

PARLIAMENT
OF KENYA
LIBRARY

Approved
29/02/2024
D/SNA

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – THIRD SESSION- 2024

DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

REPORT ON CONSIDERATION OF THE NATIONAL TRANSPORT AND SAFETY
AUTHORITY (AMENDMENT) BILL (*NATIONAL ASSEMBLY BILLS NO. 36 OF
2023*)

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2024

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 29 FEB 2024	DAY: THURS
TABLED BY:	HON GEORGE KARIUKI, MP Chairperson, Committee on Transport & Infrastructure
CLERK AT THE TABLE:	A. Shubuko

TABLE OF CONTENTS

LIST OF ANNEXURES	3
CHAIRPERSON'S FOREWORD	4
EXECUTIVE SUMMARY	5
PART ONE	6
1.0 PREFACE	6
1.1 Mandate of the Committee	6
1.2 Committee Subjects	6
1.3 Oversight	8
1.4 Committee Membership	9
1.5 Committee Secretariat	10
2.0 INTRODUCTION	11
2.1 Background Information	11
2.2 Summary of the Bill	11
2.3 Public Participation in the review of the Bill	11
3.0 SUBMISSION BY STAKEHOLDERS	12
3.1 Submission by the Ministry of Roads and Transport	12
3.2 Submission by the Federation of Public Transport Sector	12
3.3 Submission by the National Gender and Equality Commission	18
4.0 COMMITTEE OBSERVATIONS	19
5.0 COMMITTEE RECOMMENDATIONS	20

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. 36 of 2023)
- 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. 36 of 2023*) was Read a First Time on 4th October, 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 principal object of this Bill is to amend the National Transport and Safety Authority Act No. 3 of 2012. The amendments seek to introduce a new section which provides for the development of policy guidelines to regulate the fares payable by passengers in the public service vehicles within the country. The new section will ensure that the relevant stakeholders are involved in the process of developing such policy guidelines so as to ensure that there are maximum fares payable by passengers in the public vehicles from one point to another to avoid being subjected to abuse.

While conducting public participation, the Committee placed advertisements in the print media of 6th October, 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 Ministry of Roads and Transport, Federation of Public Transport Sector and the National Gender and Equality Commission. The Committee also vide a letter Ref. No. NA/DDC/TI/2023/ (100) dated 15th November, 2023 sought the views and comments on the Bill from Kenya Private Sector Alliance, Consumers Federation of Kenya, Matatu Owners Association among others.

The Committee further received both oral and written submissions from the Cabinet Secretary of Roads and Transport in 8th November 2023 who was accompanied by the Principal Secretary for the State Department for Transport and other officials from the Ministry of Roads and Transport.

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. 36 of 2023).

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

Chairperson, Departmental Committee on Transport and Infrastructure

EXECUTIVE SUMMARY

The National Transport and Safety Authority (Amendment) Bill (*National Assembly Bills No. 36 of 2023*) was Read a First Time on 4th October 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 principal object of this Bill is to amend the National Transport and Safety Authority Act No. 3 of 2012. The amendments seek to introduce a new section which provides for the development of policy guidelines to regulate the fares payable by passengers in the public service vehicles within the country. The new section will ensure that the relevant stakeholders are involved in the process of developing such policy guidelines so as to ensure that there are maximum fares payable by passengers in the public vehicles from one point to another to avoid being subjected to abuse.

In order to fulfill the requirements of Article 118 of the Constitution, the Committee placed an advertisement in the print media of 6th October, 2023 requesting for comments from the general public on the Bill. The Committee received memoranda from the Federation of Public Transport Sector and the National Gender and Equality Commission. The Committee considered all the submissions before making its recommendations. The Committee further received both oral and written submissions from the Cabinet Secretary of Roads and Transport on 8th November 2023 who was accompanied by the Principal Secretary for the State Department for Transport and other officials from the Ministry.

Having considered the Bill and taken into account stakeholder views the Committee observed that the Kenya operates as a capitalist country and that the legislation might bring more problems than solutions.

In view of the foregoing, the Committee recommends that the House rejects the National Transport and Safety Authority (Amendment) Bill (*National Assembly Bills No. 36 of 2023*) in its entirety.

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 oversees 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 oversees 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

Orange Democratic Movement Party

The Hon. Kiaraho, David Njuguna, M.P.
Ol Kalao Constituency
Jubilee 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 Cache Constituency
United Democratic Alliance Party

1.5 Committee Secretariat

6. The Committee secretariat comprises: -

Ms. Tracy Chebet Koskei
Senior Clerk Assistant
Lead Clerk

Mr. Mohamednur M. Abdullahi
Clerk Assistant III

Mr. Eric Kariuki
Research Officer II

Ms. Clare Choper Doye
Clerk Assistant III

Mr. Mabuti Mutua
Legal Counsel

Mr. Yusuf Moge
Fiscal Analyst II

Mr. Josphat Bundotich
Senior SAA

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. 36. Of 2023*) seeks to amend to the National Transport and Safety Authority Act No. 3 of 2012. The amendments seek to introduce a new section which provides for the development of policy guidelines to regulate the fares payable by passengers in the public service vehicles within the country. The new section will ensure that the relevant stakeholders are involved in the process of developing such policy guidelines so as to ensure that there are maximum fares payable by passengers in the public vehicles from one point to another to avoid being subjected to abuse.

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 Amendment Bill seeks to renumber the existing provision in section 54 of the National Transport & Safety Authority Act as subsection 1 and introduce a new subsection (2) which proposes to empower the Cabinet Secretary for Transport & Infrastructure to publish regulations to prescribe the following-
- i. the maximum and minimum fares payable by the passengers in the public service vehicles within the country;
 - ii. the mechanisms of reviewing fares in the public service motor vehicles;
 - iii. the measures for ensuring that fares imposed are fair and reasonable;
 - iv. the modalities by which public service vehicles retain copies of timetables and fare tables to be displayed for all passengers to see; and
 - v. the means of ensuring that safety of the passengers in the public service vehicles is guaranteed.

2.3 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 6th October, 2023. The Committee further invited the Principal Secretary for Transport to make both written and oral submissions on the Bill vide a letter Ref: NA/DDC/TI/2023/093 dated 16th October, 2023.
11. The Committee received memoranda from, the Federation of Public Transport Sector and The National Gender and Equality Commission. on 8th November 2023. The Committee, on the same date, also received oral and written submissions from the Cabinet Secretary for Roads and Transport accompanied by the Principal Secretary for the State Department for Transport and other officials of Ministry of Roads and Transport.

3.0 SUBMISSION BY STAKEHOLDERS

3.1 Submission by the Ministry of Roads and Transport

The Cabinet Secretary for Roads and Transport, Hon. Kipchumba Murkomen, EGH appeared before the Committee on 9th November, 2023 accompanied by the Principal Secretary for Roads Eng. Joseph Mbugua, CBS and submitted as follows, that-

12. Trade liberalization was part of a broader push in Kenya to decrease the government's role in the economy and give market forces greater influence. Price controls, widespread in the economy before the structural adjustment loans, were largely eliminated throughout the late 1980s and early 1990s.
13. The Kenya Institute for Public Policy Research and Analysis (KIPPRA) is an autonomous institute whose primary mission is to conduct public policy research leading to policy advice. According to a publication by KIPPRA, price controls have merit when markets are not perfect, and direct price-controls as a long-term measure have not worked in the past in Kenya and elsewhere. In addition, price controls will violate international and regional trade agreements that the country has signed.
14. In Conclusion the Cabinet Secretary recommended for a comprehensive study and stake holder engagement on the Bill's proposals to assess practicability and ensure compliance conventions or treaties.

3.2 Submission by the Federation of Public Transport Sector

The Federation of Public Transport Sector in their written memorandum Ref. No. FPT/11/2023/5 dated 22nd November 2023 and signed by Mr. Edwins Mukabanah the Chairperson of the Federation submitted as follows, that-

15. Governments all over the world seek to control fares to cushion vulnerable and the socially excluded members of the society. Such are; the urban poor, the rural poor, the sick, persons living with disabilities (PWDs), senior citizens, school children, pregnant mothers, etc.
16. Progressive Governments are often concerned with its population's ability to pay for Public Transport (PT) services, because PT is a facilitator of journey purposes, such as, school, work, leisure, worship, sports, etc. An efficient, fast, comfortable, safe and affordable PT is an enabler or driver of economic activities in a 24-hour economy. Control fares can assist manage the cost living.
17. Where PT is provided by the Public Sector, e.g., on rail transport in Kenya; it is easy for the government to provide a subsidy as it has often done with Kenya Railways' SGR or Likoni Ferries. But where such services

are provided (note: contracted out) to the private sector, it becomes difficult to justify subsidy payments to parliament.

18. PT fares are controlled (regulated) in most urbanized areas in the world. Such cities use different type of fare structures, such as, graduated fares, flat fares, multi-journey tickets, zonal fares, peak/off peak fares, contra-flow fares, seasonal fares, special fares (school children, senior citizens, PWDs, essential services staff, etc.)
19. Some cities in developed countries now provide their citizens with free PT services. That means, just like parliament appropriates money for infrastructure development and maintenance, it also appropriates money to provide 'free' PT services. It is argued that road infrastructure is the hardware and transport is the software. For infrastructure to deliver transportation must be efficient and affordable. An equitable PT neutralises social classes and promotes inclusivity. A good PT is often desired to curtail the growth of private car to reduce congestion and for environmental sustainability reasons.
20. It should be noted that, using technology, both urban and inter-city fares are controlled in our neighbouring country of Rwanda using the regulator RURA. In the city of London, we have many operators whose PT buses are painted red and operate on one controlled route network and a cashless fare platform controlled by an organising authority called Transport for London. The framework to administer regulated fares, as is in Rwanda and London, include all stakeholders.
21. To regulate fares, government require policy, legislative, regulatory and institutional frameworks to be able to provide a controlled fare regime that is based on correct cost parameters. It is the duty of parliament to ensure the above frameworks are in place first before allowing government to control fares in a free market economy.
22. It should be noted that most government institutions use a price control mechanism on mileage claims. They use predefined rates, such as, Automobile Association of Kenya (AA) rates.
23. It should further be noted that three major costs in PT operations, that is, Fuel is regulated by EPRA and Insurance is regulated by IRA with no complaints from the Competition Authority of Kenya. Labour Cost is subject to the government controlled Minimum Wage Guidelines under the Labour Laws.
- 24.
25. In fact, most costs of operating a PT vehicle are inscribed in law. For example, a PT vehicle must:
 - (i) Comply with all Labour Laws
 - (ii) Operate under a Sacco or Company
 - (iii) Pay County Parking Fees
 - (iv) Clean vehicles at all times
 - (v) Have crew who are uniformed, with Police Compliance Certificate and NTSA Badge
 - (vi) Issue passengers with Cashless Ticket

- (vii) Fit a tracking device and a speed governor
- (viii) PT vehicle fitted seat belts - even if one is operating in an urban area
- (ix) Carry a Fire Extinguisher and Reflectors Have a TP Insurance
- (x) Have a Road Service License
- (xi) Inspect vehicles annually
- (xii) Pay Advance Tax

26. All the above legal requirements increase the cost of doing business hence making PT operation a loss-making enterprise. It should be noted that most PT operators collapse after a few years of operation. International investors such United Transport and Stagecoach pulled out of PT operation in Kenya and since then we have not attracted any new ones. This is because of the operation and business environment where the licencing regime is not aligned to international best practice. For example, routes are over buses and PT fares applied in Kenya are not based on proper costing. Regulated fares will ensure operators charge passengers fares that have a costing basis.
27. For the profit-oriented enterprises such as Kenya's private sector driven PT, a costing model that provides Gross Cost Contract - plus margin will be ideal. This can only be done in a jurisdiction where regulated fares are reviewed regularly by a PT Management Board. The Board composition should be made up of all stakeholders. The stakeholders should sit down to agree on costing parameters or a pricing formula similar to the one used by the Energy and Petroleum Regulatory Authority (EPRA).

a) Regulated Fares and a Free Market

28. The current operator is used to carrying at 100% load factor at the start of a journey and reacts to market forces of supply and demand by charging less fares during low demand and high fares during high demand. Currently the private operator adjusts fares depending on seasonality or peak / off peak. Factors, such as, school holidays, rain, time of day, availability of competition, etc create a spike in fare pricing. Intercity operators, also, adjusts fares depending on who booked first and who booked last, for example, during Easter and Christmas seasons, etc.
29. The above phenomenon is typical of a free market and is often seen in airlines fare pricing. In this scenario travel is just like any other valuable commodity that reacts to the law of supply and demand in a perfect market.
30. Unfortunately, there are no complaints made at airlines when they use Amadeus airline ticketing system to charge fares based on market forces of supply and demand but a lot of complaints are made when PT uses stage cartels to charge fares based on passenger demand and supply. This is perhaps because of the inability to pay of a PT passenger whose disposable income is limited compared to the airline passengers. It could also be noted that in PT a large number of members of public (passengers) are affected.
31. Modern principles of providing PT requires a controlled market (not a free market) where there are rules of entry and exit using a fair licencing regulatory regime. During the era of TLB Act, when fares were

controlled, the TLB controlled the number of vehicles to be licenced on a route to and from a destination. TLB Board travelled to every region and used data and public participation to license operators.

32. Under TLB Act there as competition for the routes instead of competition for passengers which is the case under the National Transport Safety Authority (NTSA) Act now. There were consultations in a public forum between the regulator, provincial administration, consumers and all operators. TLB endeavoured to licence an optimum number of buses or operators to or from a particular destination to minimise unfair and wasteful competition. TLB also made great effort towards removing cartels on routes, stages and terminals, who in most cases determine fares chargeable.
33. During the TLB era, every operator was required to file with TLB a fare table, time table and to display a Condition of Carriage at the head office. Under NTSA Act, now, it is a free for all where free or perfect market forces principles have collapsed. Fares are controlled by illegal stage cartels who are not alive to the mechanisms of a pricing formula. Fares are either too high or too low (predatory pricing). Passengers or vehicle owners are often held at ransom.
34. Enforcement is lacking or is compromised by corruption. Illegal operators who are not compliant with the above-mentioned laws are often left to roam the market giving compliant operators a run for their money. The result is; every operator decides to start cutting corners by breaking the law with limited revenue, the vehicle owners reduce vehicle maintenance expenses leading to increased accidents. Workers' terms of employment get worse. Investing in new vehicles stalls.
35. The fact that there is no fare control means passengers and vehicle owners are left at the mercy of illegal cartels or crew. Operators (Saccos and Companies) continue owe their management commissions from vehicle owners without caring about the vehicle owner's profitability. The owner of the vehicle losses control of his PT business but he / she is the one who takes the beating when passengers are overcharged or undercharged. It is well known that the overcharged amounts arising out of malpractices, such as, carrying excess passengers never reaches the business owners but he/she often takes the blame or insurance risk.
36. The beneficiaries who are, the enforcement officers who abate traffic violations, the crew who break the law and the stage cartels who set un-predicable fares, often get away scot-free.
37. Whereas passengers complain of being charged high fares, often set by stage cartels, during high demand or even when it rains, operators complain of very low fares (predatory pricing) when there are few passengers (low demand), when the same stage cartels, charge fares that are below the cost of providing the service. Over charging or under charging fares should both be punishable by the Competition Authority of Kenya. Over supply of vehicles (legal and illegal) has led to cut throat, unfair and wasteful competition.
38. It should further be noted that passengers complain only when the fares are high but they never complain when fares are below the cost of providing the service. Politicians are more concerned with high fares but do not try to find out why the Competition Authority of Kenya never prosecutes those operators who apply predatory pricing, with some under cutting fares or even carrying passenger for free, when they get a license to operate a route where there are other operators.

39. Fares need to be controlled, because Competition Authority of Kenya whose mandate is to enforce the Competition Act No.12 of 2010 with the objective of enhancing the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing misleading market conduct throughout Kenya is dysfunctional when it comes to overseeing competition in PT provision. Equally the PT regulator NTSA has been unable to regulate the passenger market in terms of standards, tariffs and the entry and exit of PT vehicles and operators (Saccos and Companies).
40. The paratransit transport that operates today in Kenya does not benefit the operator, vehicle owner (investor, the passenger, the staff or the government).

b) Enablers to a Regulated Fare Regime

41. Looking at scenarios mentioned above, there is a justification for regulation of fares in PT. If done well, operators, passengers, staff and the government will stand to benefit. But to do so, the following measures need to be put in place,
- (i) Framework - There will be need to put in place a Fare Policy, amend the Traffic Act and the NTSA Act, develop regulations and insure Nairobi Metropolitan Transport Authority (NaMATA), NTSA, Competition Authority of Kenya, Transport Licensing Tribunal and National Police Service work as a team.
 - (ii) Route Network Plan - NTSA and County government will have to develop a countrywide and countywide PT Route Network Plans. The network plans will have to have data on aspects, such as, kilometres, stages, PT infrastructure, staff, vehicle makes, types and specifications, operators, etc.
 - (iii) Licensing Regime - NTSA will have to start issuing PT Operators with an Operator's Licence of 5 - 15- years that allows operators to compete for routes and not passengers.
 - (iv) Regulate taxis, two and three wheelers - County government will need to put in place robust mechanisms of regulating taxis, probox, *tuk tuks* and *boba boda*
 - (v) Externalities - The State Department of Transport (SDoT) will have to develop a policy that will assist curtail externalities (listed above) in paratransit operation and promote formal PT operators
 - (vi) Capacity Building for Regulator and Transport Committees at County level - For fare regulation to take effect, there is need to train investors and operators on pricing. The regulator will need to capacitate the PT licencing department at NTSA and in Counties to be able to have both the tools to capture PT operation costs and to recruit and train staff that can do the job.
 - (vii) Capacity Building for Operators - There will be need for Operators and their staff to be trained on how to operate under the new law where fares are regulated.

- (viii) Enforcement - There will be need to ensure that enforcement officers have the tools and wherewithal to enforcement compliance and here violations are seen legal action to be taken without taking bribes. Otherwise, this will be an avenue for enforcement officers to enrich themselves at the expense of operators.
- (ix) Centralised Automatic Fare Collection - There will be need to put in place a government funded central fintech switch to enable cashless fare transactions to take place. To enforce compliance with fares regulations, every PT operator will have to give each passenger a form of receipt or ticket for every journey made. Using technology this should be possible.
- (x) Removal of Cartels from Stages - There will be need for County governments together with security agencies to remove cartels from stages / terminals and provide their own County staff to manage the stages. This could also be done under a National Youth Service recruitment program or *Kazi Kwa Vijana*.
- (xi) Collection of Data - NTSA and operators will have to collect data that can be used to cost PT operation and set fares for each category of vehicle per kilometre or hour of operation
- (xii) Dispute Resolution Mechanism - There will be need to rejuvenate and fund the Transport
- (xiii) Licensing Tribunal so that those operators who may be denied a licence or feel that the fare tariffs given to them do not reflect the cost of operating the route and are therefore aggrieved could seek redress in the Tribunal, as used to be then when Transport Licensing Tribunal was functional.
- (xiv) Priority Measures - The government will have to put in place PT priority measures, using both economic and political instruments, over private transport, such as, subsidised fares for socially disadvantaged, a progressive licencing regime, a friendly tax regime, traffic management, use of road space, staggering start and finish of working hours, etc.
- (xv) County PT Laws - PT being a devolved function there will be need for the Council of Governors (CoG) to harmonise county transport laws across the 47 counties with the NTSA Act.
- (xvi) Creation of multi-stakeholder National PT Management Board or Committee under NTSA Act with powers to regulate fares that will work closely with County Transport and Safety Committee at County level.

c) Benefits of a Regulated fares

- (i) Passengers - Fares will be predictable. There will be no overcharging. Operators will now maintain their vehicles well and be able to invest in new safe, reliable and comfortable rolling stock.
- (ii) Operators - Operators will have a level playing field. There will be no fare undercutting and revenue leakages will reduce due to cashless fare collection system. Correct pricing will lead to profitability. The ease and cost of doing business will reduce.
- (iii) Staff - They will get social protection and descend jobs.

(iv) Government - National and County governments will have a quality PT system which will lead to a better quality of life. It will be able to bring more operators and workers in PT under its tax bracket.

42. The Federation in conclusion, submitted that if the above aspects are considered, regulation of fares is the way to go. The Federation will support the Bill to regulate fares in PT industry.

3.3 Submission by the National Gender and Equality Commission

The National Gender and Equality Commission submitted as follows;

43. The Commission in its submission, proposed that Clause 2 be amended to refer to section 54 of the National Transport and Safety Authority Act which the clause seeks to amend. This wended. oversight since the clause does not make reference to the section of the Act being amended. The provision therefore should read-

Clause 2 The National Transport and Safety Authority Act. 2012 is amended in section 54-

**by renumbering the existing provision as subsection (1); and
by inserting the following new subsection immediately after subsection (1) ...**

44. The Commission further submitted that paragraph (e) to the new subsection (2) be amended to include the words "dignity and comfort" immediately after the word "safety".

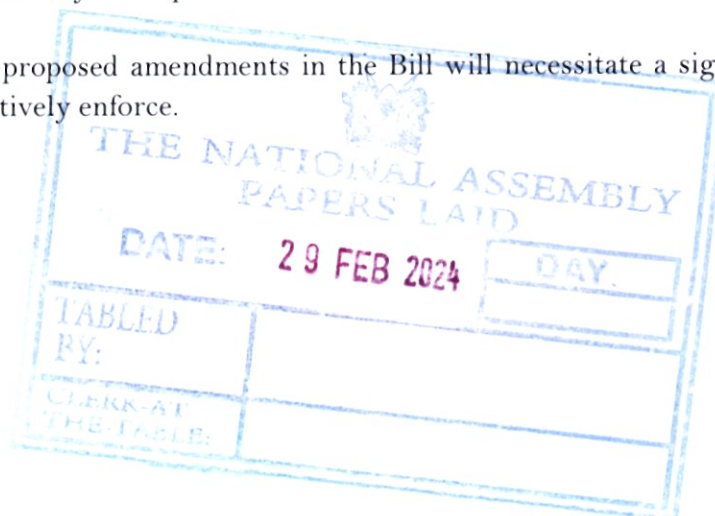
Justification of the proposed Amendment

45. The effect of the amendment is to require that the regulations made by the Cabinet Secretary should also address issues pertaining not only safety but also the need to maintain certain standards to safeguard the dignity and guarantee the comfort of consumers transport services through public service vehicles.

4.0 COMMITTEE OBSERVATIONS

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

- 1) The proposed amendments in the Bill could pose more challenges especially administrative challenges of implementation and ensuring compliance.
- 2) The Committee observed that implementing price controls in the public service transport sector will conflict with international and regional agreements that Kenya is party to.
- 3) The committee observed that the predominant market players in public transport are private investors organized in form of Saccos, Companies or Individuals and imposition of controlled fare prices would require extensive structured engagements to take into account extenuating factors associated with the transport sector including the unpredictable fuel prices; the varying cost of spare parts which are mostly imported; the need for structured town planning to ensure designated alighting and boarding stations alongside which such fare prices would be determined.
- 4) The Committee observed that in Kenya, a substantial initiative was undertaken to reduce the government's role in the economy and promote free market economy policies geared to allow consumers an array of choice in the market.
- 5) The Committee observed that regulating fare prices may significantly affect the public transport sector causing a decline in supply (*if operators exit*) which would consequently hamper ability to commute and engage in economic activity.
- 6) The Committee observed that the costs of providing public transport services are significant and grossly unpredictable. For instance, Time related costs, distance related & vehicle related. The determination of consumer prices in the transport sector must take into account the time of travel, the distance to be covered and the type of vehicle and also factor the labour costs (salaries for drivers, touts, including their uniforms), costs of fuel, costs of spare parts and repair services, cost of insurance, advance tax costs, road license costs, ticketing costs, county seasonal parking costs, compliance costs, loan repayments and other overhead costs (vehicle cleaning, sacco membership fees and franchise management fee. The committee surmised that the metric for price determination and disaggregation is significantly nuanced for any entity to effectively and objectively make price determination.
- 7) The implementation of the proposed amendments in the Bill will necessitate a significant number of traffic police officers to effectively enforce.



5.0 COMMITTEE RECOMMENDATIONS

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

That the National Transport and Safety Authority (Amendment) Bill (National Assembly Bills No. 36 of 2023) **be rejected in its entirety.**

SIGNED 

THE NATIONAL ASSEMBLY	
DATE	27/02/24
DAY	
TABLED BY:	
CLERK	
THE	

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

THE NATIONAL ASSEMBLY	
RECEIVED	
DATE	29 FEB 2024
DAY	
TABLED BY:	
CLERK	
THE	

Annexure 1:

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



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - THIRD SESSION - 2024
DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE
MEMBERS ADOPTION LIST

DATE: 16-02-2024 START: 2:10 PM END: 4:00 PM
VENUE: Simba Lodge, Nairasha, Nakuru County
AGENDA: Adoption of the National Transport and Safety Authority (Amendment) Bill (National Assembly Bill No. 36 of 2023)

NO.	NAME	SIGNATURE
1.	The Hon. GK George Kariuki, MP – Chairperson	
2.	The Hon. Didmus Barasa, MP- Vice Chairperson	
3.	The Hon. Kiunjuri, Festus Mwangi, MP	
4.	The Hon. Abdul Rahim Dawood, MP	
5.	The Hon. Arama Samuel, MP	
6.	The Hon. Bady, Bady Twalib, MP	
7.	The Hon. Francis, Kajwang' Tom Joseph, MP	
8.	The Hon. Kiaraho, David Njuguna, MP	
9.	The Hon. Naicca, Johnson Many, MP	
10.	The Hon. Chege, John Kiragu, MP	
11.	The Hon. Elsie Muhanda, MP	
12.	The Hon. Saney, Ibrahim Abdi, MP	
13.	The Hon. Hussein Weytan Mohamed, MP	
14.	The Hon. Jhanda Zaheer, MP	
15.	The Hon. Komingoi, Kibet Kirui, MP	