

(Legislative Supplement No. 45)

LEGAL NOTICE NO. 138

THE TRAFFIC ACT

(Cap. 403)

IN EXERCISE of the powers conferred by section 119 (1) of the Traffic Act, the Minister for Transport makes the following Rules:—

THE TRAFFIC (BREATHYLSER) RULES, 2011

1. These Rules may be cited as the Traffic (Breathylser) Rules, 2011.

Citation.

2. In these Rules, unless the context otherwise requires—

Interpretation.

“blood alcohol concentration” means the concentration of alcohol in a person’s blood measured in terms of mass per volume as may be expressed in different units and notations from time to time for the purposes of measurement of intoxication;

“breathalyser” means a device of a type approved by the Minister on the advice of the Kenya Bureau of Standards for measuring the proportion of alcohol in a person’s blood from a specimen of breath provided by the person;

“breath test” means a test for the purpose of obtaining an indication of the proportion of alcohol in a person’s breath carried out by a breathalyzer;

“driving under the influence” means driving while intoxicated, drunk driving, drinking and driving or the act of operating or taking control of a motor vehicle after having consumed alcohol, or other drugs to a degree beyond the prescribed limit;

“drug” includes intoxicant other than alcohol;

“drunk driving” means driving, operating, attempting to operate or taking control of a motor vehicle while under the influence of an alcoholic drink or a drug to such an extent as to be incapable of having proper control of the vehicle”;

“fail” includes ‘refuse’;

“prescribed limit” means, as the case may require—

- (a) 35 microgrammes of alcohol in 100 millilitres of breath,
- (b) 80 milligrammes of alcohol in 100 milliteres of blood, or
- (c) 107 milligrammes of alcohol in 100 milliteres of urine,

Alcohol prohibition.

3. (1) No person shall drive, attempt to drive or be in charge of a motor vehicle on a road or other public place if the person has consumed alcohol in such quantity that the blood alcohol concentration in his body is beyond the prescribed limit.

(2) A person who contravenes sub-rule (1) commits an offence under section 44 (1) and 45 of the Act.

Breath Tests.

4 (1) Where a police officer in uniform has reasonable cause to suspect that a person driving or attempting to drive or who is in charge of a motor vehicle on a road or other public place—

(a) has committed a traffic offence whilst the vehicle was in motion; or

(b) appears to have consumed alcohol, or is likely to have alcohol in his body,

the police officer may require the person to provide a specimen of breath for a breath test.

(2) A specimen shall be deemed sufficient for purposes of sub rule (1) where—

(a) it is sufficient to enable the test or the analysis to be carried out, and

(b) is provided in such a way as to facilitate the achievement of the objective of the test or analysis.

(3) If an accident occurs owing to the presence of a motor vehicle on a road or other public place, a police officer may require the person whom he has reasonable cause to believe was driving or attempting to drive or was in charge of the vehicle at the time of the accident to provide a specimen of breath for a breath test.

(4) The specimen of breath under sub rule (3) may be provided at the scene of the accident or at a police station specified by the police officer or at any other place that the police officer making the requirement thinks fit.

(5) The police officer shall carry out in the first instance a preliminary breath test using a breathalyser to allow the police officer to make a decision based on the result of the preliminary breath test as to whether or not the driver suspected of drink driving should be taken off the road or arrested.

Made on the 27th September, 2011.

AMOS KIMUNYA,
Minister for Transport.

LEGAL NOTICE NO. 139

THE TRAFFIC ACT

(Cap. 403)

IN EXERCISE of the powers conferred by section 119 (1) of the Traffic Act, the Minister for Transport makes the following Rules:—

THE TRAFFIC (SPEED LIMITS) (AMENDMENT) RULES, 2011

1. These Rules may be cited as the Traffic (Speed Limits) (Amendment) Rules, 2011.

2. The Traffic (Speed Limits) Rules (hereinafter referred to as the principal Rules) are amended by inserting the following new Rule immediately after Rule 1—

“1 A. In these Rules unless the context otherwise requires—

“speed camera” means a special gadget that calculates the time taken by a vehicle to travel over a set distance to work out the speed.”

3. The principal Rules are amended by inserting the following new Rule immediately after Rule 3—

“3A. (1) A police officer in uniform may use a speed camera for purposes of determining, recording or storing the digital image of the speed of any motor vehicle.

(2) Subject to section 42 of the Act, the speed camera records shall be admissible when produced in court in respect to a traffic offence under these Rules.

Made on the 26th September, 2011.

AMOS KIMUNYA,
Minister for Transport.

LEGAL NOTICE NO. 140

THE TRAFFIC ACT

(Cap. 403)

IN EXERCISE of the powers conferred by section 119 (1) of the Traffic Act, the Minister for Transport makes the following Rules:—

THE TRAFFIC (SIGNS) (AMENDMENT) RULES, 2011

1. These Rules may be cited as the Traffic (Signs) (Amendment) Rules, 2011, and shall come into operation within thirty days after publication.

2. The Traffic (Signs) Rules are amended by inserting the following new Rule immediately after Rule 22—

“22A (1) All motor vehicles, whether registered in Kenya or in another country shall, when being driven in any part of Kenya be equipped with two red reflecting warning triangle signs of such constructions and dimensions as may be prescribed.

(2) A red reflecting warning triangle sign under Rule 22 A(1) shall be displayed to a police officer in uniform upon request.

Made on the 27th September, 2011.

AMOS KIMUNYA,
Minister for Transport.