of 2022)	Lands
2.	The National Transport & Safety Authority (Amendment) (National Assembly Bill No.43 of 2022)	Transport & Infrastructure
3.	The Pensions (Amendment) (National Assembly Bill No. 44 of 2022)	Finance & National Planning
4.	The Cancer Prevention & Control (Amendment) (No.2) (National Assembly Bill No. 45 of 2022)	Health
5.	The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022)	Labour
6.	The Geriatric Bill (National Assembly Bill No.50 of 2022)	Social Protection

Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills

The memoranda should 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 ena@parliament.go.ke; to be received on or before Wednesday, 8th March, 2023 at 5.00 p.m.

SAMUEL NJOROG
CLERK OF THE NATIONAL ASSEMBLY

23rd February, 2023

"For the Welfare of Society and the Just Government of the People"



Annexure 6:
Written submission from stakeholders



MINISTRY OF ROADS & TRANSPORT

COMMENTS ON THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT AMENDMENT BILL (NATIONAL ASSEMBLY BILLS NO 43 OF 2022).

Hon. Chair,

The Committee requested for comments on the proposed Amendments to the NTSA Act No. 33 of 2012 through the National Assembly Bill No. 43 of 2022 sponsored by Hon. Simon King'ara M.P. The Bill seeks to assign additional functions to the Authority to include the establishment of systems and procedures for registration and licensing of two and three wheeled motorcycle taxis.

Hon. Chair,

Section 4(2)(a) of the NTSA Act empowers the Authority to undertake the registration of all motor vehicles including two and three wheeled motorcycle taxis. It should be noted that by practice, all motorcycles in the country are registered when imported or assembled and issued with a registration number under the name of the dealer or assembler. It is when they are sold that the dealer transfers to buyer as the owner. By the time this is being done, the registration of the vehicle/motorcycle has already been concluded and the issue at hand is the transfer. Therefore, regional registration would be impractical.

The Fourth Schedule of the Constitution assigns the function of county road transport to County Governments. Licensing of taxis, whether motor vehicle or motorcycles that operates within the county is therefore a function of County Governments. The national Government cannot take over unless the constitution is amended. The NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the licensing of motorcycle taxis by the County Governments.

Hon. Chair, the licensing of motorcycle taxis is already provided for under the regulations hence no need to introduce amendment to NTSA Act.

The issue of the registration of motorcycles by regions is not the best way to go. Should the national Government register motorcycles by region, it is unclear what would happen to the registration once the motorcycle is disposed to another third or fourth owner who reside in different regions.

Hon. Chair, on establishment of systems and procedures for the regional registration and licensing of drivers of two and three wheeled public motorcycle taxis by county governments in consultation with the Authority, section 4(2)(i) of the NTSA Act provides for the establishment of the procedures for the licensing and testing of drivers and this includes riders.

The Driving School, Instructor and Driving License Rules 2020 (LN 28 of 2020) provides for these systems and procedures. The same are also contained in the curriculum on the training and testing of drivers (riders) that driving schools are required to follow when instructing theriders.

It should be noted that once a driver/rider is issued with a driving/riding license, the same is applicable nationwide and not regionally.

Under the UN Convention of Road Traffic 1968 to which Kenya is a party, the law provides for the recognition of national and not regional licenses. The amendment would therefore be in conflict with the same. Further, given the free movement of labour which also applies to the riders, the regional registration and licensing would limit such free movement of labour.

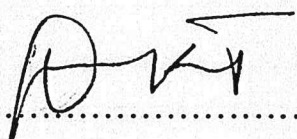
Hon Chair,

On provision of public service vehicle badges to drivers of two and threewheeled public motorcycletaxis, Regulation 9(5) of the NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the mandatory possession of a PSV badge of a rider as a requirement for licensing as a bodaboda taxi rider. The purpose of the amendment is therefore already contained in law.

Further it should be noted that LN 121 of 2022 NTSA (Operation of Motor cycles) (Amendment) 2022 Regulations provide for the registration of bodaboda taxis saccoes as well as their licensing by County Governments.

In conclusion, the Authority does not support the amendments for the reasons enumerated above.

Copy of Motorcycle Regulations and a matrix with comments on specific sections are attached.

Signed.......... Date

Hon. Kipchumba Murkomen, EGH
CABINET SECRETARY

**COMMENTS TO THE NTSA ACT AMENDMENT BILL (NATIONAL ASSEMBLY
'BILLS NO 43 OF 2023).**

Hon Chair,

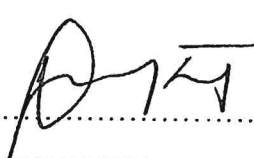
The National Assembly Amendment Bills No. 43 of 2022 by Hon. Simon Ng'ang'a Kang'ara MP, seeks to amend the National Transport and Safety Authority Act N. 33 of 2012. The Bill has five amendments which I have responded on each in the table below:

1	PROPOSED AMENDMENT	COMMENT
aa	(a) inserting the following Immediately after subparagraph(a) “(aa) regulation of two and three wheeled public motorcycle taxis;	<p>The power to regulate all Public Service Vehicles (PSV) including two and three wheeled public motorcycle taxis is already contained in the NTSA Act through Section 4(2)(c).</p> <p>The purpose of this amendment is therefore already provided for under the existing NTSA Act.</p>
ab	(ab) establish systems and procedures for the regional registration and licensing of two and three wheeled public motor cycle taxis;	<p>Section 4(2)(a) of the NTSA Act empowers the Authority to undertake the registration and licensing of all motor vehicles. This includes two and three wheeled motorcycle taxis.</p> <p>The issue of the registration of motorcycles by regions is not practical.</p> <p>It should be noted that by practice most of the motorcycles in the country when imported or assembled are issued with a registration number under the name of the dealer or assembler. When it is bought, the ownership is transfer from the dealer/assembler to the buyer/owner. By the time it is being sold, the registration of the vehicle has already been concluded and the issue at hand is the transfer. Therefore, regional registration would be impractical.</p> <p>Further, if motorcycles are registered per region, it will pose a change if the same is sold to a buyer in a different region.</p> <p>On the licensing, it should be noted that according to the Fourth Schedule of the Constitution, the function of county road transport which includes taxis of whatever designation, whether motor</p>

		<p>vehicle or motorcycles is a function of the County Government. Indeed, in recognition of this county function, the NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the licensing of motorcycle taxis by the County Governments. Regulation 9(4) provide for the licensing of the same by the County Government. The licensing of motorcycle taxis is therefore already provided for under the regulations.</p>
ac	<p>establish systems and procedures for the regional registration and licensing of drivers of two and three wheeled public motor cycle taxis by county governments in consultation with the Authority;</p>	<p>Section 4(2)(i) of the NTSA Act provides for the establishment of the procedures for the licensing and testing of drivers and this includes riders.</p> <p>The systems and procedures have been provided for through the Driving School, Instructor and Driving License Rules 2020 (LN 28 of 2020).</p> <p>The same also contain the Curriculum on the training and testing of drivers (riders) with that driving schools are required to follow in the training, testing and licensing of drivers (riders).</p> <p>Once a driver/rider is issued with a driving/riding license, the same is applicable nationwide and not regionally.</p> <p>Under the UN Convention of Road Traffic 1968 to which Kenya is a party, the law provides for the recognition of national and not regional licenses.</p> <p>The amendment would therefore be in conflict with the same.</p> <p>Further, given the free movement of labour in this case riders, the regional registration and licensing would not be possible.</p>
ad	<p>(ad) issue public service vehicle badges to drivers of two and three wheeled public motorcycle taxis</p>	<p>Regulation 9(5) of the NTSA (Operation of Motorcycles) (Amendment) Regulations 2022 provide for the mandatory possession of a PSV badge of a rider as a requirement for licensing as a boda boda taxi rider.</p> <p>The purpose of the amendment is therefore already contained in law.</p>
ae	Regulate two and three wheeled	<p>This is the same as proposed amendment aa.</p>

	public service motor cycle taxi;	
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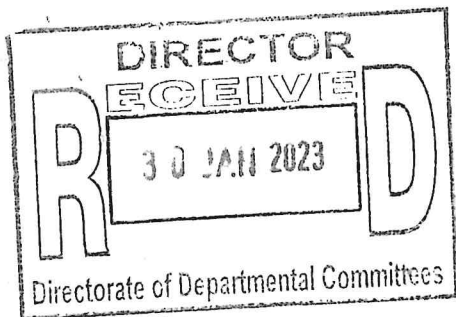
In conclusion, the Ministry does not support the amendments for the reasons enumerated above.

Signed.......... Date. 8/3/ 2023

KIPCHUMBA MURKOMEN

CABINET SECRETARY

MINISTRY OF ROADS AND TRANSPORT



KAM/10/14/mm/rl/mb/jw/AM/2022

20th January 2022

Mr. Samuel Njoroge
The Clerk,
National Assembly
Parliament of Kenya, Parliament Buildings
P.O. Box 41842 - 00100
NAIROBI

Dear Sir,

**RE: SUBMISSION OF KAM MEMORANDUM ON THE NATIONAL TRANSPORT SAFETY
AUTHORITY (AMENDMENT) BILL 2022**

The Kenya Association of Manufacturers (KAM) presents its compliments and appreciates the continued support.

Following the call for submission of Memoranda on the **NATIONAL TRANSPORT SAFETY
AUTHORITY (AMENDMENT) BILL 2022**, we wish to submit our Memorandum.

The purpose of this letter is to therefore submit the Kenya Association of Manufacturers' Memorandum on The National Transport Safety Authority (Amendment) Bill 2022.

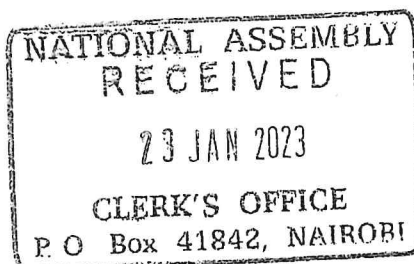
Feedback may be communicated to us via our physical address and advance feedback email to ceo@kam.co.ke on mobile +254 721 303335/+254 723 443363.

Your early feedback will be appreciated.

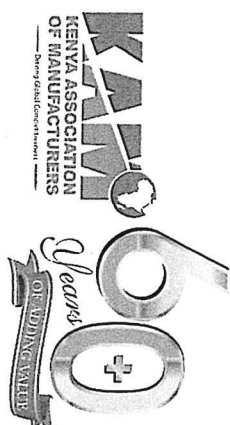
Yours sincerely,

Anthony Mwangi
CHIEF EXECUTIVE

Encl.



Ms. Tracey Koskei
Pls TNA 6/2/23



MEMORANDUM ON THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (AMENDMENT) BILL 2022

Submitted to

THE CLERK

THE NATIONAL ASSEMBLY,

THE PARLIAMENT OF KENYA, PARLIAMENT ROAD

NAIROBI

Presented By

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1.0 INTRODUCTION

Kenya Association of Manufacturers (KAM) is the leading business membership organization in East Africa that plays a key advocacy role on behalf of manufacturers in Kenya and in the region through her strong linkages with all sectors of the economy. KAM has over 950 members and represents over 40% of Kenya's manufacturing value add industries.

KAM represented Kenya's manufacturing sector interests in the East Africa Trade integration process through the design, ratification and implementation of the Customs Union, and the Common Market Protocol. The integration process in East Africa has been successful with Kenya Playing a critical role. The EAC region integration is expected to spur the manufacturing sector enhancing intra-EAC trade in value added products and thus grow the economies of the region.

KAM has a membership of manufacturers across thirteen manufacturing sectors and Service ranging from Food and Beverage, Pharmaceutical; Automotive; Chemical and Allied; Metal and Allied; Paper and Paperboard; Leather and Apparel; Textile and Apparel; Plastics and Rubber; Timber, Wood and Furniture; Electric and Electronic; Building, Mining and Construction; Agro-Processing.

2.0 THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (AMENDMENT) BILL 2022

In response to the call for public participation in the afore-referenced Bill, we propose the following amendments to be considered before the draft Bill is enacted:

CLAUSE	PROPOSAL	JUSTIFICATION
<p>1. Clause 2 (a)</p> <p>Inserting the following new paragraphs immediately after sub-paragraph (a)</p> <p>ab) establish systems and procedures for the regional registration and licensing of two and three wheeled public motorcycle taxis.</p>	<p>We propose to amend this clause to provide for the provision of a single registration and licensing regime to be put in place.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> • Motorists and owners of two and three-wheeled public motorcycle taxis should only have to register once. • There is no need to be registered and licensed across all the counties that they may traverse. • Two and Three wheeled public motorcycle taxis perform an invaluable public good of cheaply and efficiently transporting goods and services from one county to the next. • They should therefore be encouraged by reducing the regulatory burden in the form of a single registration and licensing system recognized in all counties. • This will also increase compliance by all the eligible riders, which will increase revenues.
<p>2. Clause 2 (a)</p> <p>Inserting the following new paragraphs immediately after sub-paragraph (a)</p> <p>ac) establish systems and procedures for the registration and licensing of drivers of two and three</p>	<p>We propose for the creation of a shared database between the National Transport and Safety Authority and the County Governments.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> • The licensing of the riders should be as simple and efficient as possible. This will increase compliance and reduce bureaucracy. • A database that is shared between the county governments and the National Transport and Safety Authority will greatly reduce the regulatory burden on

wheeled public motorcycle taxis by county governments in consultation with the Authority.		<ul style="list-style-type: none"> the riders. The database could also be useful for other government services that are shared between the national and county governments.
<p>3. Clause 2 (a)</p> <p>Inserting the following new paragraphs immediately after sub-paragraph (a)</p> <p>ad) issue public service vehicle badges to drivers of two and three wheeled public motorcycle taxis.</p>	<p>We propose to amend this clause to provide for a system of verification of the badges by members of the public; through a barcode or USSD.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> Members of the public have been routinely subjected to harassment, violence and fraud from public service vehicle drivers. This has led to a drastic increase in lawlessness and violation of traffic rules on public roads. We therefore propose for the introduction of a system of verification of the badges. This will enable members of the public to safely report incidences of harassment and abuse from the public service vehicles. This will improve overall road safety.

