



LAWS OF KENYA



## **PUBLIC ROADS TOLL ACT**

CHAPTER 407

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**CHAPTER 407**

**PUBLIC ROADS TOLL ACT**

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## CHAPTER 407

## PUBLIC ROADS TOLL ACT

[Date of assent: 12th July, 1984.]

[Date of commencement: 1st August, 1984.]

**An Act of Parliament to provide for the collection of tolls on public roads; to establish a Public Roads Toll Fund; and for connected purposes**

[L.N. 110/1984, L.N. 152/1984, Act No. 19 of 1984, L.N. 119/1985, L.N. 208/1986, Act No. 18 of 1986, L.N. 161/1987, L.N. 162/1987, L.N. 522/1988, L.N. 209/1989, L.N. 429/1989, L.N. 63/1990, L.N. 425/1990, L.N. 479/1991, L.N. 260/1992, L.N. 199/1994, L.N. 273/1994, L.N. 274/1994, L.N. 305/1995, Act No. 2/2007.]

**1. Short title**

This Act may be cited as the Public Roads Toll Act, 1984.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“**commercial vehicle**” has the meaning assigned to it in the Traffic Act (Cap. 403);

“**heavy goods vehicle**” means a commercial vehicle whose tare weight exceeds seven thousand kilograms; and includes semi-trailers and draw bar trailers irrespective of their nominal weight;

“**light goods vehicle**” means a commercial vehicle whose tare weight does not exceed four thousand kilogrammes;

“**matatu**” means a public service vehicle having seating accommodation for not more than twenty-five passengers exclusive of the driver; but does not include a motor car;

“**medium goods vehicle**” means a commercial vehicle whose tare weight does not exceed seven thousand kilogrammes;

“**motor car**” and “**motor omnibus**” have the meanings respectively assigned to those terms in the Traffic Act (Cap. 403);

“**roads authority**” means any of the authorities established under the Kenya Roads Act, 2007 (No. 2 of 2007);

“**toll**” means the charges prescribed in the Second Schedule leviable pursuant to this Act;

“**toll collector**” means a toll collector appointed under section 4;

“**toll road**” means a public road or a portion thereof which has been declared a toll road under subsection 3(1);

“**toll station**” means a structure on a toll road where toll is payable under this Act or any electrical or mechanical device on a toll road for recording the liability to pay toll, or any combination of such structure or device;

“**vehicle**” includes a motor vehicle, a trailer and any other conveyance used on a road; but does not include a bicycle, motor cycle, and an animal or human powered wheeled cart or an agricultural tractor which is not towing a trailer, whether it is laden or not.

[Act No. 19 of 1984, Sch., Act No. 2 of 2007, Fifth Sch.]

### **3. Toll stations, etc.**

(1) The Minister may declare any public road or a portion thereof, including any bridge or tunnel on a public road, as a toll road for purposes of this Act.

(2) The public roads set out in the First Schedule are declared to be toll roads for the purposes of this Act.

(2A) The Minister may by Order published in the *Gazette* amend the First Schedule.

(3) The Minister shall provide equipment, buildings or structures and installations including permanent or movable weighbridges necessary for the proper functioning of a toll station.

(4) Special areas may be designated as toll stations through which different types of vehicles shall pass and each toll station shall be conspicuously signposted in Kiswahili and English.

(5) Every vehicle approaching and proceeding through a toll station shall be stopped at the toll station and the toll in respect of that vehicle shall be paid to the toll collector or in such other manner as may be prescribed by the Minister.

(6) The prescribed abstract of this Act and the rules shall be conspicuously exhibited in Kiswahili and English at every toll station.

[Act No. 2 of 2007, Fifth Sch.]

### **4. Appointment of toll collectors**

(1) The Minister shall appoint toll collectors who shall collect tolls at toll stations and perform such other duties as may be prescribed by the Minister for the purpose of this Act.

(2) Every toll station shall have a station manager appointed by the Minister.

#### **4A. Agreements for road management**

(1) The Minister, or a roads authority, may enter into an agreement with a suitably qualified person to plan, design, construct and manage a public road or any portion thereof which has been declared to be a toll road for the purposes of this Act.

(2) A person authorised under subsection (1) shall carry out the activity for which he is authorised subject to such terms and conditions as may be specified in the agreement.

(3) A proposed agreement for the purpose of this section shall be laid before the National Assembly for approval prior to signature.

(4) The tolling regime provided for in an agreement to be entered into by the Minister or a roads agency designated by the Minister, shall be laid before the National Assembly for approval prior to the Minister or roads Authority designated by the Minister signing such agreement.

(5) Any agreement entered into by the Minister or a roads agency pursuant to subsection (1) without the approval of the National Assembly shall be null and void.

[Act No. 2 of 2007, Fifth Sch.]

#### **4B. Levying of tolls pursuant to agreement**

(1) A person with whom the Minister or a roads agency enters into an agreement pursuant to section 4A shall be entitled to levy toll, and collect monies payable as toll on such toll road, or portion thereof, for his or her own account during the said period, and may for that purpose erect a toll station or toll stations and facilities in connection therewith, including permanent and movable weighbridges, on the toll road or portion of thereof.

(2) The person referred to in subsection (1) shall only be entitled to levy toll in accordance with the agreement with the Minister or the roads agency and the amount of such toll shall be subject to approval by the Minister.

(3) The Minister shall notify all tolls approved under subsection (2) in the *Gazette*.

(4) The person referred to in subsection (1) shall be entitled to appoint toll collectors and station managers in respect of the toll road in respect of which there is an agreement subject to the terms of such agreement.

(5) The person shall maintain a record of the payment of tolls and submit it to the Minister or road agency, as the case may be, in accordance with the terms of the agreement.

[Act No. 2 of 2007, Fifth Sch.]

#### **5. Levying of tolls**

(1) Tolls, other than those to be levied at Mtwapa Bridge and the New Nyali Bridge, shall be levied in accordance with the rates prescribed in Part I of the Second Schedule.

(2) Tolls for Mtwapa Bridge and the New Nyali Bridge shall be levied in accordance with the rates prescribed in Part II of the Second Schedule.

(3) The Minister may, by order published in the *Gazette*, amend the Second Schedule.

(4) *Deleted by Act No. 2 of 2007, Fifth Sch.*

[Act No. 2 of 2007, Fifth Sch.]

#### **6. Receipts to be issued and records to be kept**

(1) A receipt or ticket in the prescribed form shall be issued on the payment of a toll.

(2) A record of the payment of tolls shall be maintained at every toll station and the station manager shall make and submit or cause to be made and submitted to the Minister monthly returns of the payment in the prescribed form.

*7. Deleted by Act No. 2 of 2007, Fifth Sch.*

**8. Offences and penalties**

(1) Any person who—

- (a) drives a vehicle through a toll station except by the route designated for the passage of that vehicle; or
- (b) refuses to stop a vehicle at a toll station and to pay the toll; or
- (c) fraudulently or forcibly drives a vehicle through a toll station without paying the toll,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

(2) In addition to the penalty under subsection (1) the court shall order the offender to pay the prescribed toll where the offence is one of failing to pay the toll.

**9. Rules**

The Minister may make rules generally for the better carrying into effect the provisions of this Act and may, by those rules, prescribe anything which under this Act may be prescribed.

**10. Offences cognisable**

Offences under this Act shall be cognisable to the police.

[Act No. 19 of 1984, Sch.]

**11. Power to exempt**

The Minister may, by notice in the *Gazette*, exempt any vehicle or any class or classes or description of vehicles from all or any of the provisions of this Act.

[Act No. 19 of 1984, Sch.]

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**FIRST SCHEDULE**

[Section 3.]

[L.N. 119/1985, L.N. 208/1986, L.N. 162/1987, L.N. 522/1988, L.N. 209/1989, L.N. 63/1990, L.N. 132/1990, L.N. 425/1990, L.N. 199/1994, L.N. 273/1994.]

**TRANSIT TOLL STATIONS**

<i>Location</i>	<i>Public Road</i>
1. Busia (Kenya)	Road B1
2. Amagoro (Malaba)	Road A104
3. Isebania	Road A1
4. Namanga	Road A104
5. Lunga Lunga	Road A14
6. Taveta	Road A23
7. Lokichokio	Road A1



FIRST SCHEDULE—*continued*

<i>Location</i>	<i>Public Road</i>
8. Liboi	Road A3
9. Mariakani	Road A109
10. Athi River	Road A104
11. Gilgil	Road A104
12. Moyale	Road A2
13. Mandera	Road B9
14. Lodwar	Road A1
15. Garissa	Road A3
16. Isiolo	Road A2

## SECOND SCHEDULE

[Section 5.]

## TOLLS

[L.N. 152/1984, L.N. 161/1987, L.N. 429/1989, L.N. 479/1991, L.N. 260/1992, L.N. 274/1994, L.N. 305/1995.]

## PART I

	RATE OF TOLL TO BE CHARGED FOR A SINGLE JOURNEY	
CATEGORY OF VEHICLE	TRANSIT TRAFFIC TO AND FROM*	
	Tanzania US\$/100 km.	Other P.T.A./COMESA Countries US\$/100 km.
Rigid chassis with up to 3 axles without a trailer ..	8.00	6.00
Heavy goods vehicles with more than 3 axles and all articulated vehicles .....	16.00	10.00
All buses .....	8.00	5.00

\*1. Vehicles bearing Kenyan registration are for the time being exempted.

2. All articulated vehicles consisting of a combination of either Kenyan head with foreign registered trailer or Kenyan trailer with foreign registered head shall be deemed to be wholly foreign registered and the respective toll rates shall apply.



**CHAPTER 407**

**PUBLIC ROADS TOLL ACT**

SUBSIDIARY LEGISLATION

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*List of Subsidiary Legislation*

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**PUBLIC ROADS TOLL (PUBLIC ROADS TOLL FUND) RULES, 1986**

[L.N. 307/1986.]

1. These Rules may be cited as the (Public Roads Toll Fund) Rules, 1986 and shall be deemed to have into operation on the 1st August, 1984.
2. In this Rules unless the context otherwise requires—
  - “**financial year**” means the period from 1st July in any year to the 30th June in the immediately succeeding year (both days inclusive);
  - “**fund**” means the Public Roads Toll Fund established under section 7(1) of the Public Roads Toll Act;
  - “**officer administering the Fund**” means the accounting officer responsible for the Vote of the Ministry for the time being responsible for roads or any other person appointed by him in writing to administer the Fund on his behalf.
3. The purpose and object of the Fund shall be to provide additional funds required for the operation of toll stations and for maintenance of roads.
4. (1) The initial capital of the Fund shall be K£10 appropriated by Parliament in the 1985/86 financial year.  
(2) The surplus realized in any year from the operation of the Fund shall be added to the initial capital.
5. The expenditure on operation of toll stations and maintenance of roads shall be on the basis of, and be limited to, the annual budget (on receipts and expenditure) which shall be submitted to the Treasury for approval before the beginning of the financial year to which the budget relates.
6. The Government procurement procedure shall strictly be adhered to.
7. All moneys collected as tolls under the Public Roads Toll Act shall be paid into the Fund.
8. All receipts, savings and accruals of the Fund and the balance of the Fund at the close of each financial year, shall be retained for the purpose of which the Fund is established.
9. The officer administering the Fund shall—
  - (a) supervise and control the administration of the Fund;
  - (b) if he thinks fit, impose conditions as the use to be made of any expenditure authorized by him or on his behalf and such conditions may impose any reasonable prohibition, restriction or requirements concerning such use or expenditure;
  - (c) cause to be kept all proper books of accounts and other books and records in relation to the Fund and to all the various activities and undertakings financed by the Fund;
  - (d) transmit to the Controller and Auditor-General, in respect of each financial year and within four months after the end thereof a statement of account relating to the Fund, prepared and signed by him, specifying income to the Fund, and showing the expenditure incurred from the Fund, in such details and with such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Controller and

*Public Roads Toll*

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**[Subsidiary]**

Auditor-General in accordance with section 18(2) of the Exchequer and Audit Act (Cap. 412) as the Treasury may from time to time direct, and every statement of account shall include details of the balance between the assets and liabilities of the Fund, and indicate the financial status of the Fund, as at the end of the financial year concerned.

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