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CONTENT

Act—

PAGE

The Busia County Transport and Safety Act, 2016 1

**THE BUSIA COUNTY TRANSPORT AND SAFETY ACT,
2016**

No. 4 of 2016

Date of Assent: 29th March, 2016

Date of Commencement: See Section 1

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1—Short title and citation.
- 2—Definitions.
- 3—Objects and purposes.
- 4—Application of the Act.

PART II—ADMINISTRATION

- 5—Role and Responsibility of the Executive Member.
- 6—The Transport and Safety office and the Board.
- 7—Roles of the Office.
- 8—The Board and its composition.
- 9—Term of Office and removal of a member from the Board.
- 10—Functions of the Board.

**PART III—TRAFFIC AND PUBLIC ROAD TRANSPORT
MANAGEMENT**

- 11—The Transport and Safety Office to plan design and construct infrastructure.
- 12—Establishment and designation of bus stops.
- 13—Parking ranks, zones and lay-bys.
- 14—Special parking zones and areas.
- 15—Parking other than in a special parking.
- 16—Pedestrian road crossings.
- 17—Installation of street lighting systems.

PART IV—ROAD TRANSPORT LICENCING

- 18—Licensing of motor vehicles for hire or reward.

- 19—Taxi and other associations.
- 20—Persons engaged in public transport to be licensed.
- 21—Classes of licenses.
- 22—Particulars in application for a license.
- 23—Inspection and certification of vehicle for mechanical and body soundness.
- 24—Grant or refusal of a license.
- 25—Condition of a license.
- 26—Class conditions.
- 27 – Condition on safety and convenience of passengers.
- 28—Application where motor vehicle under purchase.
- 29—Variation of condition.
- 30—Duration of license.
- 31—Short term licence.
- 32—Transfer of vehicle or business.
- 33—Grant of exclusive license.
- 34—Records relating to certain matters.
- 35—Taxicab operation to require licenses.
- 36—Taxicabs to have distinctive colours and display certificates.
- 37—Requirements for licensing of taxicab.
- 38—Revocation or suspension of a license.
- 39—Offense to fail to comply with condition.
- 40—Appeals against revocation or suspension.
- 41—Determination of appeals.
- 42—Procedure of the Board.
- 43—Offences and penalties.
- 44—Other offences.

PART VI—WATER, AIR AND TRANSPORT

- 45—Promotion and development of water and rail transport systems.
- 46—Establishment of water and rail transport systems.

2016

Busia County Transport and Safety

- 47—Office of the Harbour Master.
- 48—Vessels navigating County waters.
- 49—Vessel master to furnish particulars.
- 50—County to cooperate with National institutions on aviation transport.
- 51—Transport and Safety office to collaborate to build airports.
- 52—Office of County air Marshall.
- 53—County air Marshall to keep records.

PART VII— MISCELLANEOUS PROVISIONS

- 54—Defective public transport vehicle.
- 55—Report of accidents and incidents.
- 56 —Property in an accident vehicle.
- 57—Regulation and guidelines.

**THE BUSIA COUNTY TRANSPORT AND SAFETY
ACT, 2016**

AN ACT of Busia County Assembly to provide for the regulation, management of the movement and parking of road, lake, river transport vessels, and for street lighting in Busia County and for matters related and incidental thereto

ENACTED by the County Assembly of Busia, as follows—

PART I—PRELIMINARY

1. This Act may be cited as Busia County Transport and Safety Act, 2016, and shall come into force in accordance with section 25 of the County Governments Act, No. 17 of 2012. Short title and citation.

2. In this Act, unless the context imports a different meaning— Interpretation.

“Act” means an Act of the Assembly;

“Agency” and or “agencies” mean the body or bodies authorised by law to exercise the power and functions relating to the matters in issue;

“Assembly” means Busia County Assembly;

“Board” means the Transport and Safety Board established pursuant to section 6 of this Act;

“bicycle” means any bicycle or tricycle not self-propelled;

“bodaboda” means a motor cycle with two wheel used to carry goods and passengers.

“County” means Busia County;

“County Executive,” means the Busia County Executive Committee appointed pursuant to Article 179 (2) of the Constitution of Kenya, 2010;

“County roads” means all roads in the County not classified as National roads in the Kenya Roads Act;

“County Public Service” has the meaning assigned to it under the County Governments Act;

“driver” means any person who drives or guides, or is in actual physical control of, any vehicle or cattle on any road;

2016

Busia County Transport and Safety

“East African Community” means that inter-governmental organisation established under the Treaty for the Establishment of East African Community, 1999, comprising the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the Republic of Uganda and the United Republic of Tanzania and any other country that may join the Community;

“Executive Member” means the member of the County Executive Committee appointed by the Governor to be in charge of matters relating to transport;

“license” means a license issued by the authority and in accordance with this Act for the operation in the County;

“licensee” means a person to whom a license is issued under this Act;

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

“motor-car” means a motor vehicle having seating accommodation for not more than ten passengers excluding the driver, but does not include a motorcycle;

“motorcycle” means a motor vehicle with less than four wheels the weight of which unladen does not exceed eight hundred weights;

“motor omnibus” means a public service vehicle having seating accommodation for more than twenty-five passengers exclusive of the driver;

“motor vehicle” means any mechanically propelled vehicle, excluding any vehicle running on a specially prepared way such as a railway or tramway or any vehicle deriving its power from overhead electric power cables or such other vehicle as may from time to time by rules under this Act be declared not to be motor vehicle for the purposes of this Act;

“owner” means the registered owner of public service vehicle, Motorcycle or Tricycle;

“operator” the association with operation responsibility over the public service vehicle on day to day basis either as the register owner of the vehicle or

pursuant to terms of a contract with the registered owner of the vehicle;

“pick-up” means a motor vehicle constructed or designed to carry goods or passengers;

“Public road ”means a road the construction and or maintenance whereof is financed or partly financed by public funds;

“road” means any public road within the meaning of the Public Roads and Roads of Access Act (Cap. 399), and includes any other road or way, wharf, car park, footpath or bridle-path on which vehicles are capable of travelling and to which the public has access;

“Transport and Safety Office” means the Transport and Safety Office of Transport and Safety established pursuant to section 6 of this Act;

“Transport infrastructure” includes County public highways, roads, bridges, grade separations, canals, waterways, railways and lines, parking areas and zones and other transport facilities;

“The National Act” means the National Transport and Safety Authority Act No. 33 of 2012

“Person” includes both natural and legal persons.

“Taxicab” includes a cab, accessible cab, limousine or Group Transportation Vehicle but does not include a motor cycle or tricycle nor any other motor vehicle with a seating capacity in excess of eight persons including the driver.

“Taxicab license” means any license to carry on and operate or render a service relating to taxicab business;

“Transport and safety system” for the purposes of this Act means, road, rail, air and water transport system or any of them;

“The Authority” means the National Transport and Safety Authority established under the National Transport and Safety Authority Act No. 33 of 2012;

“tare weight” means the weight of a vehicle when unladen, inclusive of the weight of the body and all parts (the heavier being taken when alternative bodies or parts are used) which are necessary to or ordinarily used with

2016

Busia County Transport and Safety

the vehicle when used on the road;

“vehicle” includes a motor vehicle, a trailer and any other conveyance used on a road;

3. The objects and purpose of this Act is to—

Objects and purpose

- (a) Enable the County to give effect to and operationalize Articles 185 (2), 186 (1) and enable section 5 of Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010;
- (b) give effect to and operationalize section 26 of the National Transport and Safety Authority Act No. 33 of 2012 (herein after called “the National Act”);
- (c) provide an institutional framework within which the County may develop and ensure coherent policy and planning for transport and safety;
- (d) plan, develop and operate in the County, adequate and modern transport infrastructure and facilities for road, water and rail transport;
- (e) provide a legal, regulatory and institutional framework and mechanism for the County to establish, manage and regulate a safe and efficient transport and safety system within the County and its urban areas;
- (f) establish a legal and institutional framework for licensing of public service providers and other players in the County and its urban areas;
- (g) establish a system for the regulation of rates or fares to be charged for the conveyance of property or passengers either wholly within the County and or its urban areas and provide affordable services to the people of the County;
- (h) license, regulate and govern the operations, owners and drivers of taxicabs, motorcycles or any class of them and control or limit the unnecessary noise and other nuisances occasioned by their operations; and
- (i) provide adequate, efficient, safe, secure and comfortable transport facilities and services to the people of the County.



4. (1) This Act shall have application to and govern matters of all forms of transport and transport safety in the County.

(2) Any conflict between this Act national law on transport and safety shall be determined in accordance with Article 191 of the Constitution of Kenya, 2010.

PART II—ADMINISTRATION

5. (1) The Executive Member shall—

Role and
responsibility of the
Executive Member

- (a) be responsible for the County transport and safety policy and set guidelines for the implementation of this Act;
- (b) plan, develop and be responsible for the construction, establishment and operation of an efficient and reliable transport and safety system in the County.

(2) For the purpose of subsection (1), the Executive Member shall, in matters relating to transport and safety in the County, consult and cooperate with—

- (a) other members of the County Executive;
- (b) the National Transport and Safety Authority (hereinafter called “the Authority”) and other bodies and persons dealing with matters relating to transport and safety in other counties;
- (c) regional and international institutions dealing with matters of transport and safety;
- (d) the private sector stakeholders in transport; and
- (e) civil society and other non-state actors.

6. (1) There shall be established in the County public service the Transport and Safety Office (hereinafter called “the Transport Office”), which shall be headed by a director, which shall be an office in the County public service.

The Transport and
Safety Office and the
Board

(2) A person shall be qualified to be appointed as director in the Transport Office and shall not be so qualified unless the person possesses a degree from a recognized university with at least five (5) years experience in any of the following fields—

2016

Busia County Transport and Safety

- (a) any field of engineering;
- (b) transport and safety;
- (c) infrastructure and urban development; or
- (d) natural resources and environmental management; or
- (e) any other relevant field.

(3) Director shall be the secretary to the Board and shall keep a record of the proceedings and deliberations of the Board.

7. (1) In accordance with the policy and guidelines set and with the approval of the Executive Member, the Transport and Safety Office shall be responsible for the day-to-day transport and safety operations and management in the County and shall—

Role of the Office

- (a) plan and initiate the process for the formulation and development of transport and safety policy and strategy to ensure safe, efficient and reliable transport services in the County;
- (b) make recommendations to the Board for the development and establishment of such policy and strategy for the implementation thereof;
- (c) co-ordinate the implementation of the County transport and safety policy, and strategy;
- (d) consult and collaborate with the Authority and other relevant agencies at the National, regional or international levels or in other counties in Kenya, and—
 - (i) formulate and develop integrated and harmonised transport and safety policies and strategies for the County and the region;
 - (ii) plan for the development of integrated and harmonised infrastructure and facilities for safe, efficient and reliable transport services in the County and the region;
 - (iii) prepare, design and make specifications and estimates for construction or re-construction of transport infrastructure as may be

necessary for the provision of safe, secure, efficient and reliable transport system in the County and the region;

- (iv) construct or facilitate the construction of adequate and appropriate infrastructure and facilities for an efficient and safe transport system in the County; and
- (v) manage and maintain the infrastructure and facilities for provision of efficient and safe transport services in the County.
- (e) where appropriate, recommend the promotion and establishment of public private partnerships in the transport and safety sector;
- (f) in conjunction with other relevant County agencies, cooperate with national or other county or counties' agencies in the formulation and execution of plans to facilitate security movements or movement of hazardous materials across the counties;
- (g) in accordance with the set policies and guidelines, on the day-to-day basis, operate, manage, superintend, and ensure delivery of safe, efficient, reliable and affordable transport and safety services in the County;
- (h) consult and collaborate with the Town and urban administrators within the County to plan, establish, develop and maintain Taxicab parking areas and bays;
- (i) consult and collaborate with stakeholders in the transport industry and safety sectors with regard issues pertinent to transport and safety;
- (j) conduct research on and make recommendations with regard to service delivery in the transport sector in the County; and
- (k) create awareness and sensitize the public on issues of transport and safety; and

(2) Subject to the Constitution and the National Transport and Safety Act, for the purposes of discharging

its functions set out in subsection (1), the Transport and Safety Office shall have power to—

- (a) establish systems and procedures to oversee the operations of public and other transport operators in the County;
- (b) register and or license, within the County, public and other transport operators and operations within the County and set conditions for their operations;
- (c) enforce the set speed limits and erect barriers or bumps to check traffic and speeds in such areas or places as may be determined;
- (d) set and regulate the hours and places of operation for different types of operations and operators;
- (e) determine and regulate the procedure of management of passengers in public service vehicles at the bus stops or stages and in the termini;
- (f) enter and inspect vehicles to ensure due compliance with the provisions of this Act or other written laws;
- (g) make periodic reports of accidents in the County and recommendations for curbing such accidents;
- (h) perform such acts as may be necessary for the better carrying out of the provisions of this Act.

(3) The County Government shall provide sufficient funding for the Transport and Safety Office.

(4) Despite subsection (2), the Executive Member upon consultation with relevant bodies may impose such reasonable fees for the services rendered under this Act to support the implementation of the Act.

8. (1) There is hereby established a board to be called Busia Transport and Safety Board (hereinafter called “the Board”).

The Board and its composition

(2) The Board shall be composed and consist of—

- (a) the Member of the County Executive Committee in charge of Transport;

- (b) the Member of the County Executive Committee in charge of trade;
- (c) the Member of the County Executive Committee in charge finance;
- (d) the Member of county Executive committee in charge of Lands, Housing and Urban Development;
- (e) the County Commissioner or a representative of the national government duly appointed in writing by the County Commissioner;
- (f) the County Commander or a representative of the National Police Service duly appointed in writing by the County Commander;
- (g) one person nominated by the National Transport and Safety Authority in the County to represent the Authority;
- (h) one person proposed by the County Chamber of Commerce and Industry;
- (i) one person representing public service transport operators in the County; and
- (j) one person representing the umbrella consumers' Association in the County; and
- (k) one person representing persons with disability nominated by a recognized and registered council for persons with disability.

(3) In appointing the members of the Board, the Governor shall ensure that not more than two thirds of the members appointed shall be of the same gender.

9. (1) Subject to this Act, a member of the Board appointed under either paragraphs (g), (h) or (i) of section 8(1) shall serve for a term of three years and shall be eligible for re-appointment only once.

Term of office and
removal of a member
from the Board

(2) A person shall cease to be a member of the board if that person—

- (a) dies or resigns
- (b) is declared bankrupt;
- (c) is convicted of an offence and is sentenced to a

2016

Busia County Transport and Safety

term of imprisonment exceeding six months and has not successfully appealed against the conviction and sentence;

- (d) is ineligible to hold a public office in Kenya by reason of the provisions of Chapter six of the Constitution of Kenya, 2010;
- (e) has had his /her proposal for appointment withdrawn by the person or organization that initially made the proposal for appointment.

10. Subject to the provisions of this Act, the Board shall—

Functions of the Board.

- (a) advise and make recommendations to the County Executive committee and the Authority on matters of policy in relation to transport and safety in the County;
- (b) advise the County Executive committee and the Authority on the coordination and development of a comprehensive and balanced transport and safety policy and strategy in the County;
- (c) liaise with the Authority in relation to the implementation of the National Transport and Safety Authority Act, the National policy on transport and safety and this Act;
- (d) in collaboration with stakeholders, plan and develop policies and strategies for an efficient, safe, efficient and affordable transport and safety system in the County;
- (e) advise on the implementation and operation of such policy and strategies;
- (f) advise the county Executive on public private partnerships in transport and safety in the County;
- (g) conduct research on and cooperate with international, regional, national and other county authorities in studies related to transport and safety in the County;
- (h) hear and determine appeals from the decisions of the Transport and Safety Office; and

- (i) conduct awareness and sensitization public campaigns concerning safety in transport and other matters incidental thereto.

PART III—TRAFFIC AND PUBLIC ROAD TRANSPORT MANAGEMENT

11. (1) Save and except as may be otherwise stated in this Act, it shall be the responsibility of the Transport and Safety Office to plan, design, construct, reconstruct and maintain the transport infrastructure in the County.

The transport and safety office to plan, design and construct infrastructure

(2) In discharging its role under subsection (1), the Transport and Safety Office shall, under the general direction of the Executive Member, act in consultation and collaboration with other Counties and national offices and institutions.

(3) In consultation with private sector and the Authority, the Transport and Safety Office may—

- (a) establish lanes dedicated for different types of motor vehicles particularly;
- (b) dedicate a lane or lanes dedicated to public service vehicles or traffic;
- (c) establish motor and pedal-cyclist lanes;
- (d) dedicate lanes as pedestrian side-walks or kerbs;
- (e) prohibit or limit any type of traffic from any specified road or route;
- (f) construct overnight trailer and or lorry parks or lay-bys;
- (g) impose a speed limit;
- (h) issue and grant licences or permits for different transport activities in the County; and
- (i) determine, impose and levy rates, charges, dues or fees for any services performed by the Transport and Safety Office for the grant, renewal or validation of a licence, permit or certificate, on the County roads and national roads passing through the County.

12. (1) The Transport and Safety Office shall, for the purpose of conveniently and safely enabling passengers to

Establishment and designation of bus stops.

embark and disembark from a motor vehicle plying County roads, establish and designate bus stops at which—

- (a) public service and other vehicles may stop along County roads;
- (b) public service vehicles and other vehicles may stop along National highways and roads traversing the County;
- (c) permits or allows any person to disembark from a vehicle other in a place designated for that purpose;

(2) For the purpose of establishing a bus-stop or rank along a national highway, thorough-fare or road, the Transport and Safety Office shall consult and collaborate with the Authority and other relevant national agencies.

(3) The driver or manager of any motor vehicle who stops a motor vehicle for which he or she is in charge at any place other than a designated bus stop or stage commits an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand Kenya shillings or imprisonment not exceeding three months or both.

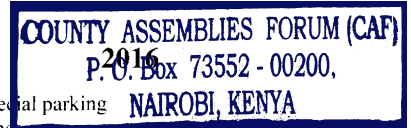
13. (1) For ease of traffic management and the convenience of passengers, the Transport and Safety Office shall establish and operate in the County, parking zones and or bus ranks in such places as it may determine

Parking ranks, zones and lay-bys.

(2) In planning, designing and establishing parking areas, zones and or ranks, the Transport and Safety Office may designate different parking areas, zones and or ranks for different types of motor vehicles.

(3) In planning, designing, establishing and designating a parking area, zone or rank in an area governed by the Urban Areas and Cities Act, the Transport and Safety Office shall consult and collaborate with the administrator or manager of the area.

(4) The Transport and Safety Office may develop such rules and guidelines for the management and operation of bus-stages, ranks, stops, parking areas and parking zones as it may deem necessary for good order and discipline.



14. (1) Without prejudice to section 13, the Transport and Safety Office shall, in consultation with the Authority and international and regional trade and security agencies, establish and designate special parking areas or zones for areas for—

- (a) transit goods traffic; or
- (b) traffic carrying or conveying hazardous goods; or
- (c) other stated reasons.

(2) In establishing special parking zones under subsection (1), the Executive Member shall have regard to and take into account the safety and security of the people and property in the proximity of the special parking zones or areas.

(3) The Executive Member may impose a reasonable fee for parking in a special parking zone or area.

15. (1) Where a special parking area, zone or rank has been designated, it shall be lawful for the Transport and Safety Office to prohibit a motor vehicle of the category for which the special parking is established from parking in any other area.

Parking other than in a special parking

(2) For avoidance of doubt, every transit transport vehicle or vehicle carrying or conveying hazardous or dangerous goods or cargo stopping or intending to stop or park within the County for more than two hours, shall be parked in a special parking area or zone.

(3) Any driver and or manager of a vehicle who parks or authorises to be parked a motor vehicle required to be parked in a special parking zone or area in any place or zone other than the special parking area or zone commits an offence.

16. (1) The Transport and Safety Office shall on all County roads and, in consultation with the Authority and any other national agency in charge of traffic, on all national highways traversing the County, construct, mark and maintain pedestrian crossings to facilitate easy and safe crossing of such roads by the public.

Pedestrian road crossing.

(2) No pedestrian may cross a County or National road or highway at a point other than a point designated and marked as a pedestrian crossing.

(3) Every driver approaching a pedestrian crossing

marked or erected upon any road in the County shall slow down and stop to allow any pedestrian who may be on or reasonably expected to be on such a road to cross.

(4) A driver of any motor vehicle who fails to slow down and stop at a pedestrian crossing is in contravention of this Act and traffic Act commits an offence.

17. (1) The Transport and Safety Office may, either alone or in partnership or collaboration with any other person, install and maintain street lights and or street-lighting system or systems along the highways, streets, pedestrian crossings and or subways of the County in—

Installation of street lighting systems.

- (a) towns and urban centres;
- (b) parking areas and parking zones;
- (c) markets and social centres;
- (d) major Traffic Routes;
- (e) high Crime Urban Areas;
- (f) pedestrian Crossings and Pedestrian Subways; and
- (g) such other places as the Transport and Safety Office may determine.

(2) In planning for the installation and in installing the street lights and lighting systems, the Transport and Safety Office shall cooperate and collaborate with both the County Land Physical Planning Officer and the Town Physical Planning concerned.

(3) Any person who, by wilful or negligent act, damages or destroys any street light or street light post commits an offence and shall be liable, in addition to any other punishment provided, to replace the value of the damage.

PART IV—ROAD TRANSPORT LICENSING

18. (1) Every motor vehicle of tare weight exceeding three thousand and forty eight kilograms used for carriage of goods or passengers and which operates in the County for hire or reward shall be licensed in accordance with the provisions of this Act and the National Act.

Licensing of motor vehicles for hire or reward

(2) Any person who operates in the County a motor

vehicle stated in sub-section (1) without a license commits an offence and the registered owner, driver, or a person in possession thereof shall be deemed to be the person by whom the vehicle is being used for the purposes of this section.

(3) Where, at any time, goods are carried in a motor vehicle which has been let on hire by the person who at the time of the carriage of the goods, is within the meaning of this Act, the user of the motor vehicle, the goods shall be deemed to be carried by that person for hire or reward.

19. (1) No person may operate or in any way be engaged in public transport business in the County as—

Taxi and other associations

- (a) a proprietor;
- (b) driver;
- (c) conductor in the vehicle; or
- (d) in any other capacity

unless such a person is first registered and issued with a permit and identification by the Transport and Safety Office to engage in such business in the County.

(2) The permit issued under subsection (1) may contain such conditions as the Transport and Safety Office may deem fit to impose.

(3) The employer of all persons issued with a permit under subsection (1) shall keep a record of such employees and produce the same to the Transport and Safety Office or its duly authorised officer whenever required to.

20. (1) The Transport and Safety Office may, in collaboration and cooperation with the Authority, on the application of a registered owner of a motor vehicle in such a form as the Executive Member may by regulations prescribe, issue the following classes of licences under this Act—

Persons engaged in public transport to be licensed

- (a) a road service licence issued for the carriage of passengers and goods;
- (b) a "B" carrier's licence issued for the carriage of commercial goods;

- (c) a tourist service licence;
- (d) Taxicab licence;
- (e) Motorcycles, Tricycle and bicycle licences
- (f) a short term licence issued for the carriage of passengers and goods under paragraph (a) or (b) on a short term basis.

(2) The Transport and Safety Office may issue to a person, more than one licence, whether of the same class or of different classes in respect of different motor vehicles owned by the same person: Provided that the Transport and Safety Office shall not issue a licence with respect to a motor vehicle for which a licence has been issued under this Act unless the first licence is withdrawn or revoked.

21. (1) No taxicab, motorcycle or bicycle associations may operate in the County without first having been registered by the Transport and Safety Office in accordance with regulations made under this Act. Classes of Licenses

(2) Every taxicab, motorcycle or bicycle association licensed by the Transport and Safety Office shall within 30 days of such licensing put in place an office within the County and shall immediately thereafter notify the Transport and Safety Office of the location thereof.

(3) A person shall not operate any business of carrying goods or persons at a charge or for a fee in Busia County by taxicab, motorcycle or bicycle unless such a person belongs to a taxicab, motorcycle or bicycle association respectively registered by the Transport and Safety Office in accordance with this Act and regulations made by the Executive Member under this Act.

(4) A person may not be licenced to carry any such business referred to in subsection (1) of this section unless she or he is a registered member of a taxicab, motorcycle or bicycle associations, as the case may be, registered by the Transport and Safety Office.

(5) A person who contravenes the provisions of this section commits an offence and is liable upon conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

22. (1) A person applying for a licence under this Act shall submit to the Transport and Safety Office all information that the Transport and Safety Office may reasonably require for the discharge of its duties in relation to the application.

Particulars in
application for a
licence

(2) In addition to any other information and particulars, the applicant shall furnish with the application particulars as to—

- (a) to any business as a carrier of passengers and goods for hire or reward carried on by the applicant prior to the making of the application;
- (b) the rates charged or proposed to be charged by the applicant;
- (c) the number, wages and conditions and hours of employment of persons employed; and
- (d) any other particulars as may be reasonably required by the Transport and Safety Office.

23. (1) A person making an application to the Transport and Safety Office for a license to operate a road transport vehicle or business in the County shall satisfy the Transport and Safety Office that:-

Inspection and
certification of
vehicles for
mechanical and body
soundness

- (a) Every motor vehicle to be licensed and operated by the person is inspected and certified as to mechanical and body fitness by an institution appointed in the County for that purpose;
- (b) the persons authorized to drive and be in control of the motor vehicle are duly qualified and competent to drive and control the vehicle;
- (c) there are in the employment of the owner of the vehicle or business for which the license is sought, a sufficient number of qualified and competent drivers as to ensure that no single person shall drive or be continuously in charge of a public transport motor vehicle licensed under this Act for a period in excess of eight hours without a minimum rest six hours during a time of twenty four hours; and
- (d) It is in the interest of the County or the Town or Urban area in which the licensee intends to operate that the service be given.

(2) Once licensed, the owner, manager and driver of a motor vehicle shall ensure that the vehicle is regularly serviced and remains in a sound mechanical and body condition for the duration of the license and, further, that at least once in every six months the vehicle undergoes re-inspection and certification by the County appointed institution.

24. (1) The Transport and Safety Office may grant or decline to grant any application for a licence, or it may grant such a licence subject to such conditions as it may consider fit to impose, and, in exercising its discretion, it shall take into account public interest, including the interest of persons requiring and those of persons providing facilities for transport, and to such other matters as may be prescribed by regulations made under this Act.

Grant or refusal of a licence

(2) A licence issued under this Act shall not be transferable except with the prior written consent of the Transport and Safety Office in consultation with the Authority.

25. It shall be a condition of every licence issued under this Act that—

Condition of a licence

- (a) no motor vehicle which is for the time being an authorized motor vehicle shall be used for the carriage of goods for or in connection with any other trade or business carried on by the licensee except for storage or warehousing of goods as may be incidental to his business as a carrier.
- (b) the motor vehicle in respect of which the licence is issued is maintained in a fit and serviceable condition and has a valid certificate of inspection and road worthiness;
- (c) the provisions of any law for the time being in force relating to limits of speed, weight while laden or un-laden, the loading of goods on vehicles and the number of passengers to be carried, are complied with in relation to the authorized motor vehicles;
- (d) the provisions of this Act, and of any rules made by the Authority relating to the keeping of records, are complied with; and

- (e) the public service motor vehicle operate in the authorized routes.

26. The Transport and Safety Office may impose on a licensee of any class a condition or conditions that—

Class conditions

- (a) a motor vehicle in respect of which a licence is issued shall operate in a specified area or over a specified route; or
- (b) certain classes or descriptions of goods shall or shall not be carried; or
- (c) specify the charges or the maximum or minimum charges to be made for the carriage of goods; or
- (d) such other conditions as the Executive Member may prescribe by regulations made under this Act.

27. Notwithstanding the provisions of sections 24 and 25, in order to ensure that the licensee delivers safe and affordable services, the Transport and Safety Office may attach to a road service licence further conditions that—

Conditions on safety of and convenience of passengers.

- (a) the fares imposed for the carrying of passengers are reasonable and ensure fair competition within the transport industry;
- (b) copies of the time-table and fare-table are placed conspicuously on the vehicle for inspection;
- (c) the safety of passengers and in particular, that they alight and are picked from such areas as may be designated for that purpose; and
- (d) generally, for securing the safety and convenience of the public.

28. (1) Where an application for the grant of a licence is approved by the Transport and Safety Office and, at the time of making the application, the applicant has not finalized the purchase of the motor vehicle in respect of which the application is made, the applicant shall, as a condition of the approval, furnish details of the motor vehicle within three months after the date of approval.

Application where motor vehicle under purchase

(2) If the applicant fails to furnish the Transport and Safety Office with the details as stated in subsection (1)—

- (a) the approval shall lapse;
- (b) subject to subsection (1), no other application by the applicant for licence of a similar class shall be considered or granted until after the expiry of a period of six months from the date of lapse.

(3) If satisfied that the applicant has shown sufficient cause for the delay in submitting the details under sub-section (1), the Transport and Safety Office may grant a licence or determine a subsequent application made before the expiry of six months and may impose such conditions which it considers appropriate.

29. (1) The Transport and Safety Office may, from time to time, either on its own motion or on the application of a licensee, in such manner as it considers fit, vary or cancel the conditions or condition attached to the issuance of a road service licence under this Act.

Variation of conditions

(2) A condition imposed with respect to a carrier's licence shall not apply while the motor vehicle is being used for any purpose for which it might lawfully be used without the authority of a licence.

30. (1) Subject to the provisions of subsection (2), every licence shall, unless previously revoked, remain in force for one year from the date of issue: Provided that, without prejudice to the exercise of the powers of suspension or revocation conferred on the Transport and Safety Office by this Act, if on the date of expiry of a licence proceedings are pending before the Board on an application for the grant of a new licence with respect to the same vehicle, the existing licence shall continue in force until such application is determined.

Duration of a licence

(2) The Transport and Safety Office may grant a short term licence of any class or purpose under this Act for the purpose of carrying on business for a short term, execution of a particular piece of work, or for any other limited duration: provided that such a duration shall not exceed three months.

31. Without prejudice to subsection (2) of section 30 the Transport and Safety Office may grant a short term licence if it is satisfied that the demand for the use of the

Short time licence

motor vehicle to be so licensed is urgent and is in public interest.

32. Where a licensee sells, transfers (otherwise than by way of security) or otherwise disposes of the motor vehicle or any business in respect of which such licence was issued, such licence shall, unless the Transport and Safety Office has given prior written consent thereto, expire with effect from the date of such sale, transfer or other disposal, and the vendor or transferor, or person who otherwise disposed of such motor vehicle or business, shall return to the Transport and Safety Office, the identity certificates and the licences issued.

Transfer of vehicle or
business

33. (1) With the approval of the Executive Member in consultation with the Authority, the Transport and Safety Office may, subject to such conditions as it may consider necessary to impose, grant to any person an exclusive licence authorizing such person to operate a motor vehicle as the case may be, for the carriage of passengers or goods in such areas, over such routes or between such places and for such period as it may determine.

Grant of exclusive
licence

(2) Where the Transport and Safety Office intends to grant an exclusive licence under subsection (1), it shall, by notice in the County Gazette and in all Citizen Service Centres in the County, publish a notice of its intention to grant such licence at least thirty days before the date on which it intends to grant the licence.

(3) Any person may in a form and manner prescribed by the Executive Member under this Act petition or persuade the Board against granting any application for an exclusive licence under subsection (2) above;

(4) The provisions of this Act regarding applications for the grant of a licence shall apply to the applications for and grant of any exclusive licence.

34. (1) Every licensee shall keep a record with respect to—

Records relating to
certain matters

- (a) every person employed by him as a driver or statutory attendant of an authorized motor vehicle;
- (b) the times at which that person commenced and

ceased work;

- (c) particulars of his intervals of rest and the like information as respects himself when acting as such a driver or attendant;
- (d) with respect to every journey of a motor vehicle on which goods are carried under a licence;
- (e) particulars of the journey, of the rates charged and of the greatest weight of goods carried by the vehicle at any time during the period to which the record relates;
- (f) the description and destination of the goods carried;
- (g) with respect to certain journeys of a vehicle on which passengers are carried; and
- (h) particulars in relation to the passengers travelling on board such vehicle in such form as the Authority may specify.

(2) A licensee shall preserve every record kept under this Act and the rules made hereunder for a period of twelve months, commencing on the date on which the record is made, and for such further period, not exceeding twelve months, as may be required by the Transport and Safety Office, Authority or a police officer not below the rank of Inspector.

(3) A licensee shall, during the period for which he is required by or under this subsection (2) preserve a record, produce the record for inspection by the Transport and Safety Office or Authority or of the person so authorized if required so to do at any time by the Transport and Safety Office, Authority and by any person authorized in that behalf by a police officer not below the rank of Inspector.

35. No Person shall—

- (a) own or operate taxicab in the County without first having obtained a licence there-for from the Transport and Safety Office in accordance with this Act;
- (b) own or operate a taxicab in the County without a valid Owner's Plate affixed to the taxicab;

Taxicab operations to
require licenses

No. 4

Busia County Transport and Safety

- (c) advertise the use of a taxicab in the County without first having obtained a taxicab owner's license; or
- (d) publish or cause to be published any representation that he or she is licensed to operate a taxicab business in the County if he or she is not.

36. (1) Every taxicab operating in the County shall have distinctive external body colour as may be approved for taxicabs by the Transport and Safety Office by notice in Busia county gazette and shall have displayed—

Taxicabs to have distinctive colours and display certificates

- (a) in a prominent and conspicuous part on its window screen
 - (i) a valid certificate of insurance for the taxicab;
 - (ii) the owner plate issued for each taxicab; and
 - (iii) the current vehicle permit issued under the Highway Traffic Act.
- (b) an illuminated electric sign to the top of taxicab connected to the so as to be lit from dusk to dawn when the taxi is not providing a conveyance service and indicating that that the motor vehicle is a taxicab;
- (c) the number issued by the Transport and Safety Office for the owner of the taxicab on the exterior sides of both front doors and right rear trunk hood in contrasting colours at least 8 centimetres high;

(2) Where a person drives, manages or uses in the County a taxicab that is not licensed in the County, that person shall prior to the commencement of his or her journey to the County, notify the Transport and Safety Office of the intended journey and—

- (a) Give details of the motor vehicle together with the insurance particulars thereof;
- (b) Give the particulars of the driver and the drivers license, the destination of the vehicle and the route to be used on entering the County;

- (c) Carry the original and submit a copy of the valid Safety Standards Certificate of the taxicab to the Transport and Safety Office.

37. Every person applying in the first instance for a taxicab license under this Act shall first—

Requirements for
licensing of taxicabs

- (a) be, if a natural person at least 18 years of age and of sound mind; shall prove Kenyan citizenship, if a natural person, or prove incorporation in Kenya, if a legal person;
- (b) if a non- Kenyan, prove immigration or registration status with valid work permit;
- (c) attend before the Transport and Safety Office either personally or by a duly authorised officer;
- (d) have completed Form Four in Kenya or its equivalent and passed the English Language with a minimum of grade C- if he or she intends to operate the taxicab himself or herself as a driver thereof;
- (e) have a valid Class BCE driver's licence issued under the Highway Traffic Act;
- (f) file with the Transport and Safety Office proof of completion of a training course approved by the Transport and Safety Office for taxicab drivers if he or she intends to operate the taxicab himself or herself as a driver thereof;
- (g) have a Certificate of Good Conduct from the Area Police dated no later than 30 days prior to the application for a Licence; and
- (h) pay all fees required under this Act; and
- (i) every taxi operator should belong to a registered association.

38. (1) The Transport and Safety Office may, in consultation with the Authority, revoke or suspend a licence issued under this Act if the licensee fails to comply with a condition for the issuance of the licence or fails to operate the motor vehicle with respect to which the licence is issued for a period of three months.

Revocation or
suspension of a
licence.

(2) Where the license is revoked or suspended other than at the request of the licensee, the Transport and

No. 4

Busia County Transport and Safety

Safety Office shall inform the licensee in writing, the reasons for such revocation or suspension.

(3) For a licence to a taxicab, motorcycle or bicycle associations, instead of revoking or suspending the association's licence, the Transport and Safety Office may direct that any one or more motor vehicles registered under the association which is operated in breach of this Act be expunged from the association, or that the maximum number of motor vehicles or of trailers specified in the licence be reduced.

(4) Where the Transport and Safety Office directs that a motor vehicle be expunged from an association to which it had been registered as belonging, the motor vehicle shall be considered to have ceased to be licensed for all purposes under this Act;

(5) Subsection (4) of this section shall not apply until all mechanisms for and the right of appeal have been exhausted with no success.

39. A person who, being the licensee or being the person in charge of the vehicle in respect of which such licence is issued, fails to comply with any condition imposed by or under the provisions of this section, commits an offence and shall be liable, on conviction, to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Offence to fail to
comply with
conditions

40. Any person who—

- (a) being an applicant for the grant or variation of a licence, is aggrieved by the decision of the Transport and Safety Office on the application; or
- (b) having made an objection to any such application as aforesaid, being an objection which the Transport and Safety Office is bound to take into consideration, is aggrieved by the decision of the Transport and Safety Office thereon; or
- (c) being the licensee, is aggrieved by the revocation or suspension thereof; or
- (d) being the an applicant, licensee or having raised

Appeals against
revocation or
suspension

any objection under this Act, is aggrieved by any decision of the Board or the institution referred to under section 23 (2) of this Act;

- (e) is aggrieved by the decision of the Transport and Safety Office pursuant to subsection (3) of section 38 of this Act expunging a motor vehicle registered in his or her name from an association, may, within the time and in the manner prescribed by the Executive Member by regulations made under this Act, appeal to the Board.

41. (1) Where the Board has received appeal under this section, it shall consider that appeal and, if it determines that the grounds of appeal are frivolous or vexatious or do not disclose sufficient reason for interfering with the decision of the Transport and Safety Office, may summarily reject the appeal.

Determination of Appeals

(2) If the Board does not summarily reject the appeal it shall hear the same and may affirm or reverse the decision of the Authority, or make such other order as it considers fit.

42. (1) The Executive member shall make rules for regulating the practice and procedure of the Board without prejudice to the Board otherwise regulating its proceedings as it may consider appropriate.

Procedures of the Board

(2) Without prejudice to the generality of subsection (1), the rules may provide for—

- (a) regulation of the sittings of the Board;
- (b) the forms and procedure for appeals to the Board pursuant to section 40 of this Act;
- (c) the fees in respect of proceedings in the Board including the costs of and incidental to any proceedings in the Board;
- (d) the timelines within which any requirement of the rules is to be complied with; and
- (e) any other matter reasonably required to give effect to provisions of this Act in relation to the affairs of the Board.

(3) The rules made under this section shall not take

effect unless they have been first approved by the Executive Committee.

43. Without prejudice to any other provision in this Act, any A person who-

Offences and
penalties

- (a) drives or uses a motor vehicle in contravention of any of the provisions of this Act or regulations made hereunder; or
- (b) being the owner of such vehicle, allows another person to drive or use a motor vehicle in contravention of this Act or regulations made hereunder; or
- (c) being a driver or person in charge of any vehicle in respect of which a licence has been granted under this Act who drives or uses such vehicle in contravention of any condition of such licence; or
- (d) defies, disregards, neglects or refuses to comply with any rule or guideline lawfully issued by the Transport and Safety Office or its duly authorised officer; or
- (e) with intent to deceive any forges, alters or uses or lends to or allows to be used by any other person, a licence, or any document that is forged or altered; or
- (f) makes or has in his possession any false document purporting to be valid and calculated to deceive;
- (g) for the purpose of obtaining a licence or a variation thereof or preventing the grant or variation of any licence, knowingly makes any false statement with the intension of procuring the importation of any condition or limitation in relation to a licence; ors
- (h) fails to comply with any lawful order given by Transport and Safety Office or its duly authorised officer or obstructs any such authorized officer or police officer in the exercise of the powers conferred on such an officer by this Act;

- (i) or refuses to give any information when requested so to do by an authorised or police officer;
- (j) or obstructs or attempts to obstruct an authorised officer from exercising a power or performing his or her duty under this Act; or
- (k) fails to immediately produce his or her Licence or any other relevant documents required under this Act when lawfully requested to do so by an authorised officer, commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, and in the case of a second or subsequent offence to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years.

44. Notwithstanding section 43 of this Act, a person Other offences
who—

- (a) drives or parks any motorised or non-motorised vehicle on a lane dedicated ad pedestrian side-walk or kerb; or
- (b) drives any vehicle on any public road within the County at a speed exceeding the speed limit set; or
- (c) fails to observe, and slow down at, speed barriers or bumps erected by the Transport and Safety Office or erected lawfully by any other authority or body,

Commits an offence and shall, upon conviction under this Act, be liable to a fine not exceeding Kenya shillings ten thousand or to imprisonment for a term not exceeding three months.

PART V—WATER, AIR AND RAIL TRANSPORT

45. (1) In consultation and co-operation with national, regional or international agencies engaged in and concerned with water or rail transport and safety, the Executive Member shall plan and put in place a

Promotion and development of water, air and rail transport system

No. 4

Busia County Transport and Safety

comprehensive water and rail transport policy or policies to promote and develop water and rail transport in the County.

(2) The water and or rail transport policy or policies and strategies developed pursuant to subsection (1) shall aim at promoting and providing safe, secure efficient, reliable and affordable water and rail transport in the County.

(3) The Transport and Safety Office shall be responsible for the implementation of the water and or rail transport policy and strategy formulated and developed.

(4) A water transport and safety policy developed and implemented by the County under this section shall conform to and accord with both the national and East African Community policies regarding water transport and safety.

46. The Transport and Safety Office may, whether alone or in collaboration with any other person in Kenya or elsewhere, plan, establish and develop water and or rail transport system in the County and in particular Construct, operate, manage and maintain—

Establishment of
water and rail
transport system

- (a) harbours, jetties or landing sites; and
- (b) rail lines and railway.

(2) The Transport and Safety Office shall ensure transport safety on the County's waterways and railways but the Vessel Master of every vessel and or the driver of every train shall have the primary responsibility for the safety of the vessel or train and all persons on thereon.

47. (1) There shall be established in the Transport and Safety Office an office called "the office of the Harbour Master" and such other offices with appropriate designation, with responsibility for water and rail transport.

Office of the Harbour
master

(2) There shall be at every harbour or jetty established by the Transport and Safety Office, a marine officer who shall—

- (a) be in charge of and manage harbour and or jetty operations; and
- (b) control and direct all traffic entering the harbour or mooring at the jetty.

48. Every water vessel navigating on any water body or waterway within the County shall only do so under the control and direction of the Transport and Safety Office or its duly authorised officer.

Vessels navigating
county waters

(2) No vessel may enter or remain in or at the harbour or jetty without the permission and or against the direction of the Transport and Safety Office or its authorised officer.

(3) No vessel shall leave the harbour or jetty without safety equipment as required by subsisting law.

49. (1) A Vessel Master of every vessel plying the waters of the County and or making anchor at any harbour or jetty in the County, shall furnish the Transport and Safety Office or its authorised officer with—

Vessels master to
furnish particulars

- (a) a list of all crew and technical skills and competencies.
- (b) a manifest of all passengers on the vessel.
- (c) Proof that the vessel is equipped with safety gear, including a life-vest for every person on board the vessel.

(2) An authorised officer of the Transport and Safety Office may enter and inspect any vessel to verify the particulars furnished under subsection (1).

50. (1) The County Government may, on such terms and conditions as may be agreed, cooperate with national, regional and international civil aviation authorities and institutions to develop and promote air transport as a safe and reliable transport system in the County.

County to cooperate
with National
institutions on
Aviation transport

(2) For the purpose of subsection (1), the County Government shall, in collaboration with the Kenya Civil Aviation Authority and the Civil Aviation and Safety Oversight Authority, develop and implement comprehensive sound policies and programmes to ensure air transport safety in the County.

(3) The Executive Member shall be responsible for policy and strategies for air transport and safety in the County.

51. The Transport and Safety Office, with the approval of the Executive Member and in cooperation and

Transport and Safety
office to collaborate
to airports

No. 4

Busia County Transport and Safety

collaboration with civil aviation authorities in Kenya and the region, may establish, develop, construct and maintain airports and airfields within the County to promote and provide safe, secure, efficient, reliable and affordable air transport system in the County and the region.

52. (1) There shall be established in the Transport and Safety Office t an office called “the office of the County Air Marshall” and such other offices with appropriate designation, with responsibility for air transport and safety.

Office of County Air
marshall

(2) The Transport and Safety Office and the County Air Marshall shall, in collaboration with the national civil aviation authority, on behalf of the County Government, oversee and be responsible for matters of air transport and safety within the County.

53. (1) The County Air Marshall shall keep a record of all flights landing and taking off from the County and make a report thereof to the Executive Member at least once every month.

County Air marshalls
to keep records

(2) The County Air Marshall shall, not less than quarterly basis, furnish Kenya Civil Aviation Authority or its authorised officer with a list of all landings and take-offs within the County together with such other and further particulars a the Authority may require.

(3) An authorised officer of the Transport and Safety Office may enter and inspect any civilian aircraft to inspect the same and, may, on reasonable and lawful grounds, detain or cause the aircraft to be detained.

PART VI – MISCELLANEOUS PROVISIONS

54. (1) No person shall operate, manage or drive a defective public transport vehicle on any road in the County.

Defective public
transport vehicle

(2) If a public transport vehicle becomes defective or, for any reason whatsoever, is unable to continue with the journey on which passengers were accepted, the passengers shall disembark from such defective vehicle and should the passengers have already paid their fares, they shall be entitled to a refund of the amount they will have paid.

(3) Where the driver of the defective public transport vehicle and the passengers agree that they be allowed to travel with the next available public transport vehicle, they may travel for the remainder of the distance in respect of the paid fares, at the cost of the owner of the defective public transport vehicle.

(4) A driver who refuses to refund a passenger, as contemplated in subsection (1), or who refuses to allow a passenger to travel in the manner as contemplated in subsection (2) commits an offence.

(5) Any person who knowingly—

- (a) embarks into a defective motor vehicle; or
- (b) embarks a motor vehicle that is already full to the licensed capacity; or
- (c) refuses to pay the agreed or scheduled fare; or
- (d) is drunk or disorderly while travelling or in a public transport vehicle commits an offence.

55. (1) The driver of a motor vehicle or train, Vessel Master of a water vessel and every person in the County shall, as soon as reasonably practicable, report to the nearest police station or office or officer of the Transport and Safety Office any accident or other transport safety incident occurring in the County that may come to their or any of their notice.

Report of
accidents and
incidents

(2) The driver of a motor vehicle or train and the Vessel Master of every vessel in the County shall make and keep a record of every accident or incident in which the vehicle, train or vessel is involved and the record shall be open for inspection by the Transport and Safety Office or its officers at any time during normal working hours.

(3) Any person who fails to report an accident or fails to furnish information or particulars as required under this Act or furnishes false information or particulars to the Transport and Safety Office or its authorised officer commits an offence.

56. (1) In the event of an accident involving any motor vehicle, train, vessel or aircraft, no person may take any property or thing from the motor vehicle, train,

Property in an
accident vehicle

vessel or aircraft or from the person of an injured or deceased person thereon.

(2) It shall be an offence for any person, without lawful authority or excuse, to approach the scene of an accident involving a motor vehicle, train, vessel or aircraft carrying dangerous or hazardous cargo.

(3) Any person who, without lawful authority, takes any property or thing from the motor vehicle, train, vessel or aircraft or from the person involved in an accident at the scene of the accident or anywhere else commits an offence.

57. (1) The Executive Member may make regulations and provide guidelines for the better carrying out of the provisions of this Act.

Regulations and
guidelines

(2) Without prejudice to the generality the of subsection (1) of this Act, the Executive Member—

(a) shall make regulations for—

- (i) the form and procedure of application for the various classes of licences under section 20 of this Act;
- (ii) the form and procedure of application for registration, and the registration, of taxicab, motorcycle and bicycle associations pursuant to section 21 of this Act;
- (iii) the form and procedure of application for registration, and the registration, of persons as members of taxicab, motorcycle and bicycle associations pursuant to section 21 of this Act;
- (iv) the fees payable to the Transport and Safety Office on behalf of the County Government for grant of licences, any registration, parking of motor vehicles and any other matter for which a fee is payable under this Act;
- (v) the additional matters that the Transport and Safety Office may impose on any class of licence under section 26 (d) of this Act;

- (vi) the additional matters that the Transport and Safety Office shall take into consideration in exercising its discretion pursuant to subsection (1) of section 24 of this Act;
 - (vii) the creation of various categories of taxicab, motorcycle and bicycle associations under this Act;
 - (viii) the form and manner of a petition against granting an application for an exclusive licence under subsection (2) of section 33 of this Act: and
- (b) may, in consultation with the Authority and other relevant agencies and stakeholders, make regulations—
- (i) relating to matters stated in subsection (1) of section 34 of this Act;
 - (ii) requiring drivers of authorized motor vehicles to carry such documents as may be specified by the regulations;
 - (iii) any other matter reasonably necessary for or incidental to the proper implementation of the provisions of this Act.
- (3) The regulations made under this section shall be separate from the rules made under section 42 of this Act.
- (4) The regulations made under this section may only take effect with prior approval by the Executive Committee and with further prior approval of the County Assembly.
- (5) Subject to the provisions of this Act and any regulations made hereunder, the Executive Member may exempt a licensee from the observance, as respects the carriage of goods under a licence granted by him, of any requirements of the rules, may grant such exemption either generally or as respects any particular vehicle or as respects the use of vehicles for any particular purpose on such conditions as it considers fit.