

**SPECIAL ISSUE**

NATIONAL COUNCIL FOR  
LAW REPORTING  
LIBRARY

Kenya Gazette Supplement No. 160 (National Assembly Bills No. 43)



REPUBLIC OF KENYA

---

# ***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2017**

---

**NAIROBI, 17th October, 2017**

---

## **CONTENT**

Bill for Introduction into the National Assembly—

PAGE

The Nairobi Metropolitan Area Transport Authority Bill, 2017..... 1397

**THE NAIROBI METROPOLITAN AREA  
TRANSPORT AUTHORITY BILL, 2017**

**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3—Scope of the Act.

**PART II—ESTABLISHMENT OF THE NAIROBI  
METROPOLITAN AREA TRANSPORT  
AUTHORITY**

- 4—Establishment of the Authority.
- 5—Headquarters of the Authority.
- 6—Functions of the Authority.
- 7—Powers of Authority
- 8—Establishment of the Council
- 9—Functions of the Council.
- 10—Board of the Authority
- 11—Qualifications for appointment of chairperson and members of the Board.
- 12—Vacation of Office by chairperson or member.
- 13—Independence of the Authority.
- 14—Oath of Office.
- 15—Committees of the Board.
- 16—Delegation by the Board.
- 17—Conduct of Business and Affairs of the Board.
- 18—Appointment of Secretary.
- 19—Appointment of the Director-General.
- 20—Qualification for appointment of the Director-General.

- 21—Tenure of office of the Director-General.
- 22—Removal of the Director-General from office.
- 23—Vacation of office of the Director General.
- 24—Staff of the Authority.
- 25—Common Seal of the Authority.
- 26—Protection from personal Liability.

### **PART III— LICENSING AND COMPETENCY PROVISIONS**

- 27—Licensing of public service vehicles.
- 28—Licensing of drivers.
- 29—Licensing of public transport operators.
- 30—Licensing of Public Transport Routes.
- 31—Compliance with national laws and policies.

### **PART IV —FINANCIAL PROVISIONS**

- 32—Funds of the Authority.
- 33—Establishment of the Metropolitan Area Transport Fund.
- 34—Receipts, savings and accruals.
- 35—Investment of funds.
- 36—Strategic Investment plans
- 37—Financial year.
- 38—Annual estimates.
- 39—Annual reports.
- 40—Accounts and Audit.

### **PART V— MISCELLANEOUS PROVISIONS**

- 41—Museums.
- 42—Declared transport corridors.
- 43—Dispute resolution mechanisms.
- 44—Delegation.
- 45—Offences.
- 46—Regulations.

## **SCHEDULES**

**FIRST SCHEDULE:** PROCEDURE FOR  
APPOINTMENT OF  
CHAIRPERSON AND  
MEMBERS OF THE BOARD.

**SECOND SCHEDULE:** CONDUCT OF BUSINESS  
AND AFFAIRS OF THE  
AUTHORITY.

**THIRD SCHEDULE:** OATH/AFFIRMATION OF THE  
OFFICE OF THE  
CHAIRPERSON, MEMBER AND  
DIRECTOR-GENERAL.

## **THE NAIROBI METROPOLITAN AREA TRANSPORT AUTHORITY BILL, 2017**

### **A Bill for**

**AN ACT of Parliament to give effect to Article 189 (2) of the Constitution; to establish the Nairobi Metropolitan Area Transport Authority; to provide for an integrated and sustainable Public Transport System within the Nairobi Metropolitan Area; and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

### **PART I—PRELIMINARY**

**1.** This Act may be cited as the Nairobi Metropolitan Area Transport Authority Act, 2017.

Short title.

**2.** In this Act, unless the context otherwise requires—

Interpretation.

“articulated bus” means a sub-category of a bus which—

- (a) consists of two or three sections connected to form a unit;
- (b) can swivel in a horizontal and vertical plane at the connection between such sections;
- (c) has a continuous passageway over the length thereof; and
- (d) has an overall length of up to thirty meters.

“Authority” means the Nairobi Metropolitan Area Transport Authority established under section 4;

“Board” means the Board of Directors of the Authority constituted under section 10;

“bus” means a public service vehicle having seating accommodation for more than seven passengers exclusive of the driver and which operates within the Metropolitan Area and where the overall length thereof does not exceed fifteen metres;

“bus rapid transport system” means a network of rapid transport lanes and other designated formal routes including related dedicated loading facilities which are designed for the use of bus or articulated buses which is monitored by a control centre;

“Council” means the Nairobi Metropolitan Area Council constituted in accordance with section 8;

“declared transport corridor” means a corridor which the Authority requires in the discharge of its functions which has been brought under the jurisdiction of the Authority pursuant to section 42 of this Act;

“feeder vehicle” means a vehicle that is licensed to predominantly feed and distribute passengers to or from interchange stations;

“Fund” means the Nairobi Metropolitan Area Fund established under section 33 of this Act;

“integrated public transport network” means a system in a particular area that integrates public transport services between modes, through ticketing, coordinated timetabling, provision of facilities such as parking spaces for park and ride and any other appropriate mechanisms;

“motorcycle taxi” means a public service motor cycle authorized to carry not more than one passenger exclusive of the driver, for hire or reward;

“mass rapid transit system” means a collective urban or suburban passenger service system operating at high levels of performance, especially with regard to travel times and passenger carrying capacity and may be—

- (a) based on elevated, surface level or underground road systems; or
- (b) rail-based systems such as suburban commuter railways, metropolitan railways, light rail or tramway or road-based bus systems including bus rapid transit systems;

“Metropolitan Area” means the Nairobi Metropolitan Area and includes the counties of Nairobi City, Kiambu, Machakos, Kajiado and Murang’a;

“Metropolitan Area traffic control system” means the traffic control system which the Authority is authorised to operate;

“motor vehicle” has the meaning assigned to it under section 2 of the Traffic Act ;

Cap. 403.

“non-motorised transport” means transport by any means other than a motor vehicle except a motorised

wheelchair and including, but not limited to, walking, cycling, handcarts and animal-drawn vehicles;

“park and ride” means an integrated transport option that allows private transport users to park their vehicles at a dedicated car park and travel onwards to another destination using public transport;

“private hire vehicle” has the meaning assigned to it under section 2 of the Traffic Act;

Cap 403.

“public service vehicle” has the meaning assigned to it under section 2 of the Traffic Act;

Cap. 403.

“public transport” means collective transport by a system of conveyance that provides regular and continuing general or special transport to the public, and may include—

- (a) regular and scheduled passenger transport services that are open to the general public; and
- (b) mass rapid transit system, stage bus, commuter bus, metro, light rail, commuter rail, and other modes of rapid transit within and entering the Metropolitan Area;

“rapid transport bus” means a bus authorised to operate along a rapid transport lane in a bus rapid transport system, and which has a regulated floor height and door configuration designed to facilitate speedy level access of passengers to and from dedicated loading facilities;

“rapid transport lane” means a dedicated lane designed for the exclusive use of a rapid transport bus and which is a component of a bus rapid transport system;

“scheduled service” means a service, using one or more public service vehicles, for the carriage of passengers at separate fares—

- (a) along specified routes;
- (b) at specified times; and
- (c) with passengers being boarding or alighting at pre-determined stopping points, but does not include a tour service;

“targeted categories of passengers” means—

- (a) persons with disabilities; and

- (b) the elderly, pregnant women and parents travelling with children who are five years and below;

“taxicab” has the meaning assigned to it under section 2 of the Traffic Act;

Cap. 403.

“traffic control system” means a system for controlling the movement of traffic, motor vehicle or pedestrian, including but not limited to traffic signals and intelligent traffic control systems;

“traffic light installations” means—

- (a) traffic signs which are light signals for controlling the movement of motor vehicle traffic or of pedestrians; or
- (b) any installations or apparatus used in connection with the operation of any such traffic signs.

3. This Act shall apply to the Nairobi Metropolitan Area.

Application of the Act.

## **PART II—ESTABLISHMENT OF THE NAIROBI METROPOLITAN AREA TRANSPORT AUTHORITY**

4. (1) There is established an Authority to be known as the Nairobi Metropolitan Area Transport Authority.

Establishment of the Authority.

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

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

(3) The Authority shall be a joint authority in accordance with Article 189 (2) of the Constitution.



5. (1) The headquarters of the Authority shall be in the Nairobi City.

Headquarters of the Authority.

(2) Without prejudice to the provisions of subsection (1), the Authority shall establish such other branch offices in any location in the Metropolitan Area as it may consider necessary for the discharge of its functions.

6. (1) The Authority shall oversee the establishment of an integrated, efficient, effective and sustainable public transport system within the Metropolitan Area.

Functions of the Authority.

(2) Without prejudice to the generality of the provisions of subsection (1), the Authority shall—

- (a) in consultation with the National Government Ministry responsible for Transport develop a comprehensive transport policy on the development of the Metropolitan Area;
- (b) formulate and oversee the implementation of an integrated transport master plan;
- (c) formulate and oversee the development of a sustainable, evidentially based, integrated mass rapid transit system strategy;
- (d) develop a sustainable urban mobility plan for the Metropolitan Area derived from the strategy;
- (e) plan, regulate and co-ordinate the supply of adequate and effective mass rapid transit system and supporting infrastructure within the Metropolitan Area;
- (f) plan and oversee the implementation of a comprehensive traffic management plan and strategy;
- (g) formulate additional standards and requirements for mass rapid transit system and monitor their delivery;
- (h) develop a communication strategy with all stakeholders;
- (i) enter into any relationship, agreement or partnership with any public sector agencies and other parties for the development and operation of transportation infrastructure, services or facilities,

works, and equipment necessary for the discharge of the functions of the Authority;

- (j) regulate and enter into agreements with mass rapid transit system operators and service providers including and not limited to—
  - (i). companies or owners of mass rapid transit system rolling stock and service providers;
  - (ii) mass rapid transit system operators; or
  - (iii) mass rapid transit system routes ;
- (k) conduct studies for the purpose of carrying out the functions of the Authority, including identification of the mass rapid transit system routes, corridors, network and service levels;
- (l) recommend to the Council , transport corridors to be declared as part of the Authority's strategic transport network under this Act;
- (m) promote the safety of the operation of the various mass rapid transit system modes and users within the declared corridors, through the—
  - (i) development of a comprehensive traffic management strategy; and
  - (ii) planning, development, installation ,management and maintenance of the traffic control system;
- (n) plan and provide for the safe passage and travel of non-motorised transport;
- (o) regulate both on street and off-street parking on declared corridors and impose fees and penalties with respect thereto;
- (p) set fares and charges for mass rapid transit system services;
- (q) enforce any law or regulation relating to the Authority's functions or duties;
- (r) conduct regular research for informed decision making;
- (s) approve traffic management schemes and accesses along the declared corridors; and

- (t) perform such other functions as the Council may consider necessary for the effective administration and implementation of the Authority's functions under the Act;

7. (1) The Authority shall, subject to the provisions of this Act, have power to—

Powers of the Authority.

- (a) enter into relationships, agreements, or partnerships with any other body whether government or otherwise for the purpose of providing transportation services, infrastructure, equipment and to make regulations for carrying out such obligations as it may be necessary;
- (b) acquire, purchase, lease, hold, construct, manufacture or maintain any property whatsoever whether moveable or immovable required for or in connection with the performance of its functions and sell, dispose of or otherwise deal with such property or any part thereof;
- (c) protect, maintain and improve all declared public transport roads;
- (d) levy user charges in connection with the provision of its services as authorized in this Act;
- (e) enter into agreement with any person for the supply, construction, manufacture, maintenance or repair of any property whether moveable or immovable, which is necessary or appropriate for the purpose of the Authority;
- (f) do anything for the purpose of advancing the skills of persons employed by the Authority or the efficiency of the equipment of the Authority or the manner in which the equipment is operated including the provision of facilities of training, education and research;
- (g) establish companies for purposes of carrying out its functions and powers under this Act;
- (h) make, draw, accept or endorse negotiable instruments;
- (i) insure its properties against all forms of risk;
- (j) write off bad debts with the approval of Council and National Treasury; and

- (k) authorize or delegate to any officer, employee or servant of the Authority to act as an agent of the Authority for any function, services or facilities which may be exercised, performed or provided by the Authority under this Act.

(2) The Authority shall have power for the purpose of carrying out its functions to do all such acts as may appear to it to be requisite, and may carry on any activity on that behalf either alone or in association with any other person or body.

8. (1) There is established the Nairobi Metropolitan Area Council which shall be the apex body for the Metropolitan Area.

Establishment of the Council.

(2) The Council shall consist of—

- (a) the Cabinet Secretary responsible for Transport;
- (b) the Cabinet Secretary responsible for the National Treasury;
- (c) the Governor of Nairobi City County;
- (d) the Governor of Kiambu County;
- (e) the Governor of Machakos County;
- (f) the Governor of Kajiado County;
- (g) the Governor of Murang'a County;
- (h) the chairperson of the Board appointed under section 10 (1)(a) who shall be an *ex-officio* member; and
- (i) the Director-General appointed under section 19 who shall be the Secretary to the Council.

(3) The Cabinet Secretary responsible for transport shall be the chairperson of the Council.

(4) The Deputy Chair of the Council shall be the Governor of Nairobi City County.

9. The Council shall—

Functions of the Council.

- (a) be responsible for the development of policy and directions for purposes of this Act;
- (b) set goals and objectives and priorities for the Metropolitan Area;

- (c) determine the financial contribution of each county to the funds of the Authority;
- (d) approve both the master plan and strategic plan;
- (e) declare, by notice in the *Gazette*, transport corridors within the Metropolitan Area;
- (f) approve external funding and bilateral agreements in line with national financial and fiscal policies; and
- (g) perform such other functions as are assigned under this Act.

**10.** (1) The management of the Authority shall vest in a Board which shall consist of—

Board of the  
Authority.

- (a) the chairperson of the Board, appointed by the President;
- (b) the Principal Secretary responsible for Transport;
- (c) the Principal Secretary responsible for Roads;
- (d) the Principal Secretary responsible for the National Treasury;
- (e) the County Executive Committee Member responsible for transport in each of the five counties of the Metropolitan Area;
- (f) three independent persons, who shall be appointed by the Council by virtue of their knowledge and experience in—
  - (i) transport;
  - (ii) law;
  - (iii) intelligent transport systems;
  - (iv) civil engineering;
  - (v) traffic engineering;
  - (vi) economics;
  - (vii) urban design, planning and management; or
  - (viii) any other relevant field;
- (h) the Director-General who shall be an *ex-officio* member and shall have no right to vote; and

- (g) the secretary appointed under section 18, who shall be an *ex-officio* member and shall have no right to vote.

(2) The appointment of the members of the Board under subsection (1) shall be by the Council in accordance with the First Schedule.

11. (1) A person shall be qualified for appointment as the chairperson of the Board under section 10, if that person—

Qualifications for appointment of chairperson and members of the Board.

- (a) holds at least a degree from a university recognized in Kenya;
- (b) has demonstrable knowledge and experience in any of the following fields—
  - (i) transport management;
  - (ii) intelligent transport systems;
  - (iii) civil engineering;
  - (iv) traffic engineering;
  - (v) economics; or
  - (vi) urban design, planning and management;
- (c) has a distinguished career in a senior management position in either the private or public sector;
- (d) holds at least seven years' post-qualification professional experience; and
- (e) satisfies the requirements of Chapter Six of the Constitution.

(2) A person shall be qualified for appointment as a member of the Board under section 10, if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) has a distinguished career in a senior management position in either the private or public sector;
- (c) holds at least five years' post-qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(3) A person shall not be appointed as a chairperson or member of the Board of the Authority, if that person—

- (a) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
- (b) is convicted of an offence involving dishonesty or fraud;
- (c) has conflict of interest in the business of the Authority including directorships in the transport industry;
- (d) fails to comply with the requirements of Chapter Six of the Constitution;
- (e) has conflict of interest in the business of the authority including directorships in the transport industry; or
- (f) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months.

**12.** The office of the chairperson or a member of the Board appointed under section 10 shall become vacant, if the chairperson or member—

Vacation of office  
by chairperson or  
member.

- (a) is unable to perform the functions of his office by reason of mental or physical infirmity;
- (b) is adjudged bankrupt;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months or to a fine exceeding ten thousand shillings;
- (d) is absent, without reasonable cause, from three consecutive meetings of the Board;
- (e) resigns in writing addressed, in the case of the chairperson, to the Council;
- (f) is deemed to have a conflict of interest in the transport industry; or
- (g) dies.

**13.** Except as provided under this Act or any other law, the Authority shall exercise its functions without any political bias or interference and shall be wholly independent and separate from both levels of Government, the nominating authority or any person or body.

Independence of  
the Authority.

**14.** The chairperson and members of the Board and the Director-General shall each make and subscribe, before the Chief Justice, the oath or affirmation set out in the Third Schedule.

Oath of Office.

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

Committees of the Board.

(2) The Board may co-opt into the membership of a committee established under subsection (1), such other persons whose knowledge and skills are found necessary for the functions of the Authority in accordance with the Government directives issued from time to time.

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

Delegation by the Board.

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

Conduct of business and affairs of the Board.  
Appointment of Secretary.

**18.** The Board shall appoint a secretary who shall—

- (a) be a certified public secretary ;
- (b) be an *ex officio* member of the Board;
- (c) take minutes during the meetings of the Board.

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

Appointment of the Director-General.

(2) The Director-General shall be the chief executive officer of the Authority.

(3) The Director-General shall, subject to the direction of the Board—

- (a) be responsible for the day-to-day management of the Authority;
- (b) manage the funds, property and affairs of the Authority;
- (c) be responsible for the management of the staff of the Authority;



- (d) implement the policies, programmes and objectives of the Authority;
- (e) cause to be prepared for the approval of the Board—
  - (i) the strategic plan and annual plan of the Authority; and
  - (ii) the annual budget and audited accounts of the Authority; and
- (f) perform such other duties as may be assigned by the Board.

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

**20.** (1) A person shall be qualified for appointment as Director-General, if that person —

Qualification for appointment as a Director-General.

- (a) holds a degree in a relevant field from a university recognized in Kenya;
- (b) has knowledge and experience in any of the following fields—
  - (i) transport economics ;
  - (ii) civil engineering;
  - (iii) traffic engineering;
  - (iv) urban planning and management; or
  - (v) any other relevant field;
- (c) has a distinguished career in a senior management position in either private or public sector;
- (d) holds at least ten years' post qualification professional experience; and
- (e) satisfies the requirements of Chapter Six of the Constitution.

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

- (a) is a member of Parliament or County Assembly;
- (b) is a member of a governing body of a political party;

- (c) is a member of a Commission established under the Constitution;
- (d) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
- (e) is convicted of an offence involving dishonesty or fraud;
- (f) fails to comply with the requirements of Chapter Six of the Constitution; or
- (g) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings.

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

Tenure of office of Director-General.

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

Removal of the Director-General from office.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehavior;
- (c) incompetence or neglect of duty;
- (d) non-compliance with the requirements of Chapter Six of the Constitution; or
- (e) any other ground that would lawfully justify removal from office under the terms and conditions of service.

**23.** The office of the Director-General may become vacant if—

Vacation of office of the Director-General.

- (a) he resigns in writing to the Board;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months or a fine exceeding ten thousand shillings;
- (c) is declared bankrupt;
- (d) is convicted of an offence involving fraud, dishonesty or moral turpitude;
- (e) dies; or

- (f) is unable to perform the functions of his office by reason of mental or physical infirmity.

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

Staff of the Authority.

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

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

Common seal of the Authority.

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

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

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

Protection from personal liability.

### **PART III—LICENSING AND COMPETENCY PROVISIONS**

**27.** (1) All public service vehicles operating wholly or partly within the Metropolitan Area shall conform to National Standards and Specifications in force at the time.

Licensing of public service vehicles.

(2) All public service vehicles to be contracted by the Authority shall in addition to the requirements under subsection (1), conform to the specifications by the Authority.

(3) The Authority shall make Regulations on the specifications required for public service vehicles specified under subsection (2).

**28.** (1) All drivers of public service vehicles within the Metropolitan Area shall, in addition to the national public service vehicles driver's licence, undertake additional training and examination and shall on completion be awarded the driver's certificate of professional competence as specified by the Authority.

Licensing of drivers.

(2) The driver's certificate of professional competence shall be valid for a period not exceeding five years and awarded to persons of good health as prescribed by Regulations.

**29.** (1) Any operator that wishes to provide public service vehicle services in the Metropolitan Area shall first satisfy the National requirements prescribed by Regulations.

Licensing of public transport operators.

(2) Upon satisfying the national requirement under subsection (1), the Authority shall issue a certificate of operation to an operator to carry on any public service vehicles operations within the Metropolitan Area.

(3) The certificate of operation issued under subsection (2) shall be valid for a period of five years.

(4) A public service vehicles certificate of operation for the metropolitan area shall be issued to an applicant who satisfies the following requirements—

- (a) is of good repute;
- (b) is of good financial standing; and
- (c) satisfies the requirements of professional competency.

(5) The certificate of operations may be granted with supplementary conditions on the maximum and minimum number of public service vehicles to be operated.

(6) The Authority shall specify, monitor and facilitate driver and operator competency training to be carried out by others for the public service vehicles sector within the Metropolitan Area.

(7) A decisions of the Authority with respect to certification may be subject to appeal in the High Court.

**30.** The Authority shall be responsible for the design and specification of all public transport routes and services within the Metropolitan Area.

Licensing of public transport routes.

**31.** In carrying out its functions under this part the Authority shall comply with existing relevant national laws and policies.

Compliance with national laws and policies.

## **PART IV—FINANCIAL PROVISIONS**

**32.** The funds and assets of the Authority shall be comprised of —

Funds of the Authority.

- (a) monies allocated by Parliament for the purposes of the Authority;
- (b) Metropolitan Area County Exchequers;
- (c) such monies or assets as may accrue to the Authority in the course of the exercise of its powers or in the performance of its functions under this Act; and
- (d) all monies from any other source provided, donated or lent to the Authority.

**33.** (1) The Cabinet Secretary for the National Treasury shall upon commencement of this Act, and in accordance with section 24 (4) of the Public Finance Management Act, 2012 establish a national fund to be known as the Nairobi Metropolitan Area Transport Fund which shall vest in the Authority.

Establishment of the Nairobi Metropolitan Area Transport Fund.

No. 18 of 2012.

(2) The sources of the Fund shall be as specified in section 32 of this Act.

(3) The Authority shall apply the monies received into the Fund to—

- (a) undertake such activities as authorized by the Board;
- (b) carry out the operations of the Authority; and
- (c) any other functions as the Board may consider necessary for the discharge of its functions.

**34.** (1) All receipts, savings and accruals from the Fund and the balance of the Fund at the end of the financial year shall be retained for the purposes for which the Fund is established.

Receipts, savings and accruals.

(2) There shall be paid out of the Fund any expenditure incurred by the Authority in the exercise of its powers or the performance of its functions under this Act.

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

Investment of funds.

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

(3) The Board shall have the powers to make any financial actions necessary for the discharge of its functions under this Act as shall be defined by regulation, in consultation with any other relevant stakeholder.

**36.** (1) The Board shall recommend to the Council for adoption a Strategic Investment Plan every ten years.

Strategic investment plans.

(2) The Board shall, within a period of six months before the commencement of the first five years of the Strategic Investment Plan specified under subsection (1) publish an Investment Plan for the next five years.

(3) The Board shall, within a period of three months before the start of each year of the Strategic Investment Plan under subsection (1) publish an annual business plan.

(4) The Board shall be responsible for the approval of the Plans under this section.

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

Financial year.

**38.** (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Authority for that year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned.

(3) The annual estimates prepared by the Board under subsection (1) shall be submitted to the Council for tabling before Parliament.

**39.** The Board shall comply with the Public Finance Management Act, 2012 and submit to the Council within a period of three months after the end of each financial year, an annual report in respect of that year containing—

Annual reports.

No. 18 of 2012.

- (a) the accounts of the Authority and statements of the Authority's performance indicators and any other related information;
- (b) a report on the operations of the Authority during that year; and
- (c) such other information as the Council may request.

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

Accounts and Audit.

No. 34 of 2015.

(2) The annual accounts of the Authority shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act, 2015.

## **PART V—MISCELLANEOUS PROVISIONS**

**41.** (1) The Authority may establish and maintain a museum of transport artefacts, records and other exhibits and may do anything necessary or expedient for or in connection with the provision or maintenance of the museum.

Museums.

**42.** The Council shall have powers to declare transport corridors by Notice in the *Gazette*.

Declared transport corridors.

**43.** The mode of dispute resolution for any matter arising under this Act shall be in accordance with the provisions of Part IV of the Intergovernmental Relations Act, 2012.

Dispute resolution mechanisms.  
No.2 of 2012.

**44.** The functions of the Council as provided under this Act may be delegated by Notice in the *Gazette* to the Board in whole or in part.

Delegation.

**45.** A person who—

Offences.

- (a) without reasonable excuse, obstructs, hinders or prevents the Authority or any other person from the performance of their functions or the exercise of their powers under this Act;
- (b) makes any statement or gives any information to the Authority or any other person exercising

powers under this Act, knowing the statement or information to be false or misleading; or

- (c) holds himself out as having authority to perform any action or exercise any powers under this Act when he does not hold that authority,

commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding two years, or to both.

**46.** (1) The Council may, in consultation with the Board, make Regulations prescribing anything required by this Act to be prescribed or generally for the better carrying out of the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations may provide for—

- (a) the making of an application for a licence or certificate under this Act;
- (b) the targeted categories of passengers; and
- (c) for such other matters as may be necessary to give full effect to the implementation of the provisions of this Act.



**FIRST SCHEDULE**

(s. 10(2))

**PROCEDURE FOR APPOINTMENT OF THE CHAIRPERSON  
AND MEMBERS OF THE BOARD OF THE AUTHORITY**

1. Within fourteen days of the commencement of this Act or on the occurrence of a vacancy in the office of the chairperson or member, the Council shall, on the Authority's website or any other approved mode of advertisement, declare vacancies in the Authority, inviting applications from qualified persons to be members of the Authority under section 10.
2. The Council shall convene a panel which shall comprise of five persons from the five Counties, two from the national government and two from the private sector.
3. The members of the panel shall during its first sitting elect a chairperson from amongst their number.
4. An application in respect of a vacancy declared under paragraph 1 shall be forwarded to the Council within fourteen days of the publication of the advertisement of the vacancy and may be made by any qualified person.
5. The panel shall determine its own procedure in consultation with the Council and the Council shall provide it with such facilities and other support as it may require for the discharge of its functions.
6. The panel shall consider the applications and shortlist the names and qualifications of all applicants, on the Authority's website or any other approved mode of advertisement within fourteen days from the last day of receipt of the applications under paragraph 4.
7. The panel shall interview the shortlisted applicants within fourteen days from the date of publication of the list of shortlisted applicants under paragraph 6.
8. After carrying out the interviews, the panel shall select the five top persons qualified to be appointed as chairperson or five top persons qualified to be appointed as members and shall forward the names to the Council.
9. The Council shall, within fourteen days of receipt of the names forwarded under paragraph 8, nominate three persons to be appointed as chairperson from the five names submitted by the panel and submit the names to President, for appointment of the chairperson.
10. The Council shall, within fourteen days of receipt of the names forwarded under paragraph 8, appointment three persons as members of the Board from amongst the five names submitted by the panel.

11. Where the President rejects the nominees, the procedure set out under this Schedule shall with necessary modifications, apply.
12. Despite the foregoing provisions, the Council may, extend the period specified in respect of any matter under this Schedule by a period not exceeding twenty-one days.
13. The term of the panel constituted under paragraph 2 shall expire upon the appointment of the chairperson or member for which the panel was constituted under this Schedule.

## **SECOND SCHEDULE**

(s. 17)

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

#### **1. Meetings of the Board**

(1) The Board shall meet at most twelve times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(2) The first meeting of the Board shall be convened by the chairperson and the Board shall meet subsequently at such a time and place as it shall determine.

(3) Notwithstanding the provisions of sub-paragraph (1), the chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the Board at any time where he considers it expedient for the transaction of the business of the Authority.

(4) The members of the Board shall elect a vice-chairman from among their number—

(a) at the first sitting of the Board; and

(b) whenever it is necessary to fill the vacancy in the office of the vice- chairperson.

(5) A meeting shall be presided over by the chairperson or in his absence by the vice-chairman and in the absence of both the chairperson and the deputy chairperson, the meeting shall nominate a chairperson from amongst their number.

(6) Unless three quarters of the total number of the members of the Board otherwise agree, at least five days written notice of every meeting of the Board shall be given to every member of the Board by the Director-General.

(7) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

(8) The proceedings of the Board shall not be invalidated by reason of a vacancy within its membership.

## **2. Quorum**

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

(2) Where there is a vacancy in the Board, the quorum of the meeting shall not be less than half of the total board membership.

## **3. Voting**

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

## **4. Conflict of interest**

(1) A member of the Board who has a direct or indirect personal interest in any matter being considered or to be considered by the Board shall, upon the relevant facts concerning the matter having come to his knowledge, disclose the nature of his interest to the Board.

(2) A disclosure of interest made by a member of the Board under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not be present during the deliberation on the matter by the Board.

(3) A member of the Board who makes a disclosure under subsection (1) shall not—

(a) be present in the meeting of the Board held to determine whether or not the member should take part in the deliberations or decision of the Board in relation to the matter; or

(b) influence any other member of the Board in arriving at a particular decision in relation to the matter.

(4) A member or staff of the Authority shall not transact any business or trade with the Authority.

## **5. Rules of Procedure and minutes**

(1) Subject to provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board.

(2) The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting of the Board and signed by the chairperson or the person presiding at the meeting.

**THIRD SCHEDULE**

**(s.14)**

**OATH/AFFIRMATION OF THE OFFICE OF CHAIRPERSON/ A  
MEMBER/DIRECTOR-GENERAL**

**I ..... having been appointed (the Chairperson/ Member  
of/Director General of) the Nairobi Metropolitan Area Transport  
Authority, do solemnly (swear/declare and affirm) that I will at all  
times obey, respect and uphold the Constitution of Kenya and all  
other laws of the Republic; that I will faithfully and fully, impartially  
and to the best of my ability, discharge the trust and perform the  
functions and exercise the powers devolving upon me by virtue of this  
appointment without fear, favour, bias, affection, ill-will or prejudice.  
(SO HELP ME GOD).**

**Sworn/Declared by the said.....**

**Before me this ..... day of.....**

**.....**

**Chief Justice**

\_\_\_\_\_

## **MEMORANDUM OF OBJECTS AND REASONS**

The principle object of this Bill is to provide a framework for the establishment of the Nairobi Metropolitan Area Transport Authority. The Nairobi Metropolitan Area consists of the County Governments of Nairobi, Kiambu, Machakos, Kajiado and Muranga. The Authority shall oversee the establishment of an integrated, efficient, effective and sustainable transport system within the Metropolitan area.

The Bill contains the following Parts -

**PART I** of the Bill contains preliminary provisions which include the short title of the Bill and interpretation of terms used in the Bill.

**PART II** of the Bill establishes the Nairobi Metropolitan Area Transport Authority and provides for its composition, powers, functions and qualification of the members of the Authority under clauses 6, 7, 8 and 9 of the Bill. The Bill further contains provisions on independence of the Authority under clause 13. Clause 19 of the Bill provides for the appointment of the Director-General and provisions regarding the appointment, removal and vacation from office by the Director General are contained in clauses 19, 22 and 23 thereof.

**PART III** of the Bill contained the provision relating to the licensing of public service vehicles, bus operating companies, public service vehicle drivers and the arrangements for bus route planning within the Metropolitan area. It also provides for the requirement for public service vehicles drivers to obtain and maintain a professional driving qualification.

**PART IV** of the Bill contains the financial provisions. In particular, clause 32 provides for the Funds of the Authority and clause 33 establishes the Metropolitan Area Fund and the manner in which the Fund may be invested.

**PART V** sets out the miscellaneous provisions. Clause 41 provides for the powers to establish a transport museum. The means for the declaring transport corridors is provided for in clause 42. The manner in which disputes emanating from the implementation of this Act are resolved is provided under clause 43 which is in accordance with the Intergovernmental Relations Act, 2012. Clause 44 provides for the delegation of some or all of the Summit's powers to the Cabinet Secretary. The Bill has also created offences and prescribed a penalty in order to compel all persons affected by the Act to comply or deter breach of the provisions of the Act. Clause 46 of the Bill confers on the Council the powers to make regulations under the Act in order that the objectives of the Authority provided in clause 6 of the Bill can be implemented.

The enactment of this Bill shall occasion additional expenditure of public funds.

This is a Bill concerning county governments.

Dated the 30th September, 2017.

ADEN DUALE,  
*Leader of Majority Party.*

