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KILIFI COUNTY TRANSPORT (REGULATION AND CONTROL)BILL,2015

A BILL for

AN ACT of the County Assembly of Kilifi to provide for matters relating to traffic, parking, county roads, street lighting, public road transport, ferries and harbours, to establish the county department of transport and for connected purposes.

ENACTED by the County Assembly of Kilifi as follows;-

PART I- PRELIMINARY

Short title

1. This Act may be cited as the Kilifi County Transport (Regulation and Control)Act,2015

Interpretation

2.In this Act unless the context requires otherwise;

“authorised person” means any person responsible for carrying out any duty or function in terms of this Act and includes a delegated duty or function;

“county” means the County Government of Kilifi;

"certificate" means operating authority issued under this Act;

“county roads” means all other roads except those marked as National Roads in the First Schedule of the Kenya Roads Act, 2007;

"department" means the County Department of Transport;

“director” means the county director in charge of transport under this Act;

“hazardous materials” means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety to property when transported in commerce by all modes;

“harbour master” means the person appointed as such pursuant to this Act and includes his authorised deputies, assistant and any other person authorised by the Department to act in that capacity ;

“harbour” means all that area referred to in the Schedule to this Act;

“harbour premises” means the quays, piers, jetties, stages and all other

works, land and buildings for the time being vested in or occupied or administered by the Department within the harbour

“hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“light railway” means a railway whether above, on or under the ground and includes underground metropolitan trains, trams, sky trains, cable trains and magnetic levitation trains.

“master” when used in relation to any vessel means any person having the command, charge or management of the vessel for the time being;

"motor vehicle" includes a vehicle, machine, bus, tractor, truck trailer or semi-trailer, propelled or drawn by mechanical power and used upon public roads in the transportation of property or passengers, but does not include any locomotive or car operated exclusively on a rail, rails or track;

“motor-cycle” refers to a motor vehicle with less than four wheels and includes tuk-tuks, motor bicycles (also known as *boda- boda*) propelled or drawn by mechanical power and used upon public roads in the transportation of property or passengers;

“owner” when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto; and when used in relation to a vessel includes any part owner, broker, charterer, agent or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel;

"permit" means operating authority issued under this Act;

"person" includes an individual, firm, partnership, Association, company or corporation;

“quay” means any quayside, wharf, jetty, dolphin, landing stage or other structure used for berthing or mooring vessels and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto;

“ranking facility” includes-

(a) a place upon a public road from which a public transport service may ply for hire or convey and drop off passengers, and

(b) any place demarcated or designated for the exclusive parking of specific public transport vehicles by a road traffic sign;

“sailing vessel” means a vessel designed to carry sail, whether as the sole or as a primary or supplementary means of propulsion;

“small vessel” means a vessel of less than 20 metres in length (excluding projecting spars) or a sailing vessel;

“vehicle” means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw bar to a break down vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

“vessel” includes every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water;

“water-skiing” means any activity wherein a person or persons are towed by a power driven vessel and are supported on skis or a disc or sled or inflatable tube or cylinder or similar apparatus.

Objects

3.The objects of this Act are to provide for all matters necessary to-

(1) Provide for adequate, safe and efficient County transport facilities and services at reasonable cost to the people.

(2) Regulate the conduct of users on the road, water and light rail

(3) Give effect to Legal Notice No. 149 of 2013 with respect to county transport

Application

4. This Act applies to all users of ways and passages within Kilifi County.

PART II –PROVISIONS RELATING TO ADMINISTRATION OF THE ACT

Institutional Framework

5. (1) There shall be established a Transport Inspectorate which shall be an inspectorate in the Department responsible for Roads and Transport dealing with matters relating to the enforcement of the provisions of this Act.

(2) The head of the inspectorate shall be the Traffic Marshall who shall be appointed through a competitive process by the Kilifi County Public Service Board.

Appointment of Officers

6. There shall be such number of authorized officers serving in the Inspectorate as may be necessary for the enforcement of the provisions of this Act.

Functions, Powers and Duties of the Inspectorate

7. The Inspectorate shall have the following general functions, powers and duties-

(1) To consult and co-operate with;

(a) officials of the State Department having duties and responsibilities concerning transport;

(b) officials and representatives of public corporations as defined in the *law providing for government owned entities* having duties and responsibilities concerning transport;

(c) official representatives of neighboring Counties and of inter-county agencies on matters affecting transport in the county or counties;

- (d) officials and representatives of transport facilities and systems in the county;
- (e) persons, organizations and groups utilizing, served by, interested in or concerned with transport facilities and systems in the county.
- (5) To exercise all functions, powers and duties relating to traffic regulation and control as set forth in this Act;
- (6) To regulate the use of:
 - a) the county highways, other public ways and bridges;
 - b) the canals, waterways and light rail of the county;
 - c) parking facilities and appurtenances at or adjacent to transportation interfaces and connections to such facilities; and
 - d) either on their own account or in partnership with authorized entities responsible for transport or with another county, but with the approval of the County Executive Committee in such cases involving dealings with another County or national government entity.

7. The Inspectorate shall have power to cooperate with the agencies of other counties and of the National government which are connected with national defence, in the formulation and execution of plans for the rapid and safe movement over county roads of troops, vehicles of a military nature, and materials affecting national defence.

PART III- PROVISIONS RELATING TO TRAFFIC AND PUBLIC ROAD TRANSPORT

Transportation of hazardous materials

8. The Inspectorate shall promote safety in the transportation of hazardous materials by all modes of transport, including providing by pass in towns

Right Of Entry

9. An authorized officer may, in enforcing the provisions of this Act, at any reasonable time and without prior notice—

- (1) enter a public transport service facility to inspect the facility; and
- (2) Make enquiries from a person connected with such facility.

Operating Licence

10. (1) No person shall drive a motor vehicle on a public road except under the authority and in accordance with the conditions of a licence issued to him in terms of the Traffic Act, Chapter 403 of the Laws of Kenya;

Preventing engagement of a public transport vehicle 11.(1) No person may, by using force, intimidation, threats or by any other means, prevent or try to prevent—

(a) any person from obtaining or engaging a public transport vehicle;
or

(b) the driver of a public transport vehicle from taking on passengers.

(2) Any person in breach of (1) above shall be guilty of an offence and shall be liable to a fine of Kenya Shillings Thirty Thousands or a term of three months imprisonment in default thereof.

Conveying dangerous or offensive articles in public transport vehicles

12.(1) A person who is in charge of a public transport vehicle may not knowingly convey a person or thing or allow that person or thing to be conveyed in such vehicle, whether or not the public transport vehicle has

been engaged, if that person or thing—

(a) is not permitted to be conveyed in terms of an existing law; or

(b) has obviously been exposed to or contaminated by an infectious or contagious disease; or

In possession of dangerous material or anything that may harm to other passengers in the vehicle..

Bording and Disembarking of Public Service Vehicle

13. (1) No person may board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.

(2) No person may board a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorized to carry.

(3) No person may board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

4) Any person in breach of any of the above shall be guilty of an offence on each or any subsection and shall be liable to a fine of Kenya Shillings five Thousand or a term of one month imprisonment in default thereof on each or any of such offence

Motor-Cycles

14. (1) the Rider and pillion passenger on a motor bike must each wear a helmet and a reflecting jacket when on board

(2) The carrying capacity for motorbikes shall be one pillion passenger, seated on a seat that is securely fixed to the motor cycle behind the driver's seat and three passengers for Tuk-tuk who shall sit

on the places reserved for the passengers.

(3) Any pillion passenger riding with an infant is prohibited unless such infant is fastened securely on the pillion passenger and restricted to one child per pillion passenger.

(4) It shall be an offence to do any act that will endanger the life of a child.

(5) No motor cycle shall carry passengers for commercial purposes unless it holds a permit issued by the county department of transport, in accordance with the terms and conditions under this Act.

(6) Any motor-cycle carrying passengers for commercial purposes shall bear distinct number for identifications apart from the registration numbers.

(7) Any motor-cycle carrying passengers for commercial purposes shall operate on zonal arrangements and each zone shall have a distinct colour mark given by the inspectorate.

(8) Any motor-cycle carrying passengers for commercial purposes shall abide by existing traffic regulation, including a reflective jacket and helmet and must provide a clean appropriate helmet and reflective jacket for the pillion passenger.

(9) Any person in breach of any of the above shall be guilty of an offence on each or any subsection and shall be liable to a fine not exceeding Kenya Shillings Ten Thousand or a term of one month imprisonment in default thereof on each or any of such offence.

Queries at Public Transport Facilities

14(A).(1) The Inspectorate may establish ranking facilities in the County and may further erect or cause to be erected a queue sign or

queuing barrier in any suitable form for the purpose of queuing;

(2) All passengers intending to enter any public transport vehicle at an established ranking facility or stopping place must queue from the point at which it is indicated that such public transport vehicle will leave;

(3) Where no queue sign has been erected, passengers waiting to enter a public transport vehicle must form themselves into a queue not exceeding two abreast or in a single line when required to do so by an approved public transport conductor or authorised official of the County;

(4) A passenger may only enter a public transport vehicle when he or she gets to the front of the queue;

(5) Every passenger queuing must comply with all the instructions given by a public transport conductor, authorised officer or authorised official when on duty.

(6) Any person in breach of (2), (3), (4) and/or (5) above shall be guilty of an offence on each or any sub section and shall be liable to a fine of Kenya Shillings five Thousands or a term of one month imprisonment in default thereof on each or any of such offence.

Rationalization of Fares

15. (1) The Inspectorate will develop a guide for the rationalization of fares based on kilometers and the kind of commercial licensed vehicle.

(2) A passenger who refuses to pay the determined fare shall be guilty of an offence and be liable to a fine equivalent to five thousand shillings or to a term of one month imprisonment.

Rights And Duties Of Passengers When A Public Transport Vehicle

Becomes Defective

16. (1) If a public transport vehicle becomes defective or, for any reason whatsoever, is unable to proceed on with the journey to the desired destination, the passengers shall disembark from such defective vehicle and the operator of the defective vehicle is to provide an alternative vehicle within a reasonable time unless a passenger elects for an adequate refund for the remainder of the journey.

(2) A driver who refuses to refund a passenger, as contemplated in subsection (1) above or who refuses to allow a passenger to travel in the manner as contemplated in subsection commits an offence and is liable, on conviction, to a fine not exceeding Twenty Thousand Shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(3) An operator who does this is also liable by fine – look at the lesson at national level

Actions Prohibited on a Public Transport Vehicle

17. (1) The following actions are prohibited on a public transport vehicle-

- (a) smoking;
- (b) playing offensive or excessively loud music;
- (c) using obscene or offensive language;
- (d) committing an offensive act;
- (e) interfering with the comfort of any passenger;

(f) damaging anything and interfering with the equipment of the public transport vehicle in any way;

(h) forcibly causing the driver to deviate from his route;

(i) endangering the life of another passenger;

(j) interfering with the actions of the driver; and

(k) showing or displaying any pornographic material.

(2) A person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine of not exceeding twenty thousand only or to imprisonment for a term not exceeding two years or to both.

Property left in Public Transport Vehicle

18. The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must—

(a) deliver that property to the person who left it behind; or

(b) if he or she is unable to deliver that property to the person who left it behind, take the property, as soon as possible, to the lost property office of his or her employer's /Sacco office or to the nearest police station and deposit it with the officer on duty and obtain a receipt for it.

(c) All Sacco / employer offices shall display a hotline number at the entrance/ front doors or any other open and visible place.

Obstruction and Distribution of Traffic

19. (1) A person shall not park or allow to park a public transport vehicle in a non-designated parking area.

(2) No public transport vehicle may traverse a pedestrian crossing when stopping to enable passengers to be picked up or dropped off.

(3) No public transport vehicle may park in a designated parking place any longer than is required to enable waiting passengers to be picked up or dropped off.

(4) The County will establish lay by where matatus in transit will be able to pick and drop passengers and such matatus shall be prohibited from parking or blocking the entrance or exit of the lay by.

(5) A person who commits any of the acts as stipulated under subsection (1), (2) and/or (3) herein commits an offence, and is liable on conviction to a fine not exceeding Fifty Thousand Shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Duties of Pedestrians

20. (1) A pedestrian shall cross a public road only at a pedestrian crossing or an intersection or at a distance further than 50 metres from such pedestrian crossing or intersection.

(2) Where a marked pedestrian crossing exists at an intersection, a pedestrian shall only cross the intersection within the marked pedestrian crossing.

(3) Where a traffic-control light signal which embodies pedestrian signals operates at an intersection, a pedestrian shall not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(4) Where no pedestrian signals are operating at an intersection, but

such intersection is controlled by a traffic-control light signal, a pedestrian shall not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic-control light signal is displayed in the direction opposite to that in which he or she is proceeding.

(5) Where a traffic-control light signal, which embodies pedestrian signals, are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian shall only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(6) There shall be established by the inspectorate road signs indicating the rights of way for children near schools and hospitals to enable children and patients to cross the road.

(7) No pedestrian shall carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

(8) A person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine of not exceeding two thousand only or to imprisonment for a term not exceeding three months.

Use of Hooter

21. (1) No person shall use the sounding device or hooter of a vehicle on a public road, except when such use is necessary in order to comply with the provisions of this Act or any other law or on the grounds of safety.

(2) No person shall use the sounding device or hooter of a vehicle near

hospitals and schools.

Prohibition on use of Communication device while driving

22. (1) Subject to any other law, no person shall drive a motor vehicle on a public road—

(a) while holding, using or operating a cellular or mobile telephone or any other communication device in one or both hands or with any other part of the body unless such a cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle and remains so affixed while being used or operated, or is specially adapted or designed to be affixed to the person of the driver as headgear, and is so used;

(2) An authorised officer may, in the public interest and safety of the public, confiscate and impound a hand held communication device;

(3) The authorised officer must, when confiscating any hand held communication device—

(a) inform the owner of such communication device of the reasons of confiscating and impounding;

(b) issue a receipt to the owner of such hand held communication device, stating the place at which such device may be claimed; and

(c) Follow all procedures contained in any policy of the County dealing with the confiscation and impoundment of property.

Penalty for Breach

23.(1) A person who contravenes any provision of Section 21 of this Act commits an offence.

(2) A person who commits an offence referred to in subsection (1) is, liable on conviction, to a fine not exceeding twenty thousand shillings or a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

Restriction on to maintenance of street lighting

24. No private undertaking of street lighting shall be undertaken without the authority of the county government

Damage of Street Lights

26. (1) No person shall willfully or carelessly cause damage to any streetlight.

(2) Any person who willfully or carelessly causes damage to any streetlights commits an offence and is liable upon conviction to a fine not exceeding Two hundred thousand shillings or a term of imprisonment not exceeding one year or to both such fine and imprisonment.

PART IV-PARKING

Parking on Public Road

27. No person shall park or permit a vehicle to be parked on a public road contrary to a traffic sign or in a manner that impedes the flow of traffic.

Prohibited Parking Areas

28. (1) No person shall park a motor vehicle on any other area other than a designated parking area.

(2) Unless required or permitted by this Act or by a traffic control device, or in compliance with the directions of a traffic officer, or to avoid conflict with other traffic, no person shall stop or park a vehicle-

(1) at an intersection nearer than ten (10) metres to the projection of the curb line immediately ahead or immediately to the rear;

(2) within ten (10) metres on the approach to a stop sign or yield signs;

(3) within five (5) metres of any fire hydrant, or when the hydrant is not located at the curb, within five (5) metres of the point on the edge of the roadway nearest the hydrant;

(4) within ten (10) metres of the approach to a pedestrian crossing;

(5) on a sidewalk;

(6) facing oncoming traffic;

(7) on any bridge or approach to any bridge;

(8) in a passenger loading or unloading space posted as such by a traffic control device except when actually taking or discharging passengers;

(9) on any portion of a public road posted as "No Parking";

(10) on any land owned by the County which the County uses or permits to be used as a playground, recreation area, utility lot, or public park, except in such areas designated or posted for parking;

- (11) on any space posted as a fire lane except for emergency vehicles;
- (12) on any space posted for disabled persons parking unless such vehicle is designated as a disabled persons vehicle;
- (13) in a transit zone except a transit vehicle;
- (14) in such a manner so as to obstruct an emergency exit; or
- (15) in such a manner so as to obstruct the entrance or exit of a fire hall or ambulance station.

“No parking” and “Street maintenance” signs

29. Notwithstanding any other provision in this Act, the department through any of its authorized officers or employees, shall cause moveable signs to be posted on or near a highway to indicate “No Parking”, or “Street Maintenance” to serve the temporary measure and when so posted, such signs shall take precedence over all other traffic control devices.

Towing away of vehicle

30. (1) Any vehicle that has broken down shall be towed away within an hour and the failure to comply with such arrangement then the inspectorate can have the vehicle towed away at the owner’s expense.

30.(2) It shall be an offence to place any material or vegetation on the road in front of or behind a broken down vehicle to serve as a warning to other road users that there is a stationary vehicle on the road instead of using the required triangle.

30(3). Any vehicle parked contrary to this Act shall be towed away at the owner’s expense.

Parking on alleys

31. (1) No person shall park a vehicle on any alley unless a traffic control device otherwise permits, except for the following purposes:

(a) the loading or unloading of goods from a commercial vehicle for a reasonable period; or

(b) the loading or unloading of goods or passengers from a vehicle other than a commercial vehicle for a reasonable period.

(2) Notwithstanding subsection (1) above, no person, while loading or unloading passengers or goods, shall park in such a manner as may obstruct the passage of other vehicles along the alley.

Parking on private property

32. No person shall park a vehicle or permit a vehicle to be parked on private property without the permission or authorization of the owner of the private property or a person having lawful possession or control of the private property.

Parking of trailers upon public road

33. No person shall park or permit to be parked, any trailer upon any public road unless the said trailer is attached to a vehicle by which it may be propelled or drawn and when so attached, the trailer shall be deemed part of the vehicle and subject to the provisions pertaining to vehicles.

Parking on taxi zone

34. No person shall park or permit to be parked a vehicle that is not a taxicab, in an area posted as a taxi zone.

Parking a taxi cab within a taxi zone with "not for hire" sign

35. (1) The operator of a taxicab shall not park the taxicab upon any roadway other than within a taxi zone, unless such taxicab is displaying a "Not for Hire" sign and the operator is out of the taxicab.

(2) Nothing in this part shall be construed as to allow parking contrary to any other provision of this Act.

Compliance of this Act by taxicabs

36. Notwithstanding the establishment of a taxi zone on a roadway, an operator of a taxicab stopping or parking in such a zone shall comply with the requirements of this Act.

Parallel parking

37.A person shall park a vehicle on a roadway-

(1) with the sides of the vehicle parallel to the curb or edge of the roadway, and the left wheels of the vehicle not more than five hundred (500) millimeters from the left curb or edge of the roadway;
or

(2) in the case of a one-way highway where parking on either side is permitted, with the sides of the vehicle parallel to the curb or edge of the roadway, the wheels that are the closest to a curb or edge of the roadway not more than five hundred (500) millimeters from that curb or edge, and the vehicle facing in the direction of travel authorized for the highway.

Angle parking where no parking guidelines are visible

38. Angle parking is permitted where no parking guidelines are visible on the roadway in the following circumstances-

(1) parking the vehicle's sides at an angle of between thirty (30) and sixty (60) degrees to the curb or edge of the roadway; and

(2) in the case of a vehicle other than a motorcycle, with the nearest wheel not more than five hundred (500) millimeters from the curb or edge of the roadway; or

(3) in the case of a motorcycle, with the nearest wheel of the motorcycle not more than five hundred (500) millimeters from the curb or edge of the roadway, and the motorcycle angled adjacent to the lane on which the motorcycle is parked.

PART V-FERRIES AND HARBOURS

Movement of Vessels in Harbours

Vessel permit

39. No vessel shall carry passengers for commercial purposes unless it holds a permit issued by the county department of transport, in accordance with which terms and conditions the Permit Holder shall comply.

Revocation of permit

40. The permit shall be revoked or suspended by the department and it may take such action as is deemed necessary in the interests of safety or for the good management or operation of a Harbour or where the Permit Holder or his servants, or agents are in breach of or fail to comply with the terms of the operating agreement or where the

Permit Holder or his servants or agents commit an offence under, or a breach of, this Act.

Report on arrival

41. The master or owner of a commercial vessel, other than a fishing vessel, shall, when operating within a harbour and functional area or as soon as possible thereafter, report the arrival together with particulars as to tonnage and draft of the vessel to the Harbour Master who shall assign a berth to the vessel if such be available.

Control by the harbor master

42. All vessels entering or leaving or being within a Harbour shall be in all respects under the control of the Harbour Master whose directions shall be obeyed by the Master of the vessel.

43. A direction or requirement by or on the authority of the Harbour Master to the Master of a vessel shall not extend or diminish any responsibility of the Master of the vessel in relation to the vessel or the cargo thereof.

Movement within the Harbor

44. A vessel approaching, entering, leaving or moving within the Harbor shall be navigated in a proper and seaman like manner and at no greater speed than five knots.

45. The Master or owner of a vessel shall not negligently or willfully permit the vessel to run foul of any of the quays, jetties, ferries, slips, perches, buoys, works, plant, fixtures or other property in the Harbour.

Harbour Master or Authorised officer to control movement of vessels

46. No person other than the Harbour Master or authorised officer shall

by hailing, calling, or otherwise from piers of any part of the Harbour or from any vessel, attempt to regulate or control or alter the movement of any vessel within a Harbour.

47. (1) The Harbour Master shall direct the Master or owner of a vessel to moor, unmoor or move the vessel and failure to do so shall be a contravention of this Act.

(2) Where there is no person on board and the owner or Master cannot be found after reasonable enquiry the Harbour Master may cause the vessel to be moored, unmoored, or moved as the Harbour Master may in his discretion consider necessary at the risk of the owner provided always that the costs incurred by the Harbour Master in such case shall be charged and payable by the Master or owner of the vessel.

Obstruction of other vessels

48. The Master of a vessel irrespective of its size, other than a vessel that is directed by the Harbour Master to anchor or moor therein, shall not use a navigating channel in a manner so as to obstruct, endanger or otherwise impede other vessels which require that navigating channel for navigation.

Substance influence

49. A Master or any other person shall not navigate a vessel in a Harbour whilst under the influence of any alcoholic substance, narcotics or illegal substances.

Report of Vessel Accident

50. The Master of a vessel which –
(a) has been involved in a collision with any other vessel or property,
or has been sunk or grounded or become stranded within the

harbour; or

(b) by reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to other vessels or property; or

(c) in any manner gives rise to any obstruction to a navigating channel; or

(d) has discharged any harmful matter; or

(e) has jettisoned or lost any object that potentially obstructs the fairway; or

(f) has experienced a “near miss”, which could have resulted in any of the incidents in (a) to (e) above or any other incident with potentially serious consequences;

shall immediately report the occurrence to the Harbour Master, and as soon as practicable thereafter, provide him or her with full details in writing and, where the damage is such to affect or is likely to affect its seaworthiness, the Master shall not move the vessel except to clear the navigating channel or to moor or anchor in safety, other than with the permission of and in accordance with the direction of the Harbour Master.

Notice to remove vessel from a berth

51. A master of a commercial vessel, other than a fishing vessel, before removing the vessel from a berth in the Harbour, shall give notice of his or her intention to do so to the Harbour Master.

Movement of vessel from one berth to another

52. A person shall not move a vessel from one berth to another except with the prior consent of the Harbour Officer. Provided always that if the person is unable after reasonable enquiry to find a Harbour Officer and the movement of the vessel is in accordance with the practice normally approved by the Harbour Master the vessel may be moved on leaving notice of intention to move the vessel setting out the name of the vessel, the present location of the vessel and the berth to which it is proposed to be moved at the address of the Harbour Master.

Prohibited acts in a harbour

53. A person shall not, in a Harbour:-

- (1) cause a vessel to swing except at such times and in such conditions as the Harbour Master may direct;
- (2) cause a vessel to begin to swing while any other vessel near enough to foul is moving in the Harbour; or
- (3) cause a vessel to come loose or move in the Harbour so as to cause damage or collide with any vessel in the act of swinging.

Vessels to be anchored on designated areas

54. A vessel shall not be anchored or moored within a Harbour elsewhere than at a place designated by the Harbour Master and fishing boats engaged in landing fish and vessels discharging cargo shall at all times be entitled to preference of berths and moorings at the quay or pier, slipway or landing place and the Harbour Master may refuse to permit other craft to berth or moor within the Harbour so

that such preference may be given.

Vessels not to lie alongside any quay except as authorised

55. Save with the permission of the Harbour Master, vessels shall not lie alongside any quay in a Harbour except when loading or discharging cargo or when taking on fuel, water, or other necessary supplies, or opposite a berth or berths designated by the Harbour Master all of which operations shall be carried out as expeditiously as possible.

Berthing of vessel

56. Every vessel lying at a quay in a Harbour shall be so berthed as to lie broadside to the quay, except where the Harbour Master permits otherwise.

Safe operation of vessels

57. Masters shall be fully responsible for the safe operation of their vessels.

Vessels not to lie abreast any ferry

58. Save with the permission of the Harbour Master, a vessel shall not lie at or abreast of any ferry or slip or steps in a Harbour.

Exhibition of suitable lights

59. Vessels moored or anchored in a Harbour shall exhibit suitable lights whenever required by the Harbour Master to do so.

Engine not on run

60. While a vessel is moored at a quay in a Harbour its engine shall not

be run without notifying the Harbour Master or the vessels (if any) ahead, astern, or moored alongside on either side. A vessel should not rely on its engines to moor continuously alongside a pier or County structure.

Speed of vehicles

61. Vessels may be fastened in a Harbour only to the bollards, mooring rings or mooring buoys, provided for that purpose.

Length of mooring lines

62. The mooring lines used by vessels in a Harbour shall be of adequate strength.

Rope or chain not to obstruct access

63. A rope, chain or similar impediment shall not, except temporarily in case of emergency, be laid or run from a vessel in a Harbour across any steps, stairs or ladders leading from a quay to the water so as to obstruct the free passage up and down such steps, stairs or ladders provided that this shall not apply to steps, stairs or ladders which are completely blocked off by vessels moored alongside.

No person except master to unloose any vessel

64.(1) No person shall cut adrift or unloose any vessel which may be made fast or moored in any part of a Harbour save the owner or Master for the purpose of lawfully moving the vessel.

(2)Where any vessel has been lawfully moored in a Harbour, no person other than the owner or master or person authorised by the owner or master or Harbour Officer shall move, remove or alter the

position of the vessel or attempt to do so.

Removal of raft, anchor, buoy or other floating object

65. Upon being so required by the Harbour Master, the Owner of a raft, anchor, buoy or other floating object in the water of a harbour shall ensure it is removed immediately to a suitable location or wherever the Harbour Master may direct, subject to the terms of the Environmental Management and Coordination Act Kenya, and applicable Environmental Legislation.

Fenders

66. (1) The Master or owner of any vessel in a Harbour shall provide his or her vessel with sufficient fenders or other suitable appliances for the protection of piers or of his or her own or another vessel.

(2) The Master or owner of a vessel shall not use or permit to be used in a Harbour any fender of which the Harbour Master disapproves.

Free access to other vessels

67. The Masters, owners and crews of vessels occupying berths at a quay in a Harbour shall, if so required by the Harbour Master, give free access over the decks of their vessels for persons and goods to and from other vessels berthed alongside them provided always that the persons seeking such facility shall be deemed to have indemnified the department and the Harbour Master from and against all (if any) claims however arising from such access.

Lifting of Vessel out of water

68. A vessel may only be lifted out of the water and temporarily stored

elsewhere in a Harbour area by prior agreement with the Harbour Master and such new location and the proposed storage period must also be agreed beforehand with the Harbour Master.

Reserved Berths

69. The Harbour Master shall have the power to set aside reserved berths, when deemed necessary, and the use of any such berth will be subject to his consent.

Moorings not to be laid in a harbour without permission

70. A person shall not lay moorings in a Harbour without the written permission of the Harbour Master and shall take up any moorings laid when the same shall cease to be used regularly and when instructed to do so by the Harbour Master.

Only vessels to be moored to buoys

71. No timber, trees, wood spars or other articles or things whatsoever (other than vessels) shall be moored to buoys or placed in any part of a Harbour without the permission of the Harbour Master.

Casting anchor in a harbor

72. The Master of a vessel shall, upon casting anchor in a Harbour cause a buoy to be fastened forthwith to the anchor in such a manner that it may be plainly seen where the anchor has been cast.

Anchor without a buoy

73. The Master of a vessel shall not leave any anchor that may have been dropped or slipped from the vessel in a Harbour without a buoy

to mark its position and such anchor shall be removed without delay.

Removal of raft, anchor or buoy

74. The owner of a raft, anchor, buoy or other thing lying in the waterway of a Harbour shall upon being so required by the Harbour Master, cause the same to be removed immediately from where it is to such other place as the Harbour Master may direct.

Obstruction in the harbour

75. (1) The Harbour Master or Authorised Person may, in respect of any article or thing he deems to be an obstruction in the Harbour, including a vessel laid up as unfit for sea service or otherwise or a wrecked or derelict vessel, by notice in writing require the owner or former owner as the case may be to remove from the Harbour and dispose of the obstruction or vessel to the satisfaction of the Harbour Master within such period as the Notice shall specify.

(2) Where the owner, or former owner in contravention of this Act fails to comply with such notice, the Harbour Master or the Authorised Person may at the risk of the owner or former owner arrange for the removal of the obstruction or vessel and the disposal of it as the Authorised Person or the Harbour Master considers fit

Fumigation of vessel

76. A master of a vessel shall not permit the vessel to be fumigated in a Harbour for any purpose without the permission in writing of the Harbour Master, and such operations shall be at the risk of the owner of the vessel.

Power to inspect

77. The Harbour Officers may at any time board a vessel within a Harbour and inspect it or any part of it, in the execution of their duty.

Loss or damage to goods

78. The department or the Harbour Master shall not be liable for loss of or damage to any goods whilst in a Harbour.

Unloading at a harbour

79. The Master or owner of a commercial vessel, other than a fishing vessel, about to unload at a Harbour shall, as soon as possible, and in any event not more than twenty-four hours after arrival, give particulars to the Harbour Master of the cargo consigned and all other information as to the goods to be unloaded as the Harbour Master may request, and shall produce to the Harbour Master a copy of any manifest, bill of lading or charter party, and if called for, the register of the vessel.

Loading or discharging

80. The Master of a vessel loading or discharging goods at a quay in a Harbour shall place the vessel and load or discharge the goods so as not to obstruct other vessels being loaded, discharged, moored or navigated.

Cease to load or discharge

81. The Master or owner of a vessel engaged in loading or discharging goods shall cease loading or discharging if so directed by the Harbour

Master.

Specified period to load or discharge goods

82. The Harbour Master may require the Master of a vessel in a Harbour to load or discharge the cargo within a specified period whenever in his opinion an unreasonable delay occurs in loading or discharging the cargo of the vessel. If the Master of the vessel refuses or fails to comply with such a request the Harbour Master may carry out with the requirement at the owner's risk and do all things necessary for and incidental to that purpose and the expenses so incurred shall be paid by the Master of the vessel.

Good and sufficient light to be maintained

83. The Master of a vessel loading or discharging goods in a Harbour shall ensure that at all times good and sufficient light is maintained over each hold of the vessel so as to enable the work of loading or discharging to be performed safely.

Goods to be handled according to harbour officer

84. Goods placed on or in or removed from any quay or shed in a Harbour shall be dealt with or handled subject to the direction of a Harbour Officer, and shall be moved to such places and in such manner as he shall direct and shall be placed or stowed in such stacks as he may direct and all persons dealing with or handling goods in a Harbour shall be subject to the instructions of the Harbour Master or other Harbour Officer.

Use of quay, landing place, slipway or any part of the harbour

85. When two or more vessels desire to use at the same time any quay,

landing place, slipway or any part thereof the Harbour Master shall fix the term and position of each vessel and the Masters thereof shall abide by the Harbour Master's decision.

Liability for loss

86. The authorised Person or any Harbour Officer shall not be liable for loss of or damage to any goods or containers whilst in a Harbour or Functional Area of the county.

Goods intended for shipment through the harbour

87. Goods intended for shipment (through the Harbour) shall not be placed on the quays in a Harbour without the prior permission of the Harbour Master.

Placing goods intended for shipment

88. Goods intended for shipment (through the Harbour) shall be placed at such places on the quays in a Harbour as the Harbour Master shall direct.

Storage of goods or containers at a harbour

89. Goods or containers shall not be stored in a Harbour elsewhere other than on the premises of lessees or tenants of property within the Harbour, or in areas specifically designated for storage purposes, or as otherwise provided for in this Act.

Establishment of Ferries

90. The department of transport may establish ferries over harbours, bays, rivers and creeks within the county, and agree with, and grant licenses to, ferrymen on one or both sides thereof, under such regulations, and at such rates of ferriage, as established by the department.

Operation of county ferry

91. Without prejudice to the preceding section the department if it deems expedient, may operate and maintain any of these ferries and charge and collect ferriage at such rates as it deems right.

Duties of ferryman

92. Every ferryman shall keep safe and good boats or vessels, in good repair and suitable for the ferry, and give ready attendance on the passengers, according to the regulations established by the department.

Road traffic in a harbour

93. The Harbour Master shall control the movement of road traffic in a Harbour.

Parking of a vehicle carrying goods

94. A vehicle engaged in transporting goods or containers to or from a vessel may remain alongside the edge of a quay in a Harbour only for as long as it is necessary to load or unload the vehicle, which operation shall be carried out as expeditiously as possible.

Transport of goods or containers in a harbour

95. Goods or containers shall be transported within a Harbour only in suitable vehicles. Vehicles shall be so handled at all times as to avoid damage to quay or road surfaces in the Harbour or to any Harbour installations or plant.

Use of vehicles and containers in a harbour

96. Vehicles and containers shall not be used within a Harbour unless they are suitable for the purpose and shall be maintained at all times in a good state of repair and in a clean and hygienic condition by their owners.

Power to determine unsuitability of vehicle or container

97. The Harbour Master, whose decision shall be final, shall have power to determine, when necessary, if any particular vehicle or container is unsuitable for the purpose of this Act.

Parking at a harbour

98. No vehicle shall be parked in any part of a Harbour as defined as aforesaid save in such places as may be designated by the Harbour master for parking during the period of time when parking is permitted by virtue of the designation and the areas may be designated in a suitable manner to bring to the notice of the public the limitations on parking in that particular place or places. Vehicles shall not be parked at any time in places other than those designated for the periods of time designated save vehicles engaged in transporting goods, containers, nets or other equipment to the Harbour so long as they are necessarily so engaged.

Vehicles other than those used to transport goods or containers

99. Vehicles other than those used for transporting goods or containers to or from a vessel shall not wait on any quay in a Harbour or place other than a place designated for parking during the times so designated.

Water skiing,kiting,et skiing e.t.c prohibited

100. No person shall engage in water skiing, kiting, jet skiing or parachute towing within a harbour area without the prior consent of the

Harbour Master.

Cleaning or repairs of containers,cargo pallets e.t.c

101. Containers, cargo pallets, cargo trays or fish boxes shall not be cleaned or repaired in a Harbour except on the premises of the owners of such containers or at places specifically designated for those purposes by the Harbour Master.

Fishing nets,warps and fishing gear

102. The owners thereof shall ensure that fishing nets, warps and fishing gear of any kind do not remain on any quay or wharf in a Harbour for more than six hours in any period of twenty four hours. Fishing nets, warps or fishing gear which remain on any quay or wharf in a Harbour for a longer period than that specified in this Act may be removed by the Harbour Master and stored elsewhere. The owners of such fishing nets or fishing gear shall be liable for the cost of their removal and storage. Any such fishing nets, warps and fishing gear of any kind stretched along or laid over any part of a Harbour are laid entirely at the owner's risk and any such owner shall indemnify the County from and against any claim arising from a member of the public.

Mounting of fishing nets or gear

103. Fishing nets or gear shall not be repaired or mounted on any quay or wharf in a Harbour except in an area specially designated for the purpose.

Interferences

104. No person, except the Harbour Master or Authorized

Person, shall in any way interfere with goods or containers or vehicles or with any lights or machinery or equipment or plant in a Harbour.

Discharge into sea

105. Save with the consent of the department, no substance other than surface water shall be thrown or discharged or suffered to fall into or enter the sea within a Harbour.

Water discharge

106. No waste of any kind or harmful substances other than surface water shall be deposited, dumped or discharged within a harbour.

Playing games at the harbour

107. A person shall not play games or carry on any other activity not appropriate to the Harbour. The decision of the Harbour Master as to what is not an appropriate game or activity shall be final.

Persons shall not remain in a harbour

108. No person shall enter or remain in a Harbour area unless he has lawful business therein, or has received permission from the Harbour Master to do so, and every person entering or who shall have entered a Harbour, shall, whenever requested so to do by the Harbour Master or any duly authorized Harbour Master or Authorised Person, inform him of the business or matter (if any) in respect of which such person claims to be entitled to be in the Harbour.

Removal from harbour

109. Any person acting in or remaining in a Harbour contrary to this Act shall desist from so doing and shall depart from such place upon his being requested to do so by the Harbour Master or by any Authorised Person and if such person unlawfully refuses to comply with such request, then without relieving him of any penalty incurred under this Act, he may be removed from such place by the Harbour Master or any member of the Police Service called in aid by the Harbour Master.

Loitering in a harbour

110. No person shall loiter within a Harbour.

nuisance

111. No person shall commit a nuisance in a Harbour.

obstruction

112. No person shall obstruct a Harbour Master or Authorised Person in the execution of his duties.

Slipways to be kept clear

113. All slipways shall be kept clear, other than when launching or recovering Vessels.

Sale at a harbour

114. No person shall collect money, solicit alms, beg, bask, sell or offer for sale any item of food or any article whatsoever within a Harbour.

Idle or disorderly persons

115. Idle or disorderly persons who fail to comply with a direction of a Harbour Officer to leave a Harbour may be removed from a Harbour by or at the request of the Harbour Master.

Persons in a ferry

116. Ferry Operators are obliged to ensure that persons embarking on or disembarking from vessels, inclusive of those used at low tides for the

trans-shipment of passengers to and from ferries, do so in an orderly and safe manner.

Small boats not to moor under jetties or wharves

117. Small boats, including pleasure boats, shall not moor under jetties or wharves and shall keep clear of the approaches to the piers, steps and slips in Harbours, and owners of such boats shall not anchor or put down moorings except with the permission of and at places designated by the Harbour Master.

Name and address

118. A person within a Harbour who is suspected of having broken any provisions of this part shall, upon being requested by a Harbour Officer to do so, give to the Officer his name and address.

Trading at the harbour

119. Trading of any kind may not be carried on within the Harbour save with the permission of the Harbour Master, in or at a place designated therefore by the Harbour Master and during such times as the Harbour Master may appoint.

Damage to property

120. No person shall willfully damage or deface any of the property of the Harbour.

Right of entry

121. The Harbour Master reserves the right to refuse entry to any vessels that are in breach of the provisions of this Act.

Ferry arrival and departure

122. Ferry Operators, engaged in the provision of a regular passenger conveyance service to and from a Harbour, shall provide a schedule of Ferry arrival and departure times of any Ferry to the Harbour Master or Authorised Person for his approval. All proposed alterations to schedules or timetables must be notified to the Harbour Master for his approval, at least 14 days prior to their coming into effect, unless the Harbour Master agrees to any such lesser period.

Safety on piers

123. To ensure safety on the piers, the schedule of any existing ferry shall be taken into account by the Harbour Master in the approval of a schedule for a new ferry. In general the policy would be to schedule the ferries as evenly as possible in order to increase passenger safety on the pier and to provide the best service to passengers.

Harbour master to be consulted in the preparation of all new schedules

124. The Harbour Master must be consulted during the preparation of all new schedules or timetables in respect of any ferry, and must be notified of all new or amended schedules or timetables, for his approval, at least 14 days prior to their coming into effect unless he agrees to any such lesser period.

Alteration of ferry schedule

125. The Harbour Master shall have the power, in his absolute discretion as he deems it necessary to issue an instruction to a Ferry Operator to alter a schedule or timetable. The operator may make representations in

respect of any such instruction and the Harbour Master shall take reasonable account of such representation before confirming the instruction.

Non scheduled trips

126. For non scheduled trips the Owner of a vessel shall obtain the prior approval of the Harbour Master, which approval shall not be unreasonably withheld, but he may assign a time for arrival and departure of any such trips in his absolute discretion.

notice

127. Whenever a Master of a vessel or the owner, having charge or control of a vessel or craft at or within a Harbour is not at hand on board, any notice required or authorised by this Act to be served on or given to him, may be served or given by affixing it to a mast or some other conspicuous part of such vessel or craft, and if any person is on board, calling his attention thereto. Alternatively such notice may be served on or given by sending it by prepaid registered post in an envelope addressed to the Master or owner at his last known address and in that event the notice shall be deemed to have been delivered in the normal course of post.

Detention of vessel

128. The Harbour Master may detain a vessel in the Harbour until he is satisfied that all monies due in respect of the vessel and the cargo have been paid or sufficient security has been given for the purpose.

Harbour charges

129. The department hereby imposes Harbour Charges in respect of the entry into Harbours, use of the quay, anchorage or mooring within a Harbour, shipment, transshipment or unshipment (i.e. landing) or storage of goods in or at a Harbour or the provision of services or facilities within a Harbour .(put a schedule of rates)

Information relevant to calculation of harbour charges

130. The Master or owner of any vessel entering the Harbour for the purpose of landing goods shall as soon as possible give notice to the Harbour Master of his intention to land goods and shall furnish to the Harbour Master such information as may be required by him to identify and quantify the goods being landed for the purpose of calculation of the Harbour Charges payable in respect of such landing of goods.

Master to comply with directions of harbour master

131. The Master or owner of any vessel shall comply with any directions, instructions or procedures specified by the Harbour Master from time to time for the purpose of quantifying the charges payable in respect of any services provided in the Harbour, the subject matter of such charges.

Invoice to be furnished

132. Charges payable as aforesaid shall be payable upon issuance by the Harbour Master of an invoice in respect thereof.

Contravention of this part

133. The Master or Owner of any Vessel or any other person who contravenes or fails to comply with this part shall be guilty of an offence and on conviction shall be liable to the penalties laid down in this Act.

Power to refuse entry

134. The Harbour Master or Authorised Person reserves the right to refuse entry to any Vessel, which is in breach of the provisions of this Act.

PART VI-SAFE AND ADEQUATE SERVICE,JUST AND REASONABLE CHARGES

Safe And Adequate Service,Just And Reasonable Charges

135. (1) Every Corporation, person or public transport service provider performing a transport service in the county, shall furnish, with respect thereto, such service and facilities as shall be safe and adequate and in all respects just and reasonable.

(2) All charges made or demanded by any such Corporation, person or transport service provider for the transportation of passengers or property or for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order of the Department and made as authorized by this Act .

(3) Every unjust or unreasonable charge made or demanded for any such service or transportation of passengers or property or in connection therewith or in excess of that allowed by law or by order of the Department is prohibited.

(4) All transport service providers have a general duty to deal reasonably with customers and adequately address customer complaints.

Tariff schedules;publication

136. Every transport service provider within the County shall file with the Department and shall print and keep open to public inspection schedules showing the rates, fares and charges for the transportation of passengers and property within the County between each point upon its route and all other points thereon; and between each point

upon its route and all points upon every route leased, operated or controlled by it.

Changes in fares and charges;notice required:power of suspension by the department

137. (1) Unless the Department otherwise orders, no change shall be made in any rate, fare or charge, or joint rate, fare or charge, which shall have been filed and published by a county transport service provider in compliance with this Act, except after a 30-days' notice to the Director and on obtaining such consent of the Department.

(2) The Department, for good cause shown, may allow changes in rates without requiring the thirty days' notice and publication herein provided for, by duly filing and publishing in such manner as it may direct an order specifying the change so made and the time when it shall take effect; all such changes shall be immediately indicated upon its schedules by the county transport service provider.

PART VII-LIGHT RAILWAY

Development of light railway

138. The Department may develop light railway works in the county and in connection thereto may maintain, improve or repair the light railway.

Power to enter upon land

139. (1) An authorised officer may, on production of his or her authorisation if so requested by any person affected, for the purposes of this part enter on any land and—

(a) inspect and survey the land and make any inquiry, investigation or examination for the purpose of ascertaining whether or not the land is suitable for the purposes of the construction of a light railway;

(b) carry out any investigation or examination thereon preliminary or incidental to the purposes aforesaid;

(c) bring thereon such other persons or equipment as he or she may reasonably consider necessary for the purposes of his or her functions under this section;

(d) line sight, drill, bore, probe or excavate, or take such samples and carry out such tests as he or she reasonably considers necessary or expedient for the purposes of such functions.

(2) Before an authorised officer enters any land or dwelling house under *subsection (1)*, he or she shall obtain the consent of any owner or occupier thereof.

Regulation of light railway

140. (1) The Department may submit proposed regulations to the Executive Member in charge of transport for consideration and the said Executive Member may make regulations generally for the purposes of giving effect to this part.

(2) The Executive Member may make regulations for the management, control, operation and the regulation of a light railway and in relation to the repair, improvement, extension and development thereof and, without prejudice to the generality of the foregoing, in relation to any one or more of the following matters:

(a) the regulation of the times of arrival and departure of light railway vehicles;

(b) the prevention of the commission of nuisances in or upon light railway vehicles;

(c) the prevention of damage to light railway vehicles;

(d) the removal from or the prohibition of the use on a light railway line of any vehicle or thing which is or may become a danger to life, health, the operation or maintenance of a light railway or would otherwise interfere with the proper operation of a light railway;

(e) the fixing, altering, charging and recovery of fares, fees, tolls and charges in respect of the travelling upon or use of light railway vehicles;

(f) the general regulation, subject to any statutory provisions in that behalf, of the travelling upon or use of light railway vehicles and the working of light railway transport services by the Board;

(g) the safe custody and redelivery or disposal of any property found on or in any light railway vehicles of the County and the fixing of charges in respect thereof.

(2) Regulations under this section may contain such incidental, subsidiary and ancillary provisions as the Executive Member considers necessary or expedient for the purposes of the regulations.

(3) The regulations shall be approved by the County Assembly.

Trespass on a railway

141. A person who trespasses on a light railway that is not on a public road or trespasses on any land, machinery or equipment used for the purposes of the light railway shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings 50,000 or to a term of imprisonment for six months in lieu thereof.

Use of a vehicle on a light railway

142. A person who uses or attempts to use a vehicle on a light railway with flange wheels or wheels suitable only for use on the rails of a light railway without the written consent of the Department shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings 500,000 or to imprisonment for a term not exceeding twelve months or to both.

Obstructing authorized officers

143. A person who obstructs or interferes with or assists a person to

obstruct or interfere with any person in the performance of a function conferred on that person under this part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings 100,000 or to imprisonment for a term not exceeding ten months or to both.

General penalties

144. Any person who contravenes or fails to comply with any of the provisions of this Act and where no penalty has been prescribed shall be guilty of an offence and liable on first conviction to a fine not exceeding Kshs. 50,000/= or to imprisonment for a term not exceeding six months, and on each subsequent conviction to a fine not exceeding Kshs. 200,000/= or to imprisonment for a term not exceeding two years or to both.

Power to make further regulation

145. The Department may submit proposed regulations to the Executive Member in charge of transport for consideration and the said Executive Member may make regulations for the purposes of giving effect to this Act and for the administration of this Act including but not limited to regulations relating to;

- a) Matatu termini;
- b) Taxi- cabs;
- c) Motor cycles.

Repeal of by-laws

146. This Act repeals all by laws in force prior to the commencement of this Act and notwithstanding the repeal of the bylaws all acts, orders, directions, requirements, authorizations, decisions or other things given,

done or taken by virtue of the repealed bylaws shall, so far as are not inconsistent with this Act, be deemed to have been given, taken, done or acquired under this Act.

MEMORANDUM OF OBJECT AND REASONS

The principle purpose of this Bill is to give effect to and ensure a balanced transport facility and planning by providing for adequate, safe and efficient transport facilities and services to the County.

The Bill is structured as follows;-

Part I of the Bill sets out the preliminary matters including the commencement date and the definition of various terms used in the Bill.

Part II of the Bill establishes the Department of Transport, how it will be set up, its Officers and Staff, functions, powers among other ancillary matters.

Part III of the Bill outlines broad regulation of the sector in terms of the traffic, public road transport and street lighting.

Part IV of the Bill provides for orderly parking of vehicles.

Part V of the Bill is on how ferries and harbours shall be licensed and operated.

Part VI of the Bill provides for safety and adequacy of service provision coupled with the charging and payment of just and reasonable charges on those receiving the services.

Part VII of the Bill provides for transport by way of light railway and its general control.

Part VIII of the Bill provides for general provisions including penalties, regulations and the repeal of by laws

Dated the 14th May 2015

ANTHONY KENGA MUPE
Chairperson, Transport and Public Works Committee.