

SPECIAL ISSUE

West Pokot County Gazette Supplement No. 8 (Bills No. 5)



REPUBLIC OF KENYA

**WEST POKOT COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2016

NAIROBI, 1st April, 2016

CONTENT

Bill for Introduction into the West Pokot County Assembly—

PAGE

The West Pokot County Roads Maintenance Bill, 2016 1

THE WEST POKOT COUNTY ROADS MAINTENANCE BILL, 2016

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY.

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Object of the Act.

PART II—MAINTENANCE OF ROADS

- 4—Maintenance principles
- 6—Establishment of Roads Maintenance Unit
- 7—Functions of Road Maintenance Unit

PART III—GENERAL PROVISIONS

- 8—Executive member may require information
- 9—Executive Member to give Directions
- 10—Direction must be in writing
- 11—Power to determine a designated road maintenance project
- 12—Arrangements between county government and national government on transfer of road maintenance functions
- 13—Inventory of county roads
- 14—Maintenance contributions
- 15—Protection of roads
- 16—Engagement of casual workers
- 17—Remuneration of Casual Workers

PART IV—FINANCIAL PROVISIONS

- 18—Sources of funds

PART V—MISCELLANEOUS

- 19—Regulations

FIRST SCHEDULE—Categories of County Public Roads

SECOND SCHEDULE—Maintenance Activities and Frequencies for Various Types of Roads

THE WEST POKOT COUNTY ROADS MAINTENANCE BILL, 2016**A Bill for—**

AN ACT of West Pokot County Assembly to provide for a more effective manner of road maintenance, establish a statutory framework for the maintenance of road network, facilitate the rehabilitation of roads and to provide for regular inspection, maintenance and repairs of County Public Roads and for connected purposes.

ENACTED by the West Pokot County Assembly, as follows —

PART I — PRELIMINARY.**Short title and commencement.**

1. This Act may be cited as the West Pokot County Roads Maintenance Act, 2016 and shall come into operation on the date of publication in the Gazette.

Interpretation.

2. In this Act, unless the context otherwise requires—

“authorized officer” means a person appointed by the County Executive Member into the Roads Maintenance Unit;

“department” means the county Department, for the time being, dealing with matters relating to roads maintenance;

“executive member” means the county executive member responsible for matters relating to Roads;

“Governor” means the Governor of West Pokot County;

Object of the Act.

3. The object of this Act are;

(1) To establish a coordinated maintenance formula for county roads that will promote safe and efficient road network;

(2) Establish a system for the maintenance of roads that best suits the needs and priorities of the county government;

(3) Provide mechanisms for coordinating, placement and maintenance of roads and road reserves;

(4) Provide for keeping of inventory for public roads which must be maintained;

(5) Establish decision making processes in relation to standards for inspection, maintenance and repairs of county roads which take into account—

(a) the needs and expectations of the relevant communities;

(b) national and county government transport and other policies; and

- (c) the availability of funding within the context of the County Budgetary provisions.
- (6) Set out the powers and duties of the department to maintain roads;
- (7) Provide for the protection of county roads against damage and interference;
- (8) Provide for a relatively cheaper but quicker manner of responding to the needs of the locals which take into account
 - (i) use of labour based technology from the localities to maintain and repair roads; and
 - (ii) use of locally available materials and resources to repair and maintain the roads.

PART II—MAINTENANCE OF ROADS

Management Principles

4. (1) The principal object of the road maintenance is to ensure that a safe and efficient network of roads is provided primarily for travel and transport and that county road reserves are available for other uses.

(2) The following principles apply in respect to maintenance of roads under this Act—

- (a) the minimization of road safety hazards;
- (b) the minimization of damage or disruption on roads;
- (c) the avoidance or minimization of disruption to plans for the development of road infrastructure;
- (d) the avoidance or minimization of disruption to traffic;
- (e) the avoidance or minimization of disruption to effective and efficient delivery of utility services; and
- (f) the efficient use of available resources and the minimization of cost to the community.

Roads Maintenance Committee

5. (1) There is established the Roads Maintenance Committee consisting of—

- (a) the Executive Member who shall be the chairperson;
- (b) the Chief Officer;
- (c) the County roads engineer;
- (d) four sub-county roads engineers;
- (e) the department's procurement officer; and

- (f) the department's accounts officer.
- (2) The Roads Maintenance committee shall—
 - (a) develop county roads policies;
 - (b) be the decision making organ for the roads maintenance unit; and
 - (c) oversee the functions of the roads maintenance unit.

Establishment of the Roads Maintenance Unit

6. (1) There is established the Roads Maintenance Unit which shall consist of—

- (a) the county roads engineer;
- (b) the roads engineers;
- (c) roads inspectors;
- (d) roads overseers;
- (e) technical persons who shall be experts in—
 - (i) carpentry;
 - (ii) masonry;
 - (iii) plumbing;
 - (iv) welding; and
 - (v) general survey.
- (f) one procurement officer;

Functions of the Roads Maintenance Unit

7. The Roads Maintenance Unit Shall—

- (1) improve, rehabilitate, maintain and undertake works and activities aimed at improving county roads;
- (2) control county roads, reserves and access to roadside;
- (3) implement county roads policies;
- (4) enforce quality standard of roads as provided for by the national and county government;
- (5) enforce the directions of the committee to plan the development and maintenance of county roads;
- (6) prepare sector investment programme on road works for all national secondary trunk roads;
- (7) liaise and co-ordinate with other road agencies in planning and on operations in respect of roads; and

(8) perform such other functions as directed by the committee relating to the implementation of this Act.

(9) A Road Maintenance Unit must in performing road maintenance functions have regard to the general principal object of road maintenance set out under this Act.

Executive Member may Require Information

8. The Executive Member may require information or advise from any national Roads Authority for the purposes of administration of this Act.

The Power of executive Member to give Directions

9. The executive Member shall give directions—

(1) if the executive member considers it in the public interest to do so;

(2) direct the Roads Maintenance Unit to—

(a) perform a function or exercise a power conferred under this Act;

(b) perform a function or exercise a power of which the relevant national roads authority allows;

(c) consider the budgetary allocation for maintenance of roads; or

(d) not to perform such function or exercise a power granted to it under this Act.

(3) the executive member must before making a direction give the Roads Maintenance Unit the opportunity to comment on the proposed direction.

Direction must be in Writing

10. (1) A direction—

(a) must be in writing;

(b) may include conditions; and

(c) may specify the class of case, period of time or other circumstances in which the direction is to apply.

(2) the Roads Maintenance Unit must publish a copy or summary of any direction in its annual report.

Power of Executive Member to determine a designated road maintenance Project

11. (1) The executive Member may determine that a road project is a designated road maintenance project.

(2) A determination under sub section (1) may—

(a) give notice of the time frame for which the project will be completed;

- (b) determine the technology to be used in the maintenance of a particular road; and
- (c) indicate the type of labour to be employed in the maintenance of the road.

Arrangements between national and county government to transfer road maintenance functions

12. (1) The County Government may enter into arrangement with the national government to transfer a road maintenance function to either of the two government entities.

(2) Where the county government enters into an agreement with the national government, the roads department must include the details of the arrangement in its inventory of county public roads.

Inventory of county public roads

13. (1) The Roads Maintenance Unit must keep inventory of public roads specifying the roads in respect of which it is coordinating.

(2) A Roads Maintenance Unit must ensure that the inventory of public roads specifies the details in accordance with the policies of the roads department.

(3) A roads Maintenance Unit must ensure that the inventory is available for scrutiny by members of public—

- (a) free of charge;
- (b) during normal business hours; and
- (c) at the place(s) determined by the Roads Maintenance Unit.

Maintenance contributions

14. The national government Authority that enters into an agreement with the county government under section 11 must contribute to the present day cost of the road repair and maintenance.

Protection of roads

15. (1) a person must not conduct any works in, or over a road without the consent of the Roads Maintenance Unit to the conduct of the proposed works.

(2) an offence under sub section (1) attracts a penalty as follows —

- (a) in the case of a natural person, a fine of one hundred thousand shillings ; and
- (b) in the case of a corporate body, a fine not exceeding five hundred thousand.

Engagement of casual workers

16. In implementing this Act, the roads maintenance unit may—

- (a) engage casual laborers; and
- (b) Employ the use of locally available technology and resources to repair and maintain roads

Remuneration of casual workers

17. (1) The roads maintenance unit shall pay, on a daily, weekly or monthly basis, the remuneration of the casual employees engaged under the Roads Maintenance Unit;

(2) The chief officer shall determine the remuneration and the number of casuals to be engaged; and

(3) The chief officer may, upon the advice of the roads maintenance unit, refuse to pay any casual(s) for failure to efficiently any assigned duty.

PART III—FINANCIAL PROVISIONS

Sources of funds

18. The county roads maintenance works shall be financed through—

- (a) the funds appropriated annually for this purpose by the County Assembly;
- (b) the funds appropriated for the purposes of repairing and maintain roads under the West Pokot County Ward Development Fund Act; and
- (c) funds from the national government under section 11 and (13).

PART IV—MISCELLANEOUS

Regulations

19. (1) The Executive Member may, on recommendation of the Roads Maintenance Unit, make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may prescribe anything required by this Act to be prescribed or prohibit anything required by this Act to be prohibited.

PART V—SCHEDULES

SCHEDULE I— CATEGORIES OF COUNTY PUBLIC ROADS

Class	Description
--------------	--------------------

- | | |
|----------|--|
| E | Major Feeder Roads linking important Constituency Centres and meant to carry local traffic and to Channel it to class D roads. |
| F | Minor Feeder Roads linking Market Centres and Meant to carry and to channel it to class E roads. |

- G** Roads linking farms to markets and meant to carry farm produce and farm inputs traffic to and from the markets.
- K** Urban major collector roads meant to collect traffic from the local roads and channel it to the major and minor arterial roads. Mainly meant to provide for both mobility and access.
- L** Urban minor collector roads meant to perform a similar function as the class K roads i.e. to collect traffic from the local roads and channel it to the arterial roads, but in a smaller catchment's area meant to collect traffic from the local roads and channel it to class K roads.
- M** Main business and shopping streets in the urban areas meant to provide access to commercial properties and residential areas and also cater for a high level of pedestrian traffic.
- N** Provide direct access to individual or group of properties, and residential areas, or to places of specific social or economic activity, including industrial and commercial areas and government institutions such as school, hospital, prisons and government housing.
- P** Provide direct access to groups of residential properties. This is the lowest class of public roads and therefore Class P roads will provide all other public access Social amenities such as schools, hospitals, etc) not provided by higher class roads.

SCHEDULE II—MAINTENANCE ACTIVITIES AND FREQUENCIES FOR VARIOUS TYPES OF ROADS

S/NO	ACTIVITIES	TYPE OF ROAD AND FREQUENCY		
		EARTH	GRAVEL	PAVED
1.	Bush clearing and grass cutting frequency	Atleast 3 months	Atleast 3 months	Atleast 3 months
2.	Drainage inspection frequency	As needed	As needed	As needed
3.	Ditch cleaning frequency	As needed	As needed	As needed
4.	Culvert cleaning frequency	As needed	As needed	As needed

5.	Repair of drainage structures frequency	As needed	As needed	As needed
6.	Installation of culverts	As needed	As needed	As needed
7.	Re-Grading frequency	Atleast 3 months	N/A	N/A
8.	Gravel patch work frequency	N/A	Atleast 6 months	N/A
9.	Re-gravelling frequency	N/A	Atleast 3 years	N/A
10	Pothole patching frequency	N/A	N/A	As needed
11.	Re-carpeting /resealing	N/A	N/A	Atleast 7 years
12.	Road Furniture	N/A	N/A	As needed
13	Rehabilitation	N/A	6 years	15 years

MEMORANDUM OF OBJECTS AND REASONS

PART I of the Bill provides for preliminary provisions. The Part outlines the purpose of the Bill, which includes the establishment of a systematic and prompt manner of responding to the needs of locals by properly maintaining county roads, establishing a coordinated maintenance system that promotes safe and efficient maintenance of road networks and establishing a decision making process in relation to inspection, maintenance and repair of county road networks.

PART II of the Bill provides for the general maintenance of roads. It establishes the Roads Maintenance Unit from among officers in the Department of Roads which shall be charged with the responsibility of ensuring that the roads are properly maintained. This part also sets out the criteria through which the county government may enter into agreements with the national government to maintain and repair certain roads. It also provides for ways and means through which the roads shall be protected and the engagement of casual workers in facilitating road maintenance functions.

PART III of the Bill provides for the financial provisions. It sets out clearly the sources of funds for the maintenance of roads

PART IV of the Bill provides for miscellaneous provisions and in particular the power of the executive member to make regulations for the advancement of this Act.

PART V of the Bill provides for the schedules.

YARAKI PAUL LOTUW,

Chairperson, Sectoral Committee on Roads and Public Works.