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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT-SECOND SESSION

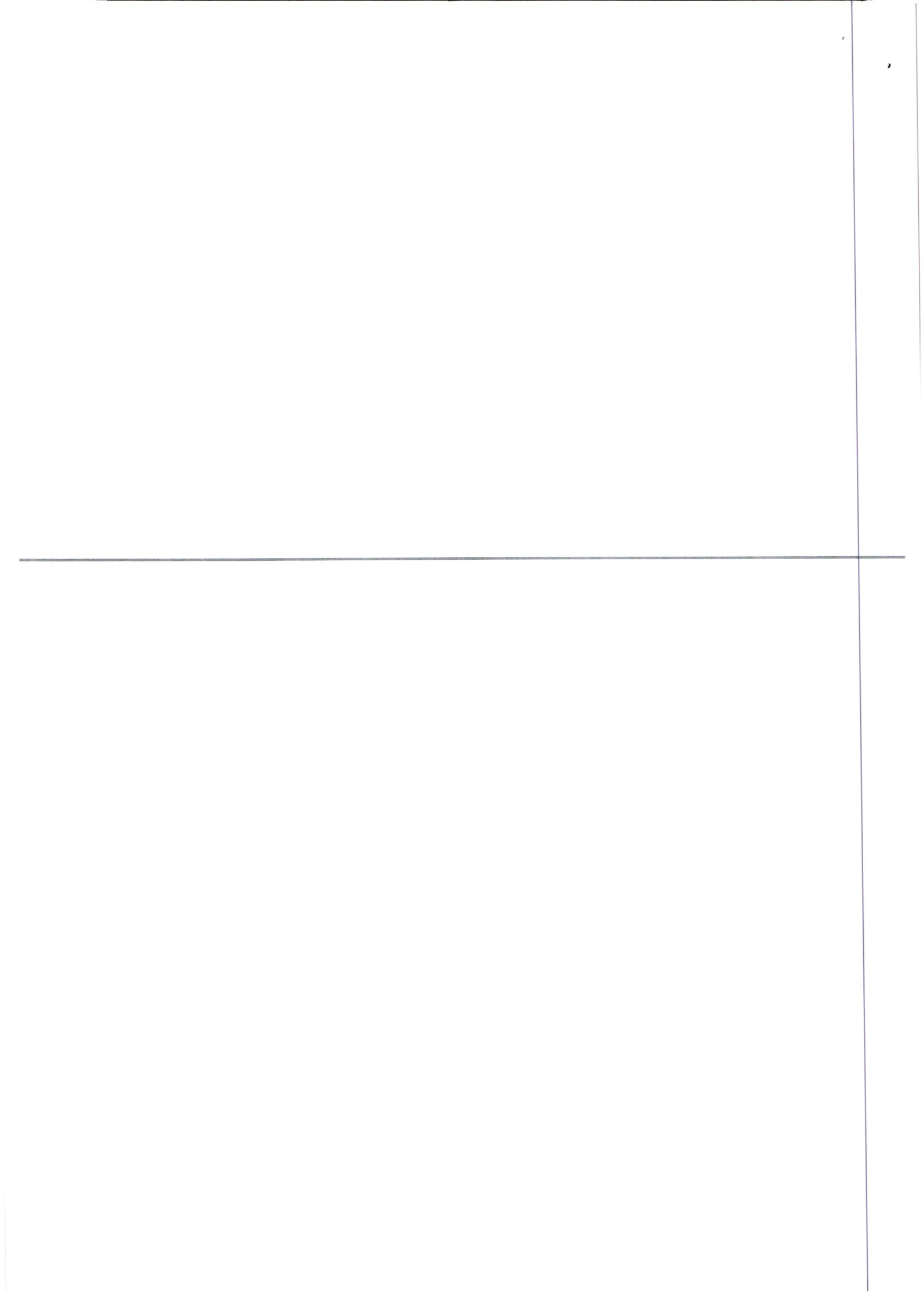
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**COMMITTEE ON DELEGATED LEGISLATION**

**REPORT ON THE TRAFFIC (AMENDMENT) (NO. 3)  
RULES, 2017**

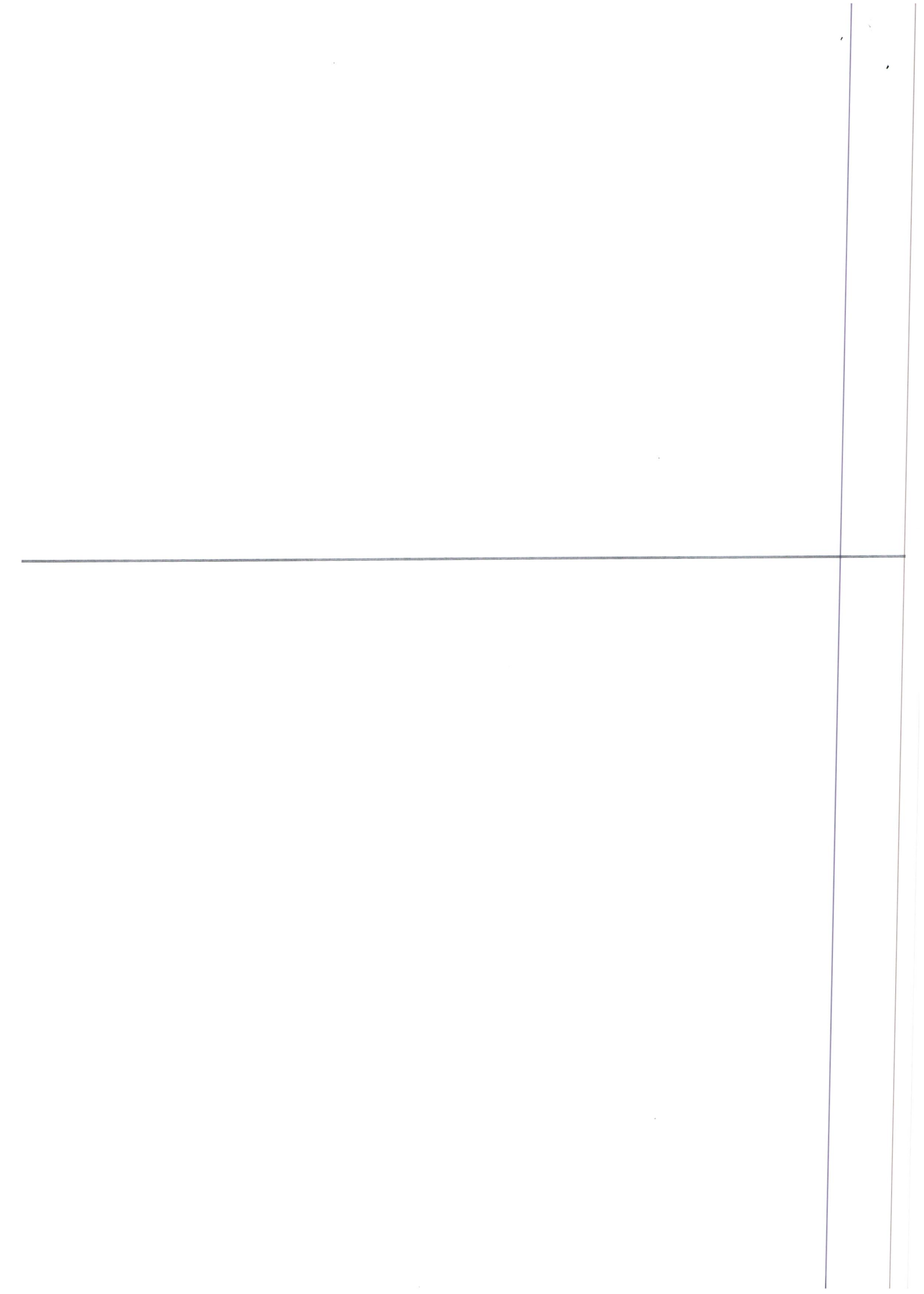
**MARCH 2018**

*Directorate of Committee Services  
The National Assembly,  
Parliament Buildings, Continental House, Room 402  
NAIROBI*



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## **ABBREVIATIONS**

EM Explanatory Memorandum

SI Statutory Instruments

SO Standing Order

## CHAIRPERSON'S FOREWORD

In exercise of the powers conferred by section 119 of the Traffic Act, the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development published the Traffic (Amendment) (No. 3) Rules, 2017 on 19<sup>th</sup> December, 2017 vide LN No.299/2017.


Following publication, the Regulations were tabled in the House on 27 February 2018 and immediately committed to the Select Committee on Delegated Legislation for review and scrutiny in line with section 12 of the Statutory Instruments Act, 2013 and Standing Order 210 of the National Assembly Standing Orders.

The Committee considered the Rules in its sitting held on Thursday, 15 March, 2018 and made the decision to annul the Regulations for reasons advanced herein.

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~~The Committee wishes to express its gratitude to the Speaker for the support accorded to the Committee in the discharge of its mandate. The Committee also wishes to record its appreciation to the Office of the Clerk of the National Assembly and the supporting Directorates for providing technical support which was vital in the consideration of this instrument.~~

On behalf of the Members of the Select Committee on Delegated Legislation and pursuant to Standing Order 210 (4), it is my pleasure and duty to present to the House the Committee's Report on the Traffic (Amendment) (No. 3) Rules, 2017.

Signed.....  


Date.....  


**HON. GLADYS BOSS SHOLLEI, CBS, MP**  
**CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION**

## EXECUTIVE SUMMARY

The Traffic (Amendment) (No.3) Rules, 2017 were tabled in the House on 27<sup>th</sup> February, 2018 and immediately committed to the Select Committee on Delegated Legislation for review and scrutiny in line with section 12 of the Statutory Instruments Act, 2013 and Standing Order 210 of the National Assembly Standing Orders.

Having considered the Regulations, the Committee observed that they were published on 19<sup>th</sup> December, 2017 and laid before the National Assembly on 27<sup>th</sup> February, 2018 and tabled in the National Assembly on 27<sup>th</sup> February 2018. This was within the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act. Further, the Rules are unlikely to impose significant costs on the community or a part of the community and hence a regulatory impact statement was not prepared for these Rules pursuant to section 6 of the SI Act.

Additionally, annexed to the Rules was an Explanatory Memorandum prepared by the National Transport and Safety Authority. The Rules also comply with all the relevant considerations contained in section 13 of the Statutory Instruments Act.

The Committee also observed that the Rules comply with all the relevant considerations contained in section 13 of the Statutory Instruments Act. However, annexed to the Rules was an Explanatory Memorandum prepared by the National Transport and Safety Authority, which the Committee noted that it did not meet the requirements of the Schedule to the SI Act on public participation. The Schedule stipulates that the Memorandum should contain a brief explanation of who was consulted, over what period and with what responses. It further adds that there ought to be some analysis of the outcome and the Department's policy response to the opinions expressed (e.g. "60% supported the proposal, of the rest, the main objections were on the proposed fee structure and the Department has responded to this by agreeing to phase in the increase over 3 years").

The Committee also observed that the Rules are ambiguous and lack clarity.

In view of the foregoing, the Committee recommends that the Traffic (Amendment) (No. 3) Rules, 2017 be annulled *in toto* pursuant to SO 210 (4) (b) for ambiguity, lack of clarity and insufficient public participation as contemplated by the Statutory Instruments Act and Art.118 of the Constitution of Kenya.

## 1.0 PREFACE

The Select Committee on Delegated Legislation is established pursuant to *Standing Order No. 210* and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider in respect of any statutory instrument, whether it is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.

### 1.1 Mandate of the Committee

The Committee is mandated to consider in respect of any statutory instrument, whether it: -

- (i) is in accordance with the provision of the Constitution, the Act pursuant to which it is made or other relevant written laws;
- (ii) infringes on fundamental rights and freedoms of the public;
- (iii) contains a matter which in the option of the Committee should more properly be dealt with in an Act of the Parliament;
- (iv) contains imposition of taxation;
- (v) directly or indirectly bars the jurisdiction of the court;
- (vi) gives retrospective effect to any of the provision in respect to which the Constitution does not expressly give any such power;

The Committee is equally tasked with the responsibility of scrutinizing statutory instruments, whether: -

- (i) it involves expenditure from the consolidated fund or other public revenues;
- (ii) is defective in its drafting or for any reason form or part of the statutory instrument calls for any elucidation;
- (iii) appears to make some unusual or unexpected use of the power conferred by the Constitution or the Act pursuant to which it is made;
- (iv) appears to have had unjustifiable delay in its publication or laying before Parliament;
- (v) makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
- (vi) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- (vii) inappropriately delegates legislative powers;

- (viii) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- (ix) appears for any reason to infringe on the rule of law;
- (x) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and,
- (xi) accords to any other reason that the Committee considers fit to examine.

## **1.2 Committee Membership**

The Committee on Delegated Legislation as constituted by the House in December 2017 comprises of the following Members: -

**Hon. Gladys Boss Shollei, CBS, MP - Chairperson**

**Hon. Fatuma Gedi, MP - Vice- Chairperson**

Hon. Alice Wahome, MP

Hon. Robert Mbui, MP

Hon. Daniel Maanzo, MP

Hon. Muriuki Njagagua, MP

Hon. Isaac Waihenya Ndirangu, MP

Hon. Alfred Bernard Wekesa Sambu, MP

Hon. William Kamket Kassait, MP

Hon. Ronald Kiprotich Tonui, MP

Hon. Munene Wambugu, MP

Hon. Charles Gimose, MP

Hon. Abdi Koropu Tepo, MP

Hon. George Gitonga Murugara, MP

Hon. Jennifer Shamalla, MP

Hon. Muturi Kigano, MP

Hon. Martha Wangari, MP

Hon. Patrick Kariuki Mariru, MP

Hon. Timothy Wanyonyi, MP

Hon. William Kamoti, MP

Hon. Wilberforce Oundo, MP

Hon. Sammy Seroney, MP

### 1.3 Committee Secretariat

The secretariat comprises of the following members of staff;

- |                       |  |
|-----------------------|--|
| 1) Mr. Susan Maritim  | <b>Clerk Assistant I (Team Leader)</b> |
| 2) Mr. Jimale Mohamed | <b>Clerk Assistant III</b>             |
| 3) Mr. Dima Dima      | <b>Senior Legal Counsel</b>            |
| 4) Ms. Mugure Gituto  | <b>Legal Counsel II</b>                |
| 5) Ms. Anne N. Kigoro | <b>Research &amp; Policy Analyst</b>   |
| 6) Mr. Anthony Wamae  | <b>Serjeant-at-Arms</b>                |
-



## **2.0 CONSIDERATION OF THE INSTRUMENT**

### **2.1 Introduction and Background Information**

The Traffic Rules, 1953 were published pursuant to the provisions of the Traffic Act Cap 403 (the Act). Section 17 (3) of the Act provides that the owner of any vehicle or trailer is required to have it examined by an inspector and the owner shall pay such fee as may be prescribed. The prescribed fees were last reviewed in 1994 and the applicable inspection fee was set at Kshs. 1,000 for all vehicles regardless of the size.

**The present amendment to the Traffic Rules, 1959 seeks to:**

- (a) review the inspection fee charged from a constant figure of Kshs. 1,000 for every vehicle to a differentiated fee that takes into account the engine capacity and weight of the relevant vehicles;**
- (b) support the modernization, rehabilitation and maintenance of motor vehicle inspection centres; and**
- (c) support the ultimate goal of ensuring that the vehicles on the road are road worthy.**

A regulated person may act as an intermediary for a securities borrower or lender provided that potential conflict of interest is disclosed.

The NTSA issued a public notice of the intended amendments to three newspapers with national circulation seeking public comments. They also indicate that they held public forums in undisclosed counties.

### **2.2 Making of the Rules and Committal to the Committee on Delegated Legislation**

In exercise of the powers conferred by section 119 of the Traffic Act, the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development published the Traffic (Amendment) (No. 3) Rules, 2017 on 19 December, 2017 vide LN No.299/2017.

Following publication, the Regulations were tabled in the House on 27 February, 2018 and immediately committed to the Select Committee on Delegated Legislation for review and scrutiny in line with section 12 of the Statutory Instruments Act, 2013 and Standing Order 210 of the National Assembly Standing Orders.

### 2.3 Consideration of the Instruments

The Committee considered the Rules pursuant to the provisions of Article 94(6) of the Constitution, section 119 of the Traffic Act, the Statutory Instruments Act (No. 23 of 2013), and the Interpretation and General Provisions Act, (Chapter 2) which regulate the making, scrutiny and publication of the Regulations.

The Committee considered the Regulations in its sitting held on Thursday, 15 March, 2018 and made the decision to annul the Rules for reasons advanced herein.

### 3.0 OBSERVATIONS

Having considered the said Rules, the Committee observed THAT –

- (i) the Traffic (Amendment) Rules were published on 19 December, 2017 and laid before the National Assembly on 27<sup>th</sup> February, 2018. This was within the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act;
- (ii) the Regulations are unlikely to impose significant costs on the community or a part of the community and hence a regulatory impact statement was not prepared for these Rules pursuant to section 6 of the Statutory Instruments Act;
- (iii) the Rules comply with all the relevant considerations contained in section 13 of the Statutory Instruments Act;
- (iv) annexed to the Rules was an Explanatory Memorandum prepared by the National Transport and Safety Authority which the Committee noted that it did not meet the requirements of the Schedule to the SI Act on public participation. The Schedule stipulates that the Memorandum should contain a brief explanation of who was consulted, over what period and with what responses. It further adds that there ought to be some analysis of the outcome and the Department's policy response to the opinions expressed (e.g. "60% supported the proposal, of the rest, the main objections were on the proposed fee structure and the Department has responded to this by agreeing to phase in the increase over 3 years"); and
- (v) the Rules lack clarity and are ambiguous.



#### 4.0 RECOMMENDATION

Having considered the Traffic (Amendment) (No. 3) Rules, 2017 against Article 94(6) of the Constitution, section 119 of the Traffic Act, the Statutory Instruments Act of 2013 and the Interpretation and General Provisions Act (Chapter 2), which regulate the making, scrutiny and publication of the Regulations, **the Committee recommends that pursuant Standing Order 210 (4) (b) and section 15 (1) of the SI Act, the Traffic (Amendment) (No. 3) Rules, 2017 be annulled *in toto* for ambiguity, lack of clarity and insufficient public participation as contemplated by the Statutory Instruments Act and Art.118 of the Constitution of Kenya.**

## ANNEXURES

- (i) Minutes of Committee
  - (ii) Sittings
  - (iii) Adoption List
  - (iv) Copy of the Traffic (Amendment) (No. 3) Rules, 2017
-


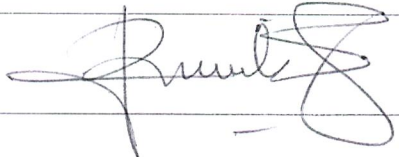
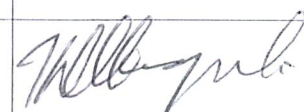
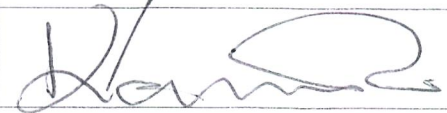
COMMITTEE ON DELEGATED LEGISLATION

ADOPTION LIST

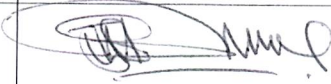
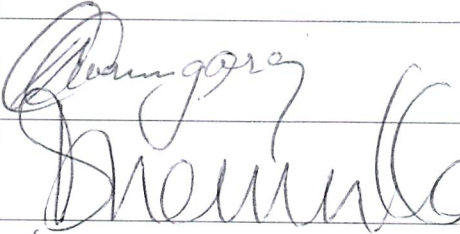
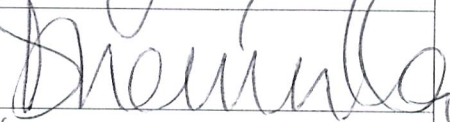

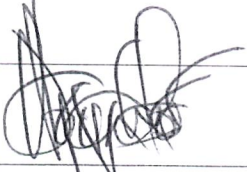

REPORT ON THE TRAFFIC (AMENDMENT) (NO.3) RULES, 2017

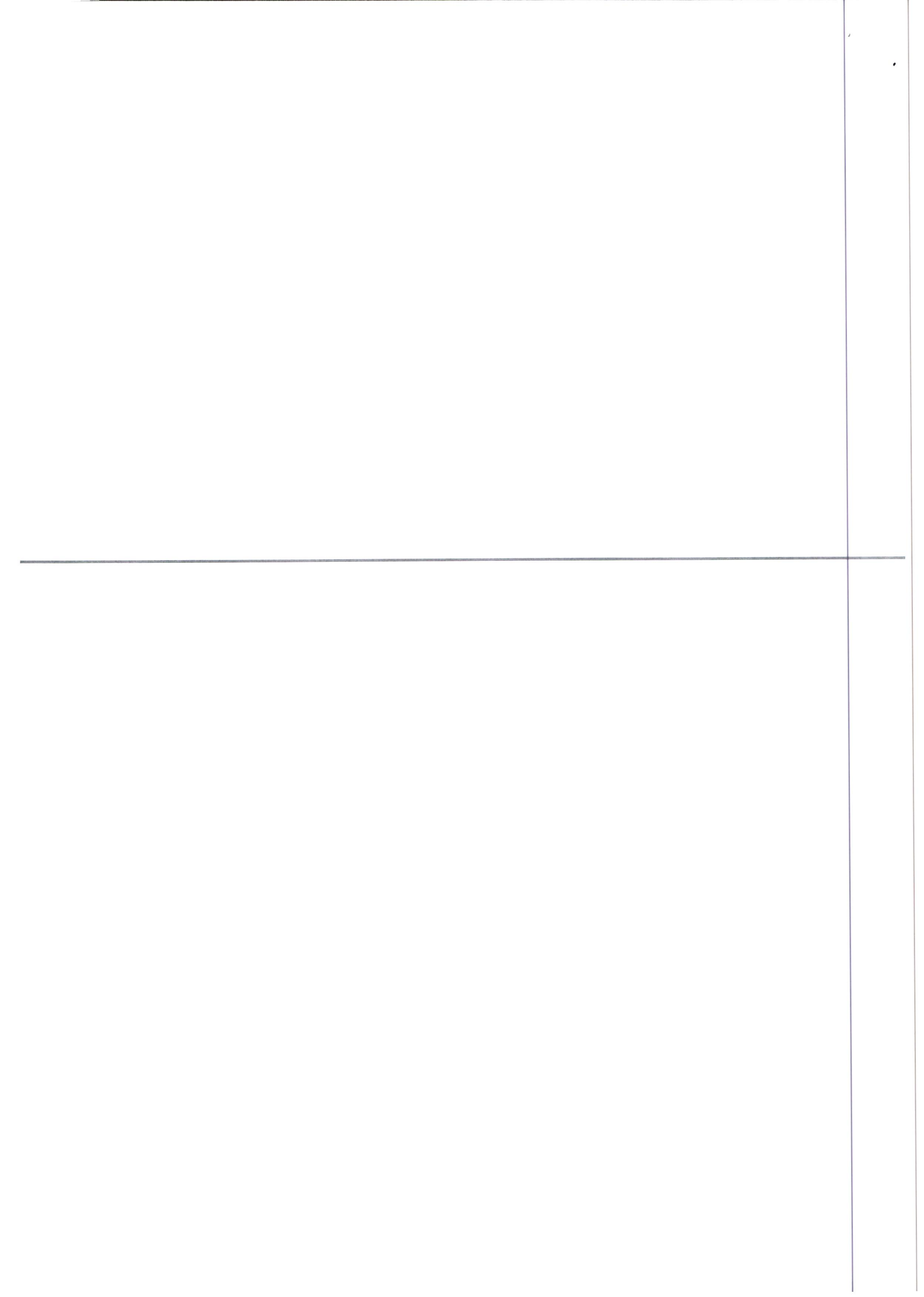
We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 24<sup>th</sup> March 2018

	HON. MEMBER	SIGNATURE
1.	Hon. Gladys Boss-Shollei, MP(Chairperson)	
2.	Hon. Fatuma Ali Gedi, MP (Vice Chairperson)	
3.	Hon. Alfred Sambu, MP	
4.	Hon. Isaac Waihenya Ndirangu, MP	
5.	Hon. Robert Mbui, MP	
6.	Hon. Alice Wahome, MP	
7.	Hon. Daniel Maanzo, MP	
8.	Hon. Muriuki Njagagua, MP	
9.	Hon. Martha Wangari, MP	
10.	Hon. Timothy Wanyonyi, MP	
11.	Hon. William Kamoti, MP	



	HON. MEMBER	SIGNATURE
12.	Hon. Patrick Kariuki Matiru, MP	
13.	Hon. Ronald Kiprotich Tonui, MP	
14.	Hon. William Kamket Kassait, MP	
15.	Hon. Munene Wambugu, MP	
16.	Hon. Charles Gimose, MP	
17.	Hon. Abdi Tepo, MP	
18.	Hon. George Gitonga Murugara, MP	
19.	Hon. Jennifer Shamalla, MP	
20.	Hon. Muturi Kigano, MP	
21.	Hon. (Dr.) Wilberforce Oundo, MP	
22.	Hon. Sammy Seroney, MP	



**MINUTES OF THE 13<sup>TH</sup> SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON THURSDAY, 15<sup>TH</sup> MARCH, 2018, AT 11.00 A.M. IN THE SMALL DINING ROOM, NEW WING, MAIN PARLIAMENT BUILDINGS**

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**PRESENT**

1. **Hon. Fatuma Gedi, MP** - **Vice Chairperson**
2. Hon. Jennifer Shamalla, MP - (Chaired Meeting)
3. Hon. Daniel Maanzo, MP
4. Hon. George Gitonga Murugara, MP
5. Hon. William Kamoti, MP
6. Hon. Martha Wangari, MP
7. Hon. Ronald Kiprotich Tonui, MP
8. Hon. (Dr.) Wilberforce Oundo, MP
9. Hon. Abdi Koropu Tepo, MP
10. Hon. William Kamket Kassait, MP
11. Hon. Munene Wambugu, MP
12. Hon. Sammy Seroney, MP

**ABSENT WITH APOLOGY**

1. **Hon. Gladys Boss Shollei, CBS, MP** - **Chairperson**
2. Hon. Muriuki Njagagua, MP
3. Hon. Timothy Wanyonyi, MP
4. Hon. Charles Gimose, MP
5. Hon. Alice Wahome, MP
6. Hon. Robert Mbui, MP
7. Hon. Alfred Sambu, MP
8. Hon. Patrick Kariuki Mariru, MP
9. Hon. Isaac Waihenya Ndirangu, MP
10. Hon. Muturi Kigano, MP

**IN-ATTENDANCE**

**National Assembly Secretariat**

1. Ms. Susan Maritim - First Clerk Assistant
2. Mr. Jimale Mohamed - Third Clerk Assistant
3. Mr. Dima Dima - Senior Legal Counsel
4. Mr. Charles Ayari - Audio Officer
5. Ms. Mansura Ahmed - Secretary

**MIN.NO. CDL/086/2018: PRELIMINARIES**

Pursuant to Standing Order 188, the Members present elected Hon. Jennifer Shamalla, MP to chair the meeting, as proposed by Hon. George Murugara, MP and seconded by Hon. William Kamoti, MP.

Hon. Shamalla thereafter assumed the Chair and called the meeting to order at 11.25 a.m. Hon. George Gitonga Murugara, MP read the Prayer.

**MIN.NO. CDL/087/2018: ADOPTION OF THE PROGRAMME/AGENDA**

The Committee unanimously adopted the agenda as presented without amendments.

**MIN.NO. CDL/088/2018: CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

The Minutes of the 12<sup>th</sup> sitting held on Tuesday 13<sup>th</sup> March, 2018 were confirmed as true record of the deliberations after being proposed and seconded by Hon. Sammy Seroney, MP and Hon. William Kamoti, MP respectively.

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**MIN.NO. CDL/089/2018: MATTERS ARISING**

**Under MIN.NO. CDL /084/2018**

**a) Validation Workshop for Intergovernmental Alternative Dispute Resolution Regulations (Ministry of Devolution and Planning)**

Members were requested to confirm their travel schedules for the validation workshop in Mombasa.

**b) Proposed Workshop on Lands Regulations ( Ministry of Lands and Physical Planning)**

The Committee reconfirmed participation for the retreat and resolved to undertake the activity between Wednesday 11<sup>th</sup> and Sunday 15<sup>th</sup> April, 2018. The Chairperson will request the Speaker's approval to sit outside Parliament on Thursday, 12<sup>th</sup> April, 2018.

**c) Meeting with Kenya Defence Forces**

The Committee was informed that the meeting with Cabinet Secretary was rescheduled to Tuesday, 20<sup>th</sup> March, 2018 at 11.00 a.m. on their request.

**MIN.NO. CDL/090/2018: CONSIDERATION OF CIVIL AVIATION (REMOTE PILOTED AIRCRAFT SYSTEMS) REGULATIONS, 2017**

The Committee deferred consideration of Civil Aviation (Remote Piloted Aircraft Systems) Regulations, 2017 to a later date to allow the secretariat to review the documents submitted by the



Ministry of Transport, Housing, Infrastructure & Urban Development including a more detailed Explanatory Memorandum and evidence of adequate public participation.

The Committee observed that Remotely Piloted Aircraft Systems (RPAS) are not defined in the parent Act (the Civil Aviation Act) and therefore in contravention of section 13 of the SI Act. The Committee's Legal Counsel will advise the Committee on the matter in the next meeting.

**MIN.NO. CDL/091/2018:                      CONSIDERATION OF TRAFFIC (AMENDMENT)  
NO. 3 REGULATIONS, 2017**

The Committee was informed the Committee THAT –

The Traffic Rules, 1953 were published pursuant to the provisions of the Traffic Act Cap 403 (the Act). Section 17 (3) of the Act provides that the owner of any vehicle or trailer is required to have it examined by an inspector and the owner shall pay such fee as may be prescribed. The prescribed fees were last reviewed in 1994 and the applicable inspection fee was set at Kshs. 1,000 for all vehicles regardless of the size.

The present amendment to the Traffic Rules, 1959 seeks to:

- (a) review the inspection fee charged from a constant figure of Kshs. 1,000 for every vehicle to a differentiated fee that takes into account the engine capacity and weight of the relevant vehicles;
- (b) support the modernization, rehabilitation and maintenance of motor vehicle inspection centres; and
- (c) support the ultimate goal of ensuring that the vehicles on the road are road worthy; and

On public participation, the National Transport and Safety Authority (NTSA) issued a public notice of the intended amendments to three newspapers with national circulation seeking public comments. They also indicate that they held public forums in undisclosed counties.

**Committee Observations**

The Committee observed THAT –

- (i) the Traffic (Amendment) Rules were published on 19<sup>th</sup> December, 2017 and laid before the National Assembly on 27<sup>th</sup> February, 2018. This was within the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act;
- (ii) the Regulations are unlikely to impose significant costs on the community or a part of the community and hence the regulatory impact assessment was not prepared for these Regulations pursuant to section 6 of the SI Act;

- (iii) annexed to the Rules was an explanatory memorandum prepared by the National Transport and Safety Authority demonstrating the extent to which consultations were undertaken in the making of the Regulations;
- (iv) the rules comply with all the relevant considerations contained in section 13 of the Statutory Instruments Act; and
- (v) the fees may impose liabilities to the citizens; and

The Committee noted with concern that the regulatory-making authority did not undertake adequate stakeholder consultation and engagement before publishing the Regulations. In this regard, the Committee observed that by inviting members of the public for comments through the print media only, some sections of the public were disadvantaged, particularly those with limited or no access to newspapers.

The Committee also noted that the Regulations lack clarity and are ambiguous.

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### **Resolution**

The Committee therefore resolved to annul the Traffic (Amendment) (No. 3) Rules, 2017 *in toto*, pursuant to SO 210 (4) (b) for lack of clarity, ambiguity and inadequate public participation.

**MIN.NO. CDL/092/2018:                      CONSIDERATION OF COMPANIES (GENERAL) (AMENDMENT) REGULATIONS, 2018 AND THE INSOLVENCY (AMENDMENT) REGULATIONS, 2018**

The committee considered the two Regulations and observed THAT –

- a) they were published within the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act;
- b) The Regulations are unlikely to impose significant costs on the community or a part of the community and hence the regulatory impact assessment was not prepared for this Regulation pursuant to section 6 of the SI Act;
- c) an explanatory memorandum prepared by the Attorney General was annexed to both Regulations. However, it is not clear how stakeholders outside the Business Registration Service Department were involved in the preparation of the aforesaid amendments to the existing Regulations and if their submissions were included or considered in the published Regulations.
- d) the Regulations comply with all the relevant considerations contained in section 13 of the Statutory Instruments Act save that the number of the amendment needs to be included in the title for proper sequencing in the Companies (General) Regulations. The Committee has also previously considered amendments to the Companies (General) Regulations.

The Committee also observed that the Regulations are friendly to investors because they seek to simplify the process of company registration.

**Resolution**

The Committee resolved to urgently confer with the regulatory-making authority, the Attorney General (Registrar General of Companies) pursuant to section 16 of the Statutory Instruments Act, before reporting to the House on its consideration of the Regulations. The meeting is scheduled for Thursday, 22 March, 2018 at 11.00 a.m. in Parliament Buildings.

**MIN.NO. CDL /093/2018: NATIONAL LAND COMMISSION  
(INVESTIGATION OF HISTORICAL INJUSTICES)  
REGULATIONS, 2017**

The Committee resolved to annul the Regulations for the following reasons:

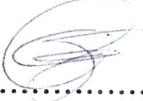
- (i) inadequate public participation; and
- (ii) failure to submit the Regulations **before Parliament for approval** contrary to section 36 of the NLC Act and section 13 (j) of the Statutory Instruments Act.
- (iii) The Committee was informed that the CEO, National Lands Commission wrote to the Committee to confirm that further to the meeting with the Committee on 15<sup>th</sup> February, 2018, the Commission, through paid advertisement, on 27<sup>th</sup> February, 2018 sought public and stakeholder views on the said Regulations. The Commission will thereafter resubmit the Regulations to Parliament pursuant to section 36 of the NLC Act and section 13 (j) of the Statutory Instruments Act.

**MIN.NO. CDL /094/2018: ANY OTHER BUSINESS**

The Committee resolved to discuss the matter of foreign travel and venues for retreats in the Mombasa meeting of 24<sup>th</sup> March, 2018.

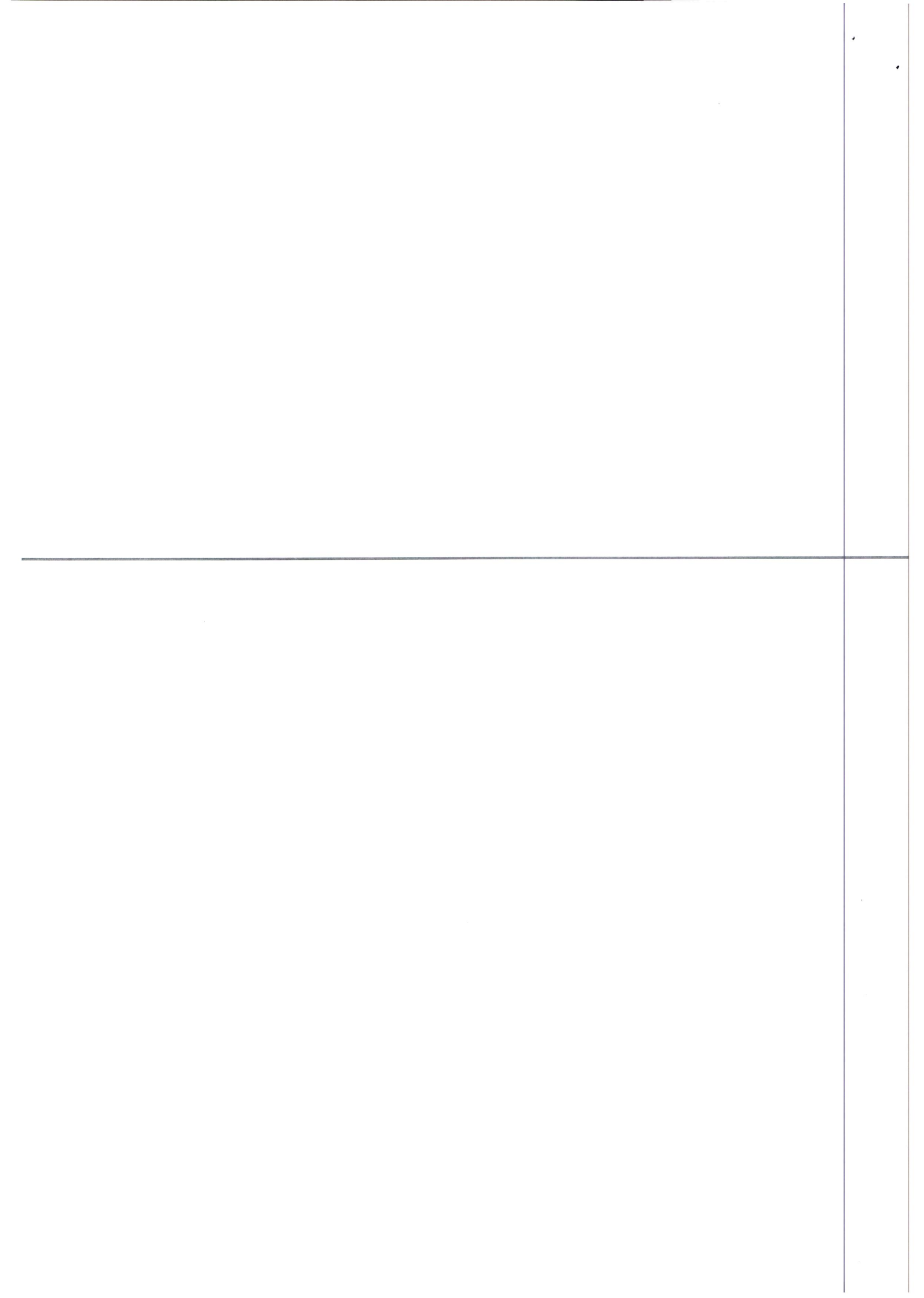
**MIN.NO. CDL /095/2018: ADJOURNMENT**

There being no other business, the meeting was adjourned at 12.30 pm until Tuesday, 20 March, 2018 at 11am.

*7012*  
Signed:.....

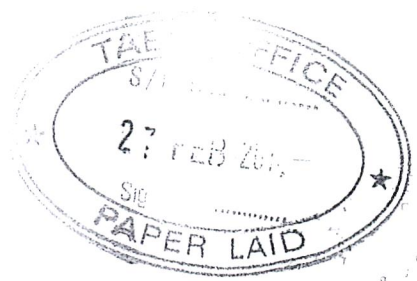
Date: *27/3/2018*.....

**HON. GLADYS BOSS-SHOLLEI, CBS, MP  
(CHAIPERSON)**





delegated



2738

Kenya Subsidiary Legislation, 2017

LEGAL NOTICE NO. 299

THE TRAFFIC ACT

(Cap. 403)

IN EXERCISE of the powers conferred by section 119 of the Traffic Act, the Cabinet Secretary makes the following Rules—

THE TRAFFIC (AMENDMENT) (NO. 3) RULES, 2017

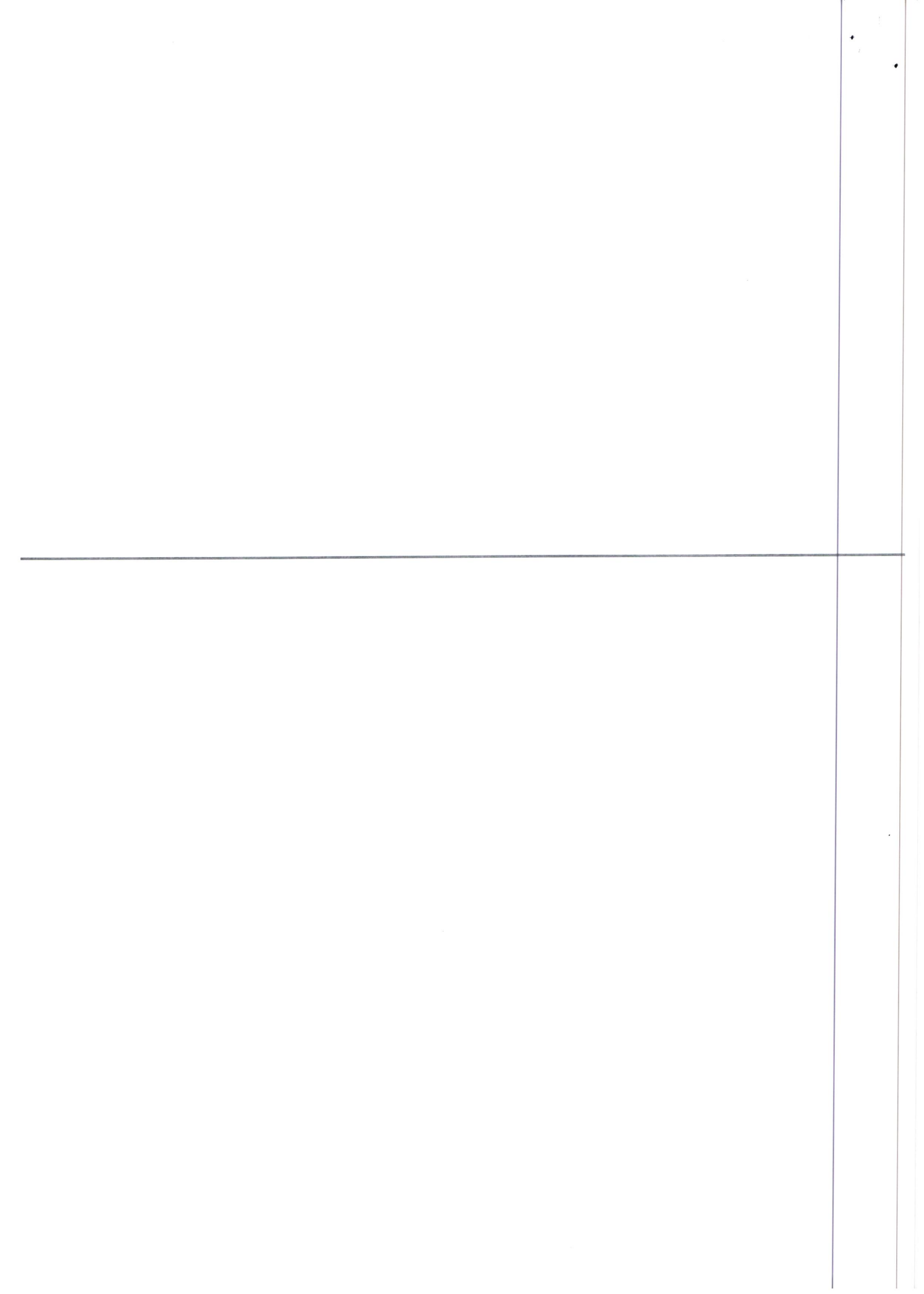
1. These Rules may be cited as the Traffic (Amendment) (No. 3) Rules, 2017. Citation.

2. Part I of the First Schedule to the Traffic Rules is amended in the section entitled "Miscellaneous" by deleting the rows relating to section 7 and section 17 (3) of the Act and substituting therefore the following new rows— Sub. Leg.

s. 7 Inspection of motorcycles	1,300
Inspection of three-wheelers and vehicles with engine capacities of up to 3,000 c.c.	2,600
Inspection of vehicles with engine capacities of over 3,000 c.c.	3,900
Inspection of trailers weighing up to 5 tonnes	2,000
Inspection of trailers weighing over 5 tonnes	4,600
Inspection of heavy commercial vehicles weighing over 5 tonnes	4,600

Dated the 19th December, 2017.

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



## EXPLANATORY MEMORANDUM

### EXPLANATORY MEMORANDUM TO THE TRAFFIC (AMENDMENT) (NO3) RULES, 2017

**Name of the Statutory Instrument:** The Traffic (Amendment) (No3) Rules, 2017

**Name of the Parent Act:** The Traffic Act

**Enacted Pursuant to:** Section 119 of The Traffic Act.

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

**Gazetted on** 19<sup>th</sup> December 2017

**Tabled on**

#### PART II

##### 1. Purpose of the statutory instrument

To review the applicable motor vehicle inspection fees which were last reviewed 24 years ago in 1994.

##### 2. Legislative Context

The statutory instrument in question seeks to review the inspection fees charged. Currently the fee applicable is kshs 1,000 regardless of the size of the vehicle meaning that a trailer and a pick up are charged the same. This is not sustainable or practical. There is need to differentiate and review the fees which were last reviewed in 1994 and there is need for the review so as to maintain and modernize the existing centers which are in a deplorable state.

##### 3. Policy Background

The amendment seeks to review the inspection fees charged from Kshs 1,000 to various fees depending on the size of the vehicle. This review is intended to support the rehabilitation and maintenance of motor vehicle inspection centers whose ultimate purpose is to ensure that the vehicles on our roads are roadworthy thereby reducing road fatalities attributable to un-roadworthy vehicles.

#### **4. Consultation outcome**

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 rules.

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 rules shall have no fundamental effect to rights and freedoms.

5.2 The regulations will help streamline the motor vehicle fees charged.

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#### **6. Monitoring and review**

6.1 The success criteria of this regulation will be the rehabilitation and modernization of the motor vehicle inspection centres and a reduction in the number of road fatalities attributable to un-roadworthy vehicles.

7.1 Francis Meja, Director General NTSA.  
[Francis.meja@ntsa.go.ke](mailto:Francis.meja@ntsa.go.ke)  
0722 774696