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**MINISTRY OF ROADS AND TRANSPORT**

**EXPLANATORY MEMORANDUM TO THE KENYA ROADS BOARD (KENYA ROADS BOARD FUND) (ADDITIONAL FUNDING REGULATIONS, 2025**

**PART I**

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| **Name of the Statutory Instrument:** | The Kenya Roads Board (Kenya Roads Board Fund) (Additional Funding Regulations, 2025 |
| **Name of the parent Act:** | The Kenya Roads Board Act, Cap 408A |
| **Enacted Pursuant to:** | Section 32(3) |
| **Name of the Ministry** | Ministry of Roads and Transport |
| **Gazetted on:** | April, 2025 |
| **Tabled on:** | **…………………….** |

**PART II**

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| 1. **THE KENYA ROADS BOARD (KENYA ROADS BOARD FUND) (ADDITIONAL FUNDING) REGULATIONS, 2025** |
| The purpose of the Kenya Roads Board (Kenya Roads Board Fund) (Additional Funding Regulations, 2025 is to provide for a procedure for setting aside a portion of the Fund for purposes of securing additional funding to meet financial demands for maintenance, development and rehabilitation of roads in terms of Section 32A(2) of the Act.  The additional funding will not only enhance the Fund but also secure sustainable source of funding for road maintenance and for the following reasons:-   1. The State Department of Roads estimates that approximately. Kshs. 910.0 billion is required to complete ongoing road works over the next three (3) years under the project portfolios of KeNHA, KeRRA and KURA. Outstanding payments for completed works currently amount to Kshs. 175 billion. 2. The Ministry seeks to leverage on the RMLF and securitize the KES.7.00 per liter increment in fuel levy, which amounts to approximately KES 32 billion per year, to raise up to KES 175 billion, to finance completed, ongoing and new roads over the next three years. estimated to raise up to KES 175 billion. |
| 1. **LEGISLATIVE CONTEXT** |
| These Regulations has been made pursuant to the provisions of Section 32A(3) of the Kenya Board Roads Act, Cap 408A. The Act empowers the Cabinet Secretary to make regulations for better carrying out of the Board’s power to borrow such monies as may be required for the proper discharge of its functions; where it is necessary to meet financial demands for maintenance, development and rehabilitation of roads by setting aside a portion of the Fund for purposes of securing additional funding which may be determine from time to time.  The Regulations recognized and considered the following:   1. Article 10 and 232 of the Constitution on National values and principles of governance. 2. Principles of public finance as enshrined in Article 201 of Constitution of Kenya and Section 15 of the Public Finance Management Act, 2012; 3. Prudent management of the Kenya Roads Board Fund established under Section 31 of the Act and the reporting obligations provided for thereinunder. 4. The need for additional funding to address the road maintenance funding shortfall based on the annual maintenance requirement of KSh. 175 billion. |
| 1. **POLICY BACKGROUND** |
| Section 31 of the Kenya Roads Board Act established the Kenya Roads Board Fund which consists of proceeds from the Road Maintenance Levy Fund and transit toll, among others.  The Fund is administered in accordance with the provision of the Kenya Roads Board Act, 1999 and specifically for the maintenance, rehabilitation and development of roads. The Kenya Roads Board is mandated to oversee the entire road network and the optimal utilization of the Road Maintenance Levy Fund in the implementation of roadworks programmes.  The Board is also responsible for the monitoring and evaluating the delivery of goods, works and services funded by the Fund through technical, financial and performance audits.  Presently, KRB performs its oversight function over road agencies through the use of Technical, Financial and Performance Audit as provided for under the Act and the Kenya Roads Board Act (General) Rules, 2022. |
| 1. **CONSULTATIVE OUTCOME** |
| 1. The Regulations will consider inputs and comments from the relevant Government ministries, Road Agencies, private sector and the general public. 2. The Ministry, based on feedback from road agencies noted that the society relies on a good road network as a key enabler to access jobs, business, health care, education and other social amenities. 3. It is further noted that the net impact of the proposed statutory instrument is positive on the funding of the road network’s maintenance, rehabilitation and development needs. 4. The Ministry has scheduled stakeholder engagement forums on from the 6th to 9th May 2025, in 10No. Regions to collect views of stakeholders and general the public. |
| 1. **GUIDANCE** |
| The Board will publicize and bring the Regulations to the attention of relevant stakeholders. |
| 1. **IMPACT** |
| The Regulations does not infringe on any fundamental rights and freedoms of the public as enshrined in the Constitution of Kenya.  The Ministry is cognizant of the fact that the society relies on a good road network as the basis to access jobs, business, health care, education and other social amenities. The net impact of the proposed statutory instrument is positive on the funding of the road network’s maintenance, rehabilitation and development needs.  Given the current economic situation, the review will be implemented in a manner that would not result in an increase in fuel pump so as to cushion the public from high cost of living. |
| 1. **REVIEW OF THE REGULATIONS** |
| The Ministry will regularly review and monitor; the implementation of the Regulations, optimal utilization of the Fund as well as monitoring and evaluating the delivery of goods, works and services funded by the Fund through technical, financial and performance audits.   1. **REGULATORY IMPACT STATEMENT**   The Ministry submits that the proposed Regulations only provide for the procedure for setting aside a portion of the Fund for purposes of securing additional funding to meet financial demands for maintenance, development and rehabilitation of roads and does not operate to the disadvantage of any person (other than a government entity) by—   1. decreasing the person’s rights; and 2. imposing liabilities on the person;   Consequently, the provisions of Section 6, 7 and 8 of the Statutory Instruments Act do not apply to the proposed Regulations. |
| **9. CONTACT** |
| Davis Chirchir, EGH  Cabinet Secretary  Ministry Roads and Transport  **NAIROBI.**  Date: ……………………. |