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THE KENYA ROADS BOARD ACT

CAP. 408A

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Kenya Roads Board Act

Cap. 408A

Legislation as at 27 December 2024

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KENYA ROADS BOARD ACT

CAP. 408A

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An Act of Parliament to provide for the establishment, powers and functions of the Kenya Roads Board and for connected purposes

Part I – PRELIMINARY

1. Short title.

This Act may be cited as the Kenya Roads Board Act.

2. Interpretation.

In this Act, unless the context otherwise requires–

"**Board**" means the Kenya Roads Board established by section 4;

"**Cabinet Secretary**" means the Cabinet Secretary for the time being responsible for matters relating to roads;

"**District Roads Committee**" *spent*;

"**fuel levy**" means the road maintenance fuel levy imposed under section 3 of the Road Maintenance Levy Fund Act (Cap. 427);

"**Fund**" means the Kenya Roads Board Fund established by section 31;

"Highways Authority" means the Kenya National Highways Authority established under the Kenya Roads Act (Cap. 408);

"**road agency**" means any organization or body specified in the Third Schedule, with responsibility for defined categories of roads;

"**Road maintenance Levy Fund**" means the Fund established by section 7 of the Road Maintenance Levy Fund Act (Cap. 427);

"**road network**" means the entire road network in Kenya, whether classifed or unclassified, of regional or local importance, public or private, adopted or unadopted, or otherwise howsoever described;

"Rural Roads Authority" means the Kenya Rural Roads Authority established under the Kenya Roads Act (Cap. 408);

"Urban Roads Authority" means the Kenya Urban Roads Authority established under the Kenya Roads Act (Cap. 408).

[Act No. 2 of 2007, 5th Sch., Act No. 22 of 2022, s. 56, Act No. 19 of 2024, s. 2]

3. Application.

The provisions of this Act shall apply, as more specifically provided in the Act, to the management of the entire road network in Kenya.

Part II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE KENYA ROADS BOARD

4. Establishment and incorporation of the Kenya Roads Board.

(1) There is established a Board to be known as the Kenya Roads Board.

(2) The Board 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; and

(c) doing or performing all other things or acts for the furtherance of the provisions of this Act which may be lawfully done or performed by a body corporate.

5. Headquarters.

The Headquarters of the Board shall be in Nairobi.

6. Object and purpose of the Board.

(1) The object and purpose for which the Board is established is to oversee the road network in Kenya and coordinate the maintenance, rehabilitation and development funded by the Fund and to advise the Cabinet Secretary on all matters related thereto.

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

(a) co-ordinate the optimal utilisation of the Fund in implementation of programmes relating to the maintenance, rehabilitation and development of the road network;

(b) seek to achieve optimal efficiency and cost effectiveness in roadworks funded by the Fund;

(c) manage the Fund and allocate monies from the Fund in the following manner—

(i) fifty per cent of the Fund shall be allocated in accordance with paragraph (d); and

(ii) fifty per cent of the Fund shall be allocated for the purposes of section 32A(2);

(d) based on a five year road investment programme approved by the Cabinet Secretary and the Cabinet Secretary for Finance, determine the allocation of financial resources required by road agencies for the maintenance, rehabilitation and development of the road network to

ensure that the allocation of funds is pegged to specific categories of roads and that not less than—

(i) twenty-two percent, which shall be deposited into a special bank account to be called Constituency Roads Fund Account to be maintained by every Constituency of the allocated funds is allocated equally to all constituencies in the country to be administered by the Rural Roads Authority;

(ii) ten percent of the allocated funds is allocated for the maintenance or development of link roads between constituencies and to serve as Government counterpart funds in funding works on rural roads, to be administered by the Kenya Rural Roads Authority and that the said percentum shall be equally distributed to the Constituencies where Kenya Rural Roads Authority has the mandate;

(iii) forty percent of the allocated funds is allocated in respect of the national roads to be administered by the National Highways Authority;

(iv) fifteen percent of the allocated funds is allocated in respect of the urban roads to be administered by the Urban Roads Authority; and

(v) one percent of the allocated funds is allocated in respect of roads in national parks and reserves to be administered by the Kenya Wildlife Service; and

(vi) a maximum of two percent of the allocated funds is allocated in respect of the recurrent expenditure of the Board under section 31(5);

(e) ensure that the remainder of the monies from the Fund described in paragraph (d) shall be allocated annually by the Board with the approval of the Cabinet Secretary to road authorities based on an annual work programme derived from the five-year road investment programme approved by the Cabinet Secretary responsible for roads and the Cabinet Secretary for Finance;

(f) ensure that a maximum of ten percent of all monies allocated to each road agency is utilized for development purposes by the said agency;

(g) monitor and evaluate, by means of technical, financial and performance audits, the delivery of goods, works and services funded by the Fund;

(h) in implementing paragraph (g), pay due regard to public procurement and disposal regulations and additional guidelines issued or approved by the Cabinet Secretary;

(i) recommend to the Cabinet Secretary appropriate levels of road user charges, fines, penalties, levies or any sums required to be collected under the Road Maintenance Levy Fund Act (Cap. 427) and paid into the Fund;

(j) recommend to the Cabinet Secretary such periodic reviews of the fuel levy as are necessary for the purposes of the Fund;

(k) identify, quantify and recommend to the Cabinet Secretary such other potential sources of revenue as may be available to the Fund for the development, rehabilitation and maintenance of roads; and

(l) The Highways Authority, the Rural Roads Authority and the Urban Roads Authority may utilize such portion of monies received from the Fund for operational and administrative expenses as may be approved by the Cabinet Secretary on the advice of the Board:

Provided that such expenditure shall not in any year exceed, as a proportion of the projected annual expenditure of the Fund—

(i) in the case of the Highways Authority, four percent;

(ii) in the case of the Rural Roads Authority, five and half percent; and

(iii) in the case of the Urban Roads Authority, five and a half percent.

[Act No. 3 of 2005, 4th Sch., Act No. 2 of 2007, 5th Sch., Act No. 8 of 2009, s. 74, Act No. 26 of 2019, s. 2, Act No. 22 of 2022, s. 57.]

7. Membership of the Board

(1) The Board shall consist of—

(a) a non-executive Chairperson to be appointed by the President from among the members appointed under paragraph (h);

(b) the Director-General whose position shall be filled through public advertisement;

(c) the Principal Secretary in the Ministry for the time being responsible for matters relating to roads or his designated alternate, not being below the level of Deputy Secretary;

(d) the Principal Secretary of the Ministry for the time being responsible for matters relating to finance or his designated alternate, not being below the level of Deputy Secretary;

(e) the Principal Secretary in the Ministry for the time being responsible for local authorities or his designated alternate not below the level of Deputy Secretary;

(f) the Principal Secretary in the Ministry for the time being responsible for matters relating to regional co-operation or his designated alternate, not being below the level of Deputy Secretary;

(g) *deleted by Act No. 19 of 2024, s. 3(a)*

(h) five other members comprising, representatives of each of the organisations specified in the First Schedule and appointed by the Cabinet Secretary from amongst three persons nominated by each of the organisations.

(2) The Cabinet Secretary may, by notice in the *Gazette* amend the First Schedule.

(3) No person shall qualify for appointment as a member of the Board under paragraph (h) of subsection (1) unless such person is the holder of the Kenya Certificate of Secondary Education or an equivalent qualification and has had at least ten years' practical experience.

(4) The Chairperson and members of the Board, other than the *ex officio* members shall hold office for a period of three years from the date of appointment, but shall be eligible for re-appointment for one further term of a period not exceeding three years.

(5) The names of all members of the Board as first constituted and at every change in membership thereafter shall be published in the Kenya *Gazette*.

[Act No. 2 of 2007, 5th Sch., Act No. 20 of 2020, Sch., Act No. 4 of 2023, s. 76, Act No. 19 of 2024, s. 3]

8. Powers of the Board.

The Board shall have all powers necessary for the performance of its functions under this Act and in particular but without prejudice to the generality of the foregoing, the Board shall have power to—

(a) control, supervise and administer the assets of the Board in such manner as best promotes the purpose for which the Board is established;

(b) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Board;

(c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;

(d) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Board is established:

Provided that the Board shall only take action under this paragraph with the prior Authority of the Cabinet Secretary;

(e) open a banking account or banking accounts for the funds of Board; and

(f) invest any funds of the Board not immediately required for its purposes in the manner provided for under section 32.

[Act No. 2 of 2007, 5th Sch.]

9. Conduct of business and affairs of the Board.

(1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Second Schedule.

(2) Except as provided in the Second Schedule, the Board may regulate its own procedure.

10. Remuneration of Board members.

The Board shall pay members of the Board such remuneration, fees or allowances for expenses as it may determine after consultation with the Cabinet Secretary for the time being responsible for finance.

[Act No. 2 of 2007, 5th Sch.]

11. Delegation by the Board.

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 Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

12. Director-General.

(1) There shall be a Director-General of the Board who shall be appointed by the Board in consultation with the Cabinet Secretary and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) A person shall be qualified for appointment as the Director-General if that person—

(a) holds a degree in finance, accounting, law or engineering from a university recognised in Kenya;

(b) has knowledge and at least ten years' experience in a relevant field;

(c) has served in a senior management position for a period of at least five years; and

(d) satisfies the requirements of Chapter Six of the Constitution.

(3) The Director-General shall—

(a) be an *ex officio* member of the Board but shall have no right to vote at any meeting of the Board;

(b) be the secretary to the Board; and

(c) subject to the directions of the Board, be responsible for the day to day management of the affairs of the Board.

(4) The Director-General shall hold office for a period of five years and shall be eligible for re—appointment for one further term of five years.

[Act No. 18 of 2018, Sch., Act No. 20 of 2020, Sch.]

13. Staff of the Board.

The Board may appoint such officers or other staff as are necessary for the proper discharge of its functions under this Act or any other written law, upon such terms and conditions of service as the Board may determine.

14. The common seal of the Board.

(1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the resolution of the Board.

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

15. Protection from personal liability.

No matter or thing done by a member of the Board or any officer, employee or agent of the Board shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Board, render the member, officer, employee or agent or any person acting on his directions personally liable to any action, claim or demand whatsoever.

16. Liability of the Board for damages.

The provisions of section 20 shall not relieve the Board of the liability to pay compensation or damages to any person for an injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Board by this Act or by any other written law or by the failure, whether wholly or partially, of any works.

17. Establishment, powers and functions of the Constituency Roads Committee.

(1) There is hereby established, for every constituency, a committee to be known as the Constituency Roads Committee.

(2) The Constituency Roads Committee shall comprise of—

(a) four members from the respective Constituency Development Fund Committee;

(b) the Member of Parliament for the Constituency;

(c) a representative of the Kenya Rural Roads Authority in the region, who shall be the Secretary to the Committee;

(d) a representative from the Ministry responsible for planning;

(e) the respective District Commissioner or his representative; and

(f) two members co-opted by the Committee to represent such special interests with regard to roads as the committee may determine from time to time, and who shall not have voting rights.

(3) The Constituency Roads Committee shall designate two of the members appointed under paragraph (a) of subsection (2) to be the Chairperson and vice-Chairperson of the Committee respectively, and any two members from subsection (2)(a) designated by the Committee and the Kenya Rural Roads

Authority accountant shall be the signatories to the Constituency Roads Fund account established by the constituency.

(4) The function of the Constituency roads Committee shall be to advise the Kenya Rural Roads Authority on the formulation of the annual roads programme and the roads to be included therein.

(5) The Constituency Roads Committee shall meet at least four times a year, and a quorum shall comprise of the Chairperson or vice-Chairperson and four other members.

[Act No. 2 of 2007, Fifth Sch., Act No. 8 of 2009, s. 75.]

17A. Establishment, powers, and functions of the Constituency Roads Tender Committee.

(1) There is hereby established for every Constituency a committee to be known as the Constituency Roads Tender Committee.

(2) The Constituency Roads Tender Committee shall comprise of—

(a) three representatives of the Constituency Development Fund Committee who are members of the Constituency Roads Committee;

(b) a representative of the Kenya Rural Roads Authority in the Region;

(c) the procurement officer of the Kenya Rural Roads Authority in the region, or his representative, who shall be the Secretary.

(3) The members of the Constituency Roads Tender Committee shall appoint two of the members referred to in paragraph (2)(a) to be Chairperson and vice-Chairperson of the Committee respectively:

Provided that the Chairperson of the Constituency Roads Committee shall not be eligible to be appointed Chairperson or vice-Chairperson of the Constituency Roads Tender Committee.

(4) The functions of the Constituency Roads Tender Committee shall be to procure road works for the Constituency with funds allocated to the Constituency under this Act.

(5) The quorum shall be the Chairperson and at least three other members of the Committee.

[Act No. 8 of 2009, s. 75.]

Part III – ALLOCATION OF FUNDS TO ROAD AGENCIES

[Act No. 2 of 2007, 5th Sch.]

18. Designation of road agencies.

(1) The organisations or bodies specified in the Third Schedule are hereby designated as road agencies for the purposes of this Act.

(1A) The Cabinet Secretary may, by notice in the *Gazette*, amend the Third Schedule.

(2) The road agencies referred to in subsection (1) may designate sub-agencies that are acceptable to the Board.

(3) A designation under subsection (2) may be made subject to such conditions as the Board in consultation with the Cabinet Secretary, thinks fit, and where such conditions are made they shall be specified in the notice of designation.

(4) The functions of a road agency designated under this section shall be—

(a) to maintain, rehabilitate and develop such categories of roads as shall be specified in the notice of designation; and

(b) to perform such additional functions as the Cabinet Secretary may, from time to time assign.

[Act No. 15 of 2003, s. 59, Act No. 2 of 2007, 5th Sch.]

19. Annual Roads Programmes.

(1) The Board shall indicate to the road agencies at least a year in advance—

(a) the amount of money likely to be available to the Board for allocation in the coming year;

(b) the priorities of the Board in funds allocation in the coming year; and

(c) the criteria to be applied in making allocations.

(2) Every road agency shall, at least six months before the commencement of every financial year, submit to the Board an annual roads programme in such form and containing such details as the Board shall specify, outlining a comprehensive plan of action for the development rehabilitation and maintenance of roads under the charge of the roads agency and the estimated costs of every activity required to implement the plan of action.

(3) The road agency shall select the roads to be included in its programme.

(4) The Board shall review, individually, the annual roads programmes submitted to it by the road agencies and shall consolidate the annual roads programme into annual public roads programme which shall—

(a) specify the amounts allocated for the maintenance, rehabilitation and development of each class of roads;

(b) match the cost of implementing the annual roads programme with revenues collected or estimated to be collected by and within the Fund; and

(c) identify roads requiring maintenance, rehabilitation or development in order of priority, taking into account social and economic requirements of the country or any part thereof in which roads are located.

(5) The Board shall submit to the Cabinet Secretary and the Cabinet Secretary for Finance the annual roads programme for approval and the approved programme shall form the basis of funds allocation and auditing of works by the Board and shall not be varied by the road agency without the prior written approval of the Board.

(6) Every annual roads programme funded out of any monies whether borrowed or appropriated by the National Assembly shall be managed as approved by the National Assembly.

(7) The Board shall manage the annual roads programme under sub-section (6) under the directions of the Cabinet Secretary.

[Act No. 26 of 2019, s. 3.]

20. Allocation of funds to road agencies.

The Board shall, subject to the provisions of this Act, allocate funds to road agencies for the maintenance, rehabilitation and development of the categories of roads in respect of which they are designated.

21. General duty of road agencies.

In the execution of their functions under this Act, a road agency shall ensure—

(a) development, rehabilitation and maintenance of the road network consistent with the economy and set standards;

(b) that its operations are conducted efficiently, economically and with due regard to safety; and

(c) that financial administration is conducted in accordance with the provisions of this Act and regulations made thereunder.

[Act No. 2 of 2007, 5th Sch.]

22. Financial year of roads agencies.

The financial year of every road agency shall be the period of twelve months ending on the thirtieth June in each year.

23. Accounts and records to be kept.

(1) Every road agency shall cause to be kept proper books, records and accounts of all funds provided by the Board in such format and detail as is specified by the Board.

(2) The Board shall cause to be kept proper books and other records of account, in respect of receipts and expenditures of the Fund, and costs and expenditure of the Board in accordance with accepted principles and standards of accounting.

(3) The Board may, at any time, issue directions to a road agency requiring it to maintain such books, records or information in addition to any books, records or information then already maintained by it, as the Board may consider necessary.

[Act No. 2 of 2007, 5th Sch.]

24. Collection of information by the Board.

The Board shall collect such data and other information as may be necessary for the furtherance of its duties.

[Act No. 2 of 2007, 5th Sch.]

25. Furnishing of information.

(1) The Board may require any road agency to furnish to it, at such time and in such manner as it may direct, such information as the Board may require for the proper discharge of its functions under the Act.

(2) Every road agency shall, within six months of the end of each financial year submit to the Board its audited accounts for that financial year.

26. Technical financial and performance audit.

(1) The Board shall regularly cause a technical, financial and performance audit to be made on works, goods and services financed by the Fund by an inspector authorized by the Director-General in writing, of any road agency and of those books, accounts and records relating thereto.

(2) When an audit is made under subsection (1), the road agency concerned and every officer and employee thereof shall produce and make available to the inspector, all the books, accounts, records and other documents of the road agency and such correspondence, statements and information relating to the goods, work and services financed by the Fund as the inspector may require, within thirty days.

(3) Any failure to produce any books, accounts or records and other documents, correspondence, statements, returns or other information within the period specified in the direction under

subsection (2) shall constitute a failure by the road agency to perform its functions and shall render the road agency liable to the penalties prescribed under section 29:

Provided that—

(a) the books, accounts, records and other documents shall not, in the course of the inspection, be removed from the premises at which they are produced;

(b) the inspector may make copies of any books, accounts, records and other documents required for the purposes of his report; and

(c) all information obtained in the course of the audit inspection shall be treated as confidential and used solely for the purposes of this Act.

(4) A person convicted of an offence under subsection (3) shall be liable to a fine of not less than one hundred thousand shillings.

(5) Where an offence under subsection (3) is a continuing offence, the person convicted shall in addition to the penalty prescribed in subsection (4) be liable to a fine of one thousand shillings for each day during which the offence continues.

[Act No. 2 of 2007, 5th Sch., Act No. 20 of 2020, Sch.]

27. Powers of the inspector.

(1) An inspector may, by notice in writing, require any person who is or has at any time been an officer, employee, agent, accountant or auditor of the road agency being inspected to—

(a) give to the inspector all reasonable assistance in connection with the audit; or

(b) appear before the audit for examination concerning matters relevant to the inspection.

(2) A person who—

(a) refuses or fails to comply with the requirement of an inspector which is applicable to him, to the extent to which he is able to comply with it; or

(b) obstructs or hinders an inspector in the exercise of his powers under this Act; or

(c) furnishes information or makes a statement which he knows to be false or misleading in any material particular; or

(d) when appearing before an inspector for examination, makes a statement which he knows to be false or misleading in any material particular,

commits an offence.

(3) A person convicted of an offence under subsection (2) shall be liable to a fine of one hundred thousand shillings or to imprisonment for three months or to both.

(4) Where an offence under subsection (2) is a continuing offence, the person convicted shall, in addition to the penalty prescribed in subsection (3), be liable to a fine of one thousand shillings for each day during which the offence continues.

28. Inspection report.

An inspector appointed under this Act shall submit his report to the Director-General and the report shall draw attention to any breach of the requirements of this Act and any regulations made thereunder and any other matter revealed or discovered in the course of the inspection warranting, in the opinion of the inspector, remedial action or further investigation.

[Act No. 20 of 2020, Sch.]

29. Directions to road agency.

The Director-General may, by notice in the prescribed form, require any road agency inspected under this Act to comply, by such date or within such period as may be specified therein, with such directions as the Board considers necessary in connection with any matter arising out of the report made under section 27.

[Act No. 20 of 2020, Sch.]

30. Suspension of funding, *etc.*

The Board, with the prior approval of the Cabinet Secretary, may—

(a) impose such penalties, including the suspension of funding allocations, as it may prescribe on road agencies which fail to comply with any directions issued under section 28; or

(b) take such remedial, supplementary or alternative measures to ensure the performance of the functions of road agencies which persistently fail to discharge their functions under this Act.

[Act No. 2 of 2007, 5th Sch.]

Part IV – FINANCIAL PROVISIONS

31. The Kenya Roads Board Fund.

(1) There is established a Fund to be known as the Kenya Roads Board Fund which shall vest in the Board.

(2) There shall be paid into the Fund—

(a) all proceeds from the Road Maintenance Levy Fund;

(b) such moneys or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;

(c) such sums as may be payable to the Board pursuant to this Act or any other written law, or pursuant to any gift or trust;

(d) all moneys from any other source provided for or donated or lent to the Board;

(e) such monies as may be appropriated by the National Assembly for the development, maintenance and rehabilitation of roads.

(2A) The National Assembly shall ensure that—

(a) not more than ten percent of the monies appropriated under subsection (2)(e) are allocated for maintenance of roads to be administered by the Kenya Rural Roads Authority; and

(b) not more than eighteen percent of the monies appropriated under paragraph (a) are allocated for research and standardization, capacity building and monitoring and evaluation, to be administered by the Principal Secretary responsible for matters relating to roads.

(3) All receipts, savings and accruals for 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.

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

(5) The Board shall with the approval of the Cabinet Secretary, set a ceiling of the money which in any one year may be spent on recurrent expenditure which shall not exceed 3% of the total collections in that year.

[Act No. 26 of 2019, s. 4.]

32. Advances to the Board.

(1) The Board shall ensure that in any financial year expenditure and commitments from the Fund shall not exceed the annual income of the Fund together with any surplus income brought forward from a previous year.

(2) If, in exceptional circumstances, the income from the Fund or other funds together with any surplus income brought forward from a previous year is insufficient to meet the actual or estimated liabilities of the Board and the Fund, the Cabinet Secretary of Finance may, with the approval of Parliament, make advances to the Board and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Cabinet Secretary for Finance may determine, provided that any such advance shall be repaid from the income of the Fund.

32A. Power to borrow and set aside funds to secure repayments

(1) The Board may, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance, borrow such monies as may be required for the proper discharge of its functions under this Act.

(2) The Board may, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance, where it is necessary to meet financial demands for maintenance, development and rehabilitation of roads, set aside a portion of the Fund for purposes of securing additional funding.

(3) The Cabinet Secretary shall make regulations for the better carrying out of this section.

[Act No. 26 of 2019, s. 5.]

33. Investment of funds.

(1) The Board may, with the consent of the Cabinet Secretary and the Cabinet Secretary for Finance—

(a) invest any of its surplus funds in Government securities;

(b) place on deposit with any banks quoted on an approved securities exchange in Kenya as it may determine, any moneys not immediately required for the purposes of the Board.

(2) In this section, "approved securities exchange" means a securities exchange approved under the Capital Markets Authority Act (Cap. 485A).

[Act No. 2 of 2007, 5th Sch.]

34. Financial year.

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

35. Annual estimates.

(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 Board for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year and in particular, the estimates shall provide for—

(a) moneys allocated to road agencies under section 19;

(b) the payment of the salaries, allowances and other charges in respect of the staff of the Board;

(c) the payment of pensions, gratuities and other charges in respect of the staff of the Board;

(d) the proper maintenance of the buildings and grounds of the Board; and

(e) the maintenance, repair and replacement of the equipment and other property of the Board.

(2A) The annual estimates shall be submitted together with a collated annual roads programme as provided for in section 19.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to Parliament through the Cabinet Secretary for approval and thereafter, the Board shall not increase or decrease the annual estimates.

[Act No. 4 of 2023, s. 77.]

36. Accounts and audit.

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

(2) Within a period of four months from the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Board together with—

(a) a statement of the income and expenditure of the Board during that year; and

(b) a statement of the assets and liabilities of the Board on the last day of that year.

(3) The accounts of the Board shall be audited and reported upon in accordance with Part III of the Public Audit Act (Cap. 412B).

(4) The Board shall inform and keep the public informed of its activities and operations through regular publications and such activities and operations shall be accessible to the public unless there are reasons of commercial confidentiality or security justifying exclusions.

(5) The decision of the Board to exclude information from the public shall be subject to judicial review.

[Act No. 2 of 2007, 5th Sch.]

Part V – MISCELLANEOUS PROVISIONS

37. Rules.

The Board, with the approval of the Cabinet Secretary, may make rules generally for the better carrying out its functions under this Act.

[Act No. 3 of 2005, 4th Sch., Act No. 2 of 2007, 5th Sch.]

38. Powers of the Cabinet Secretary.

(1) *Deleted by Act No. 2 of 2007, 5th Sch.*

(2) The Cabinet Secretary may—

(a) give directions of a general nature to the Board relating to the execution of its functions under this Act; and

(b) provide policy guidelines to the Board on the maintenance, rehabilitation and development of the road network.

[Act No. 2 of 2007, 5th Sch.]

39. Offences and penalties

(1) Any person who appropriates or applies or causes any other person to appropriate or apply, any proceeds or assets of the Board or the Fund otherwise than in accordance with the Act or the directions of the Board, shall be guilty of an offence and shall, upon conviction, be liable in addition to any other penalties which the Board may prescribe, to the penalties prescribed in the Penal Code (Cap. 63)

(2) In addition to the penalties referred to in subsection (1), all proceeds or assets found to have been misappropriated shall be recovered in full from a person found guilty of an offence under this section.

40. [Deleted by Act No. 2 of 2007, 5th Sch.]

FIRST SCHEDULE [s. 7(1)(h)]

ORGANISATIONS WHICH MAY NOMINATE REPRESENTATIVES TO BE APPOINTED MEMBERS OF THE BOARD BY THE CABINET SECRETARY

[L.N. 52/2003., Act No. 19 of 2024, s. 4.]

1. The Institution of Engineers of Kenya.
2. The Automobile Association of Kenya.
3. The Kenya Association of Manufacturers.
4. *Deleted by Act No. 19 of 2024, s. 4(a)*
5. *Deleted by Act No. 19 of 2024, s. 4(b)*
6. *Deleted by Act No. 19 of 2024, s. 4(c)*
7. The Institute of Certified Public Accountants of Kenya.
8. The Kenya Transport Association.

SECOND SCHEDULE [s. 9]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

[Act No. 20 of 2020, Sch.]

1. Committees and co-opted advisors

(1) In order to achieve its objectives, the Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it shall determine, but all findings of such committees shall be presented to the Board for its consideration and determination.

(2) The Board shall appoint the Chairperson of any committee established by it from amongst its own members.

(3) The Board may at its discretion, at any time and for any length of time co-opt any person to attend any of its deliberations, but such person shall not be entitled to vote any matter at any meeting of the Board.

2. Vacation of office by Board Members

(1) The appointment of a member, other than an *ex officio* member shall be terminated, in the case of the Chairperson, by the President, and in the case of any other member, by the Cabinet Secretary, on any of the following grounds:—

(a) upon the expiration of the period of his appointment;

(b) upon his death;

(c) if he is adjudged bankrupt;

(d) if he is sentenced for any offence against any written law to a term of imprisonment of, or exceeding, six months otherwise than as an alternative to, or in default of, the payment of a fine;

(e) if he is convicted of an offence involving fraud, dishonesty or moral turpitude;

(f) if he is absent, without the permission of the Board, from three successive meetings of the Board of which he has received notice;

(g) upon notice in writing of his intention to resign his office;

(h) if in the opinion of the Board, he becomes, by reason of mental or physical infirmity, incapable of performing his duties as a member of the Board, or

(j) upon the commission of an offence under this Act.

3. Meetings of the Board

(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting, at such place or places in Kenya and at such time or times as the Chairperson may determine.

(2) An ordinary meeting of the Board shall be convened by at least fourteen days' written notice to the members by the Executive Director to the Board.

(3) The Chairperson may, in his discretion, and shall at the written request of at least half of the members of the Board and within seven days of such request, cause an extraordinary meeting of the Board to be summoned at such place and time as he may appoint.

(4) The quorum of any meeting of the Board shall be one half of the membership of the Board.

(5) Where there is no quorum at a meeting of the Board, or for the continuation of a meeting of the Board by reason of the exclusion of a member on account of the provisions governing disclosure of interest, the members present shall postpone consideration of the matter in question until there is a quorum.

(6) The Board may make standing orders for the regulation of its proceedings and business or the proceedings and business of any of its committees and shall inform the Cabinet Secretary in writing of all such standing orders.

(7) The minutes of each meeting of the Board or of a committee of the Board shall be kept by the executive secretary to the Board and shall be confirmed by the Board or the committee at the succeeding ordinary meeting and be duly signed by the Chairperson or the person presiding.

(8) (a) The Chairperson shall preside over all meetings of the Board and in his absence, the members of the Board forming a quorum shall appoint one of their number to chair the meeting.

(b) A person appointed to chair a meeting of the Board under this subsection shall at that meeting exercise all the powers of the Chairperson.

(9) At any meeting of the Board, the decision of the Board on any matter shall be that of the majority of members present and voting and the Chairperson or the person presiding shall have in the event of an equality of votes, a casting vote in addition to his deliberative vote.

4. Disclosure of interest

If a member of the Board acquires any pecuniary interest direct or indirect in any contract, proposed contract or other matter and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration by the Board, the member shall at the meeting disclose the fact to the Board and shall take no part in the consideration or discussion of, or vote on any question with respect to the contract or other matter.

5. Seal of the Board

(1) The seal of the Board shall be authenticated by the signature of the Chairperson and the Director-General to the Board.

(2) In the absence of the Chairperson any Board member designated by the Chairperson for the purpose may authenticate the seal.

THIRD SCHEDULE [s. 18]

DESIGNATED ROAD AGENCIES

[Act No. 15 of 2003, s. 60, Act No. 2 of 2007, 5th Sch.]

1. Kenya National Highways Authority.
2. Kenya Rural Roads Authority.
3. Kenya Urban Roads Authority.
4. The Kenya Wildlife Service.