# PROPOSED AMENDMENT TO THE ROAD MAINTENANCE LEVY FUND ACT

The Roads Maintenance Levy Fund Act No. 9 of 1993 (Cap 427) (**RMLF Act**) is a pivotal legislation in Kenya, aiming to ensure sustainable funding for road maintenance. This Act empowers the Cabinet Secretary for Public Works or Roads and Transport, in consultation with the Cabinet Secretary for National Treasury, to impose a levy on petroleum fuels used within Kenya. This levy is periodically adjusted through Orders published in the Gazette.

A notable provision is the allocation of three shillings per litre of petroleum to fund the construction of roads under the Roads Annuity Programme (**RAP**) and similar roads approved by the National Assembly.

## Proposed Amendment

The Ministry of Roads and Transport, in consultation with the National Treasury, proposes to amend the Road Maintenance Levy Fund Act, 1993, by **increasing the levy by Kshs 7.00, from Kshs 18.00 to Kshs 25.00 per litre of petrol and diesel**. This adjustment comes after the last review in July 2016.

### Reasons for the Proposed Increase

1. **Increased Cost of Road Maintenance:** Inflation and other macroeconomic factors have driven up road maintenance costs by approximately 50% since the last review of the levy.
2. **Expansion of the Road Network:** Over the past decade, Kenya's road network has expanded significantly, from 161,451 km in 2016 to 239,122 km, necessitating more funds for maintenance.
3. **Increase in Fuel Prices:** Fuel import costs have risen, doubling local fuel pump prices since 2016. Consequently, the real value of the Road Maintenance Levy Fund (RMLF) rate has diminished, effectively reducing from 64% to 16% in comparison to fuel import prices.
4. **Funding Deficit for KeRRA Roads Maintenance:** The current 32% allocation of the RMLF to the Kenya Rural Roads Authority (KeRRA) is distributed equally among the 290 constituencies, which leaves inadequate funds for maintaining paved KeRRA roads.

## Proposed Amendment to the Road Annuity Fund Allocation

Given the ambitious goal of improving 10,000 km of roads under the Roads Annuity Program (RAP) launched in June 2014 by former President H.E. Uhuru Kenyatta, the current allocation of three shillings per litre from the Road Maintenance Levy is insufficient. The proposed increase to the levy should include a necessary adjustment in the allocation to the Road Annuity Fund. Here are the three main reasons for this proposed allocation:

1. **Inadequate Initial Allocation:** The Finance Act, 2022, amended the RMLF Act to allocate Kshs 3 per litre of petroleum sold to both the Roads Annuity Fund and other roads approved by Parliament. This essentially means the amount allocated to the fund is less than what was originally envisioned for the Roads Annuity Fund alone.

2. **Outdated Allocation Amount:** The original Kshs 3 allocation was established by the Finance Act No. 14 of 2015, almost nine years ago. Given the lapse of time, it is necessary to adjust this allocation to reflect current economic conditions and funding needs.

3. **Ambitious Infrastructure Goals:** The RAP's objective of improving 10,000 km of roads requires substantial and reliable funding. The current three shillings per litre allocation is insufficient to meet these goals, making a higher allocation essential for the program's success.

The Roads Annuity Fund enhances the bankability of Public-Private Partnership (PPP) projects to both investors and financiers as the amounts are ring-fenced. PPPs are an alternative method for financing new development or upgrading of infrastructure. As an alternative to public finance, PPPs may accelerate infrastructure development by sourcing funds from the private partner (in the form of equity plus debt, raised by the sponsors through the PPP vehicle), instead of relying on the government budget. Increasing the allocation to the Roads Annuity Fund makes PPP projects more attractive to private investors and financiers. Ring-fencing funds ensures predictability and stability in project financing, reducing risk premiums and lowering overall project costs.

The higher levy allocation to the Roads Annuity Fund will not only address the increased maintenance costs and the expansion of the road network but also ensure that the Roads Annuity Fund receives adequate funding. This will help sustain the RAP's objectives, including enhancing national integration, improving security through better connectivity, reducing urban congestion, and fostering economic growth by making Kenya a low-cost investment and trading destination.

**Upsides to the Proposed Amendment of the RMLF Act**

- **Sustaining Road Quality:** The increased levy will provide the necessary funds to maintain and improve the quality of Kenya's extensive and growing road network.
- **Economic Efficiency:** Properly maintained roads reduce vehicle operating costs and enhance the overall efficiency of transportation, benefiting the economy.
- **Addressing Inflation:** Adjusting the levy in line with inflation ensures that the funding for road maintenance remains adequate despite rising costs.

**Downsides of the Proposed Amendment of the RMLF Act**

- **Economic Burden:** Higher fuel costs due to the increased levy may strain consumers, particularly in a period of already high living costs.
- **Inflationary Pressure:** An increase in fuel prices can have a cascading effect, raising the cost of goods and services across the economy.
- **Equity Concerns:** The uniform increase may disproportionately impact lower-income households and small businesses that are more sensitive to changes in fuel prices.

**Call for Public Participation**

Pursuant to Article 10 of the Constitution of Kenya on public participation, the Ministry invites members of the public and stakeholders to various public participation forums to be conducted on Monday, 8th July 2024, from 9:00 a.m. to 5:00 p.m.

Written memoranda/comments may be submitted via email to magumbi@krb.go.ke or hand-delivered to the Director General, Kenya Roads Board, Kenya Re Towers, 6th Floor, Upperhill, Nairobi, and all Regional Offices indicated above. Submissions should be received by Friday, 5th July 2024, at 5:00 p.m.