

Understanding Road Traffic Laws (The Law, your Rights and the Legal Defences)

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According to the 2020 Road Safety Policy Guidelines for Government Ministries, Departments and Agencies (MDAs) In Kenya to Support Road Safety Mainstreaming, road traffic injuries are among the ten leading causes of death worldwide, causing more than 1.35 million deaths a year. With such alarming statistics, there is a concerted effort by the government of Kenya to curb traffic violations and ultimately eradicate road traffic accidents. As part of the effort, on March 9 (2026), the National Transport and Safety Authority notified the general public that the Instant Fines Traffic Management System (IFTMS) had been rolled out and was live (<https://www.youtube.com/watch?v=fLZww44XBCQ&pp=ygU7TEFVTkNISU5HIE9GIEluc3RhbnQgRmluZX MgVHJhZmZpYyBNYW5hZ2VtZW50IFN5c3RlbnSAoSUZNUyk%3D>)

With the roll out of the IFTMS, the need for understanding—specifically what the law proscribes as a traffic offence—is crucial for transforming obedience to the traffic laws from a burdensome obligation into a heart-driven desire. This, we believe, allows you to grasp the intent behind the laws, viewing them not as mere restrictions, but as pathways to deeper integration into the concerted effort by the government to eradicate road traffic accidents.

1. What Are Traffic Offences?

Traffic offences are violations of road traffic laws and regulations.

The Traffic Act (Chapter 403 Laws of Kenya) categorises road traffic offences into 3:

- a. **Minor offences:** These are offences which are punishable by fine only, under the Traffic Act (<https://new.kenyalaw.org/akn/ke/act/1953/39/eng@2024-04-26>) and the Traffic (Minor Offences) Rules, 2016 (<https://new.kenyalaw.org/akn/ke/act/ln/2016/161/eng@2022-12-31>). They include **speeding, failure to wear a seatbelt, defective lights, driver using a mobile phone while vehicle is in motion, owner or operator of PSV employing an unlicensed PSV driver or conductor**, among others.
- b. **Serious offences:** these are grave violations of road traffic laws that endanger lives, cause serious injuries, or lead to major property damage. They include **driving without due care and attention, causing death by driving or obstruction, driving on pavement, pedestrian walkway etc, reckless or dangerous driving** and **driving under the influence**. If found in violation, you can be ordered to serve a prison term and/or pay a fine.
- c. **Administrative offences:** These are mostly non-criminal violations of traffic laws that are mainly enforced through administrative penalties rather than prosecution in criminal courts. They are designed to promote road safety, order and compliance, not to punish criminal intent. They include offences such as **driving without a valid licence, expired insurance, or failure to comply with inspection requirements**.

2. Your Rights as a Road User

Every road user enjoys legal rights when stopped, questioned, or charged with a traffic offence. Noteworthy is that all the rights accorded under the Constitution apply accordingly. For instance, you have the right to be informed of the offence alleged to have been committed, remain silent and not incriminate yourself, see evidence supporting the charge (e.g. speed readings, inspection reports), the right to seek legal representation if the offence is punishable by imprisonment, and the right to a fair hearing before an independent and impartial court.

The 2017 National Council on the Administration of Justice, *Guidelines on Handling of Traffic Matters* directs police officers and courts when handling traffic offences to abide by the following:

- i. No traffic offender should be held by the police for offences punishable by a fine only or by imprisonment for a term not exceeding six months.
- ii. No accused persons in traffic cases should be locked up in cells without first being granted time, place and adequate facilities to pay fines or bail.

- iii. Traffic courts should process payment of traffic fines in open court.
- iv. Traffic courts should release, on reasonable bail or bond conditions pending charge or trial, all traffic offenders, and the process should be fast-tracked.
- v. A suspected offender should be issued with Court Summons or a Notification to Attend Court (NTAC) on a convenient date within seven days, and the Notice should state the charge(s) and indicate the maximum penalty.
- vi. Before plea is taken, the Magistrate should ensure that any cash bail collected by the Police from the suspect/accused is available in Court.
- vii. The offender must remit to court the maximum amount payable for the offence (s) cited if he or she opts to plead guilty in writing upon issuance of the NTAC.
- viii. Committal warrant for prison custody should only be issued if the offender is unable to pay the fine/cash bail after reasonable time and facilities.
- ix. If the offender does not attend court, the cash bail should be forfeited and a Warrant of Arrest issued.

Needless to say, traffic police officers are only to arrest offenders and/or detain offending vehicles in serious offences such as causing death by dangerous driving, driving under the influence of alcohol, driving a vehicle without insurance and speeding.

3. Penalties for Traffic Offences

Penalties for traffic offences vary depending on their gravity and the circumstances of each case. Common penalties include **fines**, **suspension or cancellation of a licence**, and **impoundment of a vehicle**. In serious cases resulting to injury or loss of life, courts impose **custodial sentences**. When determining sentence, courts often consider aggravating and mitigating factors such as prior convictions, the manner in which the offence was committed, and whether the offender shows remorse or takes responsibility.

4. Legal Defences to Traffic Charges

Being charged with a traffic offence does not automatically mean guilt. The law places the burden on the prosecution to prove the case beyond reasonable doubt. A defendant may raise several legal defences, including **lack of sufficient evidence**, **procedural or constitutional violations during arrest**, or **reliance on defective or uncalibrated enforcement equipment**. In some cases, **necessity or emergency** may justify the conduct complained of, but does not amount to a defence.

5. Conclusion

Traffic offences carry consequences that go beyond fines; they can affect your freedom, livelihood, and driving privileges. Understanding the law empowers you to respond appropriately and lawfully. Where uncertainty arises, especially in serious or disputed matters, consulting a qualified legal practitioner remains the surest way to safeguard your interests and ensure justice is done.

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