



THE REPUBLIC OF KENYA

LAWS OF KENYA

THE 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

[Act No. 9 of 1984, Legal Notice 110 of 1984, Legal Notice 152 of 1984, Act No. 19 of 1984, Legal Notice 119 of 1985, Legal Notice 208 of 1986, Act No. 18 of 1986, Legal Notice 162 of 1987, Legal Notice 161 of 1987, Legal Notice 522 of 1988, Legal Notice 209 of 1989, Legal Notice 429 of 1989, Legal Notice 63 of 1990, Legal Notice 425 of 1990, Legal Notice 479 of 1991, Legal Notice 260 of 1992, Legal Notice 199 of 1994, Legal Notice 274 of 1994, Legal Notice 273 of 1994, Legal Notice 305 of 1995, Act No. 2 of 2007, Legal Notice 167 of 2007, Act No. 15 of 2013, Act No. 8 of 2020.]

1. Short title

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

2. Interpretation

In this Act, unless the context otherwise requires—

"base toll rate" means the unit rate prescribed by the Cabinet Secretary under section 4A for the calculation of applicable tolls;

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

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

"Fund" means the National Roads Toll Fund established under section 6A;

"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 (Cap. 408);

"toll" means the charges prescribed in the Second Schedule leviable pursuant to this Act;

"toll collector" means a public toll collector appointed under section 4 and includes a private toll collector appointed under section 4B;

"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, Sch., Act No. 8 of 2020, s. 24.]

3. Toll stations, etc.

(1) The Cabinet Secretary 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.

(1A) Notwithstanding subsection (1), a private toll collector shall only levy toll and collect monies payable on a public toll road constructed under an agreement entered into under section 4A.

(2) The stations specified in the first column of the First Schedule are declared to be transit toll stations for the public roads respectively set out in the second column.

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

(3) The Cabinet Secretary 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) The toll in respect of every vehicle approaching and proceeding through a toll station shall be paid to the toll collector in such manner as may be prescribed by the Cabinet Secretary.

(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, Sch., Act No. 8 of 2020, s. 25.]

4. Appointment of toll collectors

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

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

4A. Agreements for road management

(1) The Cabinet Secretary, 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 authorized under subsection (1) shall carry out the activity for which he is authorized subject to such terms and conditions as may be specified in the agreement.

(3) Deleted by Act No. 8 of 2020, s. 26(a).

(4) Deleted by Act No. 8 of 2020, s. 26(b).

(5) Deleted by Act No. 8 of 2020, s. 26(c).

[Act No. 2 of 2007, Sch., Act No. 8 of 2020, s. 26.]

4B. Levying of tolls pursuant to agreement

(1) A person with whom the Cabinet Secretary or a roads agency enters into an agreement pursuant to section 4A shall be entitled to levy toll, and collect moneys 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:

Provided that the agreement may prescribe alternative arrangements for the levying, collection and administration of tolls and management of toll infrastructure.

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

Provided that the Cabinet Secretary may prescribe the base toll rate in the agreement and permit the person referred to in subsection (1) to adjust, vary or otherwise revise the toll in accordance with an adjustment mechanism provided in the agreement.

(3) The Cabinet Secretary 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 Cabinet Secretary or road agency, as the case may be, in accordance with the terms of the agreement.

[Act No. 2 of 2007, Sch., Act No. 8 of 2020, s. 27.]

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 Cabinet Secretary may, by order published in the *Gazette*, amend the Second Schedule.

(4) Every order made under subsection (3) shall be laid before the Cabinet.

[Act No. 2 of 2007, Sch., Act No. 15 of 2013, s. 77.]

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 Cabinet Secretary monthly returns of the payment in the prescribed form.

6A. Establishment of Fund

(1) The Cabinet Secretary responsible for the National Treasury shall establish a Fund to be known as the National Roads Toll Fund under the Public Finance Management Act (Cap. 412A).

(2) All tolls, except transit tolls, collected by the persons appointed under section 4 shall be remitted to the Fund.

(3) The purpose of the Fund shall be to provide funds for the—

- (a) proper functioning of toll roads and toll stations; and
- (b) development, repair or maintenance of roads as the Cabinet Secretary may direct, taking into account regional balancing.

(4) The Fund shall be administered in accordance with section 24 of the Public Finance Management Act (Cap. 412A), and the regulations made thereunder.

[Act No. 8 of 2020, s. 28.]

7.

[Deleted by Act No. 2 of 2007, 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,

commits an offence and shall upon conviction, be liable to a fine not exceeding fifty 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.

(3) Notwithstanding subsections (1) and (2), the person with whom the Cabinet Secretary enters into an agreement under section 4A may collect the unpaid tolls from defaulters as a civil debt recoverable summarily.

[Act No. 8 of 2020, s. 29.]

9. Rules

The Cabinet Secretary 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 Cabinet Secretary 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.]

FIRST SCHEDULE

[s. 3]

TRANSIT TOLL STATIONS

[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. 425/1990, L.N. 199/1994, L.N. 273/1994.]

All border stations scheduled under the Customs and Excise Act (Repealed) and the following:

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

SECOND SCHEDULE

[s. 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.]

CATEGORY OF VEHICLE	RATE OF TOLL TO BE CHARGED FOR A SINGLE JOURNEY	
	Transit Traffic To and From*	
	Tanzania	Other
	US\$/100 km	P.T.A./COMESA Countries
		US\$/100 km.

Public Roads Toll

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 head shall be deemed to be wholly foreign registered and the respective toll rates shall apply.
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