

Paper laid on the table of the Senate on 17.10.2016 by Sen. Gwendu

2633

23rd September, 2016

SPECIAL ISSUE

Kenya Gazette Supplement No. 165

(Legislative Supplement No. 68)

LEGAL NOTICE NO. 161

THE TRAFFIC ACT

(Cap. 403)

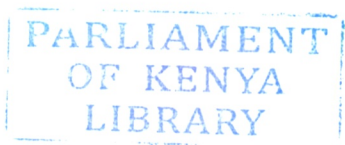
IN EXERCISE of the powers conferred by section 117 of the Traffic Act, the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development makes the following Rules:—

THE TRAFFIC (MINOR OFFENCES) RULES, 2016

- | | |
|---|--------------------------------------|
| 1. These Rules may be cited as the Traffic (Minor Offences) Rules, 2016. | Citation |
| 2. The minor traffic offences which may be dealt with and prosecuted in accordance with the provisions of section 117 of the Act shall be those specified in the First Schedule. | Offences. |
| 3. The statutory maximum penalty which may be imposed in respect of each of the minor traffic offences specified in the First Schedule shall, for the purposes of section 117 of the Act, be the statutory maximum penalty specified in that Schedule in relation to each such offence. | Penalty. |
| 4. The form of police notification of a traffic offence for use under section 117 of the Act shall be the form set out in the Second Schedule. | Form. |
| 5. The Traffic (Minor Offences) Rules, 1975 are revoked. | Revocation.
LN 110/1975
(r. 2) |

FIRST SCHEDULE

<i>Section of the Act or Rule of the Traffic Rules</i>	<i>Nature of Offence</i>	<i>Penalty (KSh.)</i>
Section 12(1) and 14 Rule 7 of Traffic Rules	Driving without identification plates affixed or plates not fixed in the prescribed manner	10,000
Section 16(2) and 17A(3)	Driving a vehicle without a valid inspection certificate inspected	10,000
Section 30(1) and (7)	Driving without a valid driving license endorsement in respect of the class of vehicle	3000
Section 30(4) and (7)	Failure to renew a driving license	1,000
Section 33(1)(c) and 41	Driving a PSV while being unqualified	5,000



<i>Section of the Act or Rule of the Traffic Rules</i>	<i>Nature of Offence</i>	<i>Penalty (KSh.)</i>
Section 36(1) and (3)	Failing to carry and produce a driving license on demand	1,000
Section 42(1) and 43(1)	Exceeding speed limit prescribed for class of vehicle	By 1-5 kph - Warning By 6-10 kph - 500 By 11-15 kph - 3000 By 16-20 kph - 10,000
Section 42(3), (4) and 43(1)	Exceeding speed limit of 50 kph or as prescribed by a traffic sign	By 1-5 kph - Warning By 6-10 kph - 500 By 11-15 kph - 3000 By 16-20 kph - 10,000
Section 45A(1) and (2)	Driving on or through a pavement or a pedestrian walkway	5000
Section 52(1)(a) and (2)	Failure of a driver to obey any directions given, whether verbally or by signal, by a police officer in uniform, in the execution of their duty	3,000
Section 52(1)(b) and (2)	Failure of a driver to conform to the indications given by any traffic sign.	3,000
Section 52(1)(c) and (2)	Failure of a driver to stop when required to do so by a police officer in uniform.	5,000
Section 53(1) and 67	Causing obstruction by allowing a vehicle to remain in any position on the road so as to obstructing or causing inconvenience or to other traffic using the road.	10,000
Section 53(3) and (4)	Failure to display reflective triangles or lifesavers in cases where any part of the vehicle remains on the road in a position so as to obstructing or causing obstruction	3,000
Section 60(1) and (2)	Driver of motor cycle carrying more than one pillion passenger	1,000

<i>Section of the Act or Rule of the Traffic Rules</i>	<i>Nature of Offence</i>	<i>Penalty (KSh.)</i>
Rule 41A	Failure to fit prescribed speed governor in PSV and Commercial Vehicle	10,000
Rule 54A	Driving or operating a PSV with tinted windows or windscreen	3,000
Rule 56(1) and(2)	Failure of a PSV to carry functional fire extinguishers and fire kits	2,000
Rule 59A(1)	Driver using a mobile phone while vehicle is in motion	2,000
Rule 65(f) and 69	The driver of a motor omnibus or matatu picking or setting down passengers in a place that is not authorized as a bus stop or terminal	3,000
Rule 66(1)(x) and 69	A passenger alighting or boarding any omnibus or matatu at a place which is not authorized as a bus stop or terminal	1,000
Rule 80	Travelling with part of the body outside moving vehicle	1,000

SECOND SCHEDULE

(r. 4)

THE TRAFFIC ACT

THE TRAFFIC (MINOR OFFENCES) RULES, 2016
POLICE NOTIFICATION OF TRAFFIC OFFENCE

(*Form to be filled in triplicate)

SECTION A—PARTICULARS OF PERSON.

Name..... ID No.....
 Driving license No. Tel No.....
 You are charged with offence(s) No. (s)..... (See reverse)
 Committed at on 20.....
 ata.m./p.m.

SECTION B—DENIAL OF CHARGES.

(To be completed only when a person denies the charge)

1. You are hereby requested to attend at the Traffic court, on the
 day of..... 20.... at AM. to answer the said charge(s).

<i>Section of the Act or Rule of the Traffic Rules</i>	<i>Nature of Offence</i>	<i>Penalty (KSh.)</i>
Section 90(2)(a) and 94	Driving a vehicle on a footpath	5,000
Section 90(2)(c) and 94	Pedestrian willfully obstructing the free passage of vehicles.	500
Section 98(1) and 104	Unlicensed person driving or acting as a conductor of a PSV.	5,000
Section 98(1) and 104	Owner or operator of PSV employing an unlicensed PSV driver or conductor.	10,000
Section 101(2)	Failure to refund fare paid for incomplete portion of journey for which full fare has been paid	3,000
Section 103(1) and (2)	Touting.	3,000
Section 103A(1) and (7)	Failure of a PSV driver or conductor to wear special badge and uniform.	2,000
Section 103B(1) and (7)	Motorcycle rider riding without protective gear.	1,000
Section 103B(1) and (7)	Motorcycle passenger riding without protective gear.	1,000
Section 103C(1) and (3)	Person who while not being the designated driver of a PSV drives the vehicle.	3,000
Section 103C(2) and (3)	The driver of a PSV who lets an unauthorized person to drive	3,000
Rule 12(1)(b)	Learner failing to exhibit "L" plates on the front and rear of the motor vehicle.	1,000
Rule 22A(1) and (2)	Failure by owner of vehicle to have seat belts in motor vehicle as prescribed in Rule 22A(1)	1000 for every seat that is not fitted or is not of the proper standard or specification
Rule 22A(3) and (4)	Failure to wear seat belt while motor vehicle is in motion.	500
Rule 22A(5) and (6)	Failure of a conductor of PSV to keep seat belts in a clean, dry and generally wearable condition	500
Rule 25	Failure of a vehicle to carry reflective/warning signs (lifesavers)	2000

2. Bail given (Bail amount to be equal to statutory penalty contained in the Schedule) * Bail in form of hard cash is strictly not allowed.

SECTION C—ADMISSION TO CHARGES

(To be completed only by a person who admits the charge)

I admit the charge(s) specified on the front of this notification.

Full name (IN BLOCK LETTERS)

..... Date 20.....

Signature

Mitigating circumstances if any

.....
.....

FOR POLICE USE ONLY

SECTION D—PAYMENT DETAILS.

(Payment to be made upon admission or denial of charge)

Confirmation reference no:-.....

Time..... Date..... Amount.....

SECTION E—Details of Police Officer.

Name..... Badge No..... Tel No.....

Station Time a.m./p.m.

Date of Issue....., 20

Signature of issuing officer

FOR COURT USE ONLY

SECTION F—Sentencing. (For Court Use Only.)

.....
..... (Reverse of Police

Notification of Traffic Offence)

SCHEDULE OF OFFENCES UNDER THE TRAFFIC ACT AND THE TRAFFIC RULES

Here must be set out the offences and penalties set out in the First Schedule

Dated the 30th August, 2016.

JAMES MACHARIA,
Cabinet Secretary for Transport,
Infrastructure, Housing and Urban Development.



EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM TO THE TRAFFIC (MINOR OFFENCES) RULES, 2016

Name of the Statutory Instrument: The Traffic (Minor Offences) Rules, 2016

Name of the Parent Act: The Traffic Act

Enacted Pursuant to: Section 117 of The Traffic Act.

Name of the Ministry/ Department: Ministry of Transport, Infrastructure, Housing and Urban Development, State Department of Transport.

Gazetted on 23rd September 2016

Tabled on

PART II

1. Purpose of the statutory instrument

To provide a legal framework for the application of penalties in regard to minor traffic offences through an instant fines payment platform which is convenient consistent, predictable and transparent.

2. Legislative Context

The statutory instrument in question seeks to provide a fixed or statutory fine for minor traffic offences instead of a maximum penalty which was determined by the court. The exercise of this discretion by the courts led to inconsistencies in the administration of justice because different penalties were issued for the same offence creating uncertainty as to the applicable fines and corruption malpractices to avoid inconveniences.

3. Policy Background

3.1 In the long term, the idea is to review of the entire Traffic Act with the aim of overhauling the same. However in the immediate term, a lot of emphasis has been to streamline processes through subsidiary legislation. Consequently, the regulations were borne out of the need to bring about convenience, certainty, prediction, consistency and transparency in the way we deal with minor traffic offences.

4. Consultation outcome

4.1 The Authority established The Instant Fines Taskforce which was gazetted and commenced work with effect from 14th October 2015. The taskforce was mandated to propose appropriate reforms to the legal, policy and institutional framework for the development and operationalisation of minor traffic offence instant fine system. Membership of the taskforce was drawn from key agencies and stakeholders such as the Judiciary, National Police Service, Attorney General, Law Society of Kenya, E-citizen Government Digital payment Services and the Public Service Vehicles Industry.

The Authority issued a public notice in three papers of national circulation inviting members of the public for their comments. In addition, public participation forums were held in various counties. The public submitted their comments some of which were included in the final Regulations.

4.2 The Ministry of Transport and Infrastructure intends to provide support to further create awareness on the regulations through advertisements in the media and forums.

5. Impact

5.1 The regulations shall have no fundamental effect to rights and freedoms.

5.2 The regulations will help streamline the application of penalties in regard to minor traffic offences in a convenient, predictable and transparent way through an instant fines payment platform.

6. Monitoring and review

6.1 The success criteria of this regulation will be an increase in adherence to traffic laws and regulations together with decreased cases of corruption especially when dealing with traffic offending.

7.1 Francis Meja, Director General NTSA.

Francis.meja@ntsa.go.ke

0720 2395838