

**FOR THE EXTRAORDINARY GAZETTE ISSUE OF
THE KHYBER PAKHTUNKHWA**

**PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA**

NOTIFICATION

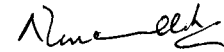
Dated Peshawar, the 24/10/2016.

No.PA/Khyber Pakhtunkhwa/Bills/2016/ 11392 The Khyber Pakhtunkhwa Urban Mass Transit Bill, 2016 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 17th October, 2016 and assented to by the Governor of the Khyber Pakhtunkhwa on 19th October, 2016 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA URBAN MASS TRANSIT ACT, 2016
(KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2016)**

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa. (Extraordinary), dated the /10/2016).

(Here print as in the accompaniment).



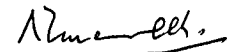
SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa.

No. and date (as per notification above).

A copy of the above notification with the accompaniment is forwarded to the Manager, Government Stationery and Printing Department, Peshawar, with the request to publish the same in the extraordinary issue of the Khyber Pakhtunkhwa Government Gazette of today's date and distribute copies thereof immediately in accordance with the list given overleaf.

Proof should be sent to this Secretariat before publication.



SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

E.No. PA/Khyber Pakhtunkhwa/Bills/2016/ 11393-97 Dated 24/10/2016

A copy of the above is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Secretary to Government of Khyber Pakhtunkhwa, Transport Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department.
4. The Director Information, Khyber Pakhtunkhwa.
- 5. The Director I.T/ Special Secretary Provincial Assembly of Khyber Pakhtunkhwa.



SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

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2.	The Secretary to Government of Khyber Pakhtunkhwa Transport Department.	5
3.	The Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department.	10

AN
ACT

to provide for the planning, establishment, regulation and management of modern and sustainable mass transit and complementary urban mobility systems in the Province of the Khyber Pakhtunkhwa

WHEREAS it is expedient and necessary to establish the Khyber Pakhtunkhwa Urban Mobility Authority and to empower it for the purpose of planning, establishing, co-ordinating and regulating mass transit system and supporting systems and Urban Transport Companies for co-ordinating, constructing, developing, operating, maintaining and carrying out all ancillary functions thereto for providing safe, efficient, comfortable, affordable, sustainable and reliable forms of mass transit system and supporting systems and to make provisions for matters connected herewith or incidental thereto.

It is hereby enacted as follows:

**Chapter-I
Preliminary**

1. **Short title, extent and commencement.**--- (1) This Act may be called the Khyber Pakhtunkhwa Urban Mass Transit Act, 2016.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. **Definitions.**--- In this Act, unless the context provides otherwise-

- (a) "area of responsibility" means the area of responsibility, as notified by Government, from time to time, under this Act;
- (b) "asset" means the property owned, either by the Authority or by the Urban Transport Company, as the case may be;
- (c) "Authority" means the Khyber Pakhtunkhwa Urban Mobility Authority, established under section 3 of this Act;
- (d) "authorized vehicle" means a vehicle authorized by the Authority to be operated in the mass transit area;
- (e) "Board" means the Board of Directors, constituted under section 6 of this Act;
- (f) "building" means a building or any part thereof, together with all fixtures and fittings and its subterranean structure relating to mass transit system;
- (g) "Chairman" means the Chairman of the Board;
- (h) "closed area" means any part of the mass transit system, excluding the area where the ticket counters are installed, which may not be accessed by a member of the public without possession of a valid ticket;
- (i) "declared project" means a project notified by the Authority as part of an approved public transport or urban mobility plan strategy or roadmap which has been approved by Government for financing and implementation in accordance with sections 4 and 5 of this Act;

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Govt. of Khyber Pakhtunkhwa
Law Department

- (j) "fare" means the amount specified by the Authority, from time to time, to be charged for a journey from a passengers through a mandatory ticketing system, e-ticketing system or any fare collection mechanism, as the case may be;
- (k) "Government" means the Government of the Province of the Khyber Pakhtunkhwa;
- (l) "land" means and includes,-
- (i) land of any texture and so much of the space above the surface as may be reasonably used or enjoyed by an owner thereof and all substances under the surface, whether or not held apart from the surface; and
- (ii) the whole or part of the building;
- (m) "Managing Director" means the Managing Director of the Authority;
- (n) "mass transit area" means an area to be served or operated by mass transit system, as may be notified by Government, from time to time;
- (o) "mass transit system" means the sustainable mass transit and complementary urban mobility and public transport system meant for movement of passengers from one place to other within the mass transit area;
- (p) "member" means a member of the Board including the Chairman;
- (q) "member register of interest" means a written schedule containing the direct and indirect interests held by a Board member in private commercial enterprises or publically listed companies in such a way that any decision made by the member at a Board meeting or during the course of normal business of the Authority or the Urban Transport Company constituted under the provisions of this Act, does not contravene to the interest of Government, the Authority or the Urban Transport Company;
- (r) "motor vehicle" means the motor vehicle as defined in the Motor Vehicles Ordinance, 1965 (Ord No XIX of 1965);
- (s) "passenger" means any person travelling on mass transit system having a valid ticket;
- (t) "prescribed" means prescribed by rules or regulations;
- (u) "property" means any movable or immovable property of the Authority or the Urban Transport Company, as the case may be, which also includes,-
- (i) any right, interest, title, claim, chose-in-action, power, privilege, whether present or future and whether vested or contingent, in relation to any property; and
- (ii) any conveyance executed for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of immoveable property,
- (v) "public transport vehicle" means and includes buses, trains, light rail, monorail and other vehicles, designed for the carriage of

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passengers, as may be required for a declared project and mass transit area;

- (w) "regulations" mean the regulations made under this Act;
- (x) "rules" mean rules made under this Act;
- (y) "Urban Transport Company" means the Urban Transport Company, established under section 30 of this Act; and
- (z) "value capture" means such additional Federal Government, Government or local governments, as the case may be, revenue streams as generated by the direct or indirect result of the presence of a declared project, in whole or in part thereof.

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Chapter-II Establishment of the Authority

3. **Establishment of the Authority.**---(1) Soon after the commencement of this Act, Government shall establish an Authority to be known as the Khyber Pakhtunkhwa Urban Mobility Authority.

(2) The Authority shall be a body corporate having perpetual succession and a common seal and shall by its name sue or be sued.

4. **Powers and functions of the Authority.**---(1) The Authority shall exercise such powers and perform such functions as may be assigned to it by Government, from time to time, for the establishment and regulation of mass transit system.

(2) Without prejudice to the generality of the foregoing powers and functions, the Authority may-

- (a) exercise the jurisdiction over public transport vehicle and route permits within the area of responsibility;
- (b) develop the urban transport policies based on quantitative assessments of need and in accordance with international best practice having regard to local conditions;
- (c) prepare a road map for a period of five years, plans, strategies, documentation of investment projects in sufficient detail into declared project status for the approval of Government which shall be evidence based, reflect sound technical analysis, report on achievements during the previous five years, propose sustainable sector targets for the next five years, establish Government annual investment priorities for the sector and other items as required by Government within the ambit of this Act;
- (d) arrange studies, surveys, experiments and technical research, financially and environmentally sustainable urban transport plans with respect to mass transit system and ancillary matters to be made or undertaken and contribute towards the cost of such studies, surveys, experiments or technical research made or undertaken by any other agency, authority, private body or Departments of Government, as the case may be;

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- (e) change or divert and cause to be implemented various transport routes, structures or alignment and take such steps as may be necessary or useful in the construction and reconstruction, repair, maintenance and operation of mass transit system and other modes of transportation as may be relevant;
- (f) assist and make recommendations to the concerned agencies to ensure traffic discipline for all the public transport vehicles as it may consider necessary;
- (g) devise and implement the policies aimed at ensuring that public transport vehicles used for mass transit system to meet the required safety and quality standards;
- (h) seek and obtain advice and assistance from Government or any agencies within or outside the Province for the preparation and execution of an urban transport plan, strategy, roadmap or project connected with its function and purpose;
- (i) examine the plans for all land use master plans, schemes and projects primarily related to infrastructure and land use but not limited to that initiated by any Department or authority of Government, as to ensure their compatibility, suitability and sustainability with present and future mass transit systems, schemes and projects. In this respect, the Authority shall assist the relevant Departments of Government to the extent of mass transit systems, planning and infrastructure and issue no objection certificates for the master plans in accordance with long term plans, strategies, roadmaps and projects pertaining to mass transit systems;
- (j) assign the implementation, operation, management and maintenance of a declared project to an Urban Transport Company;
- (k) assign a declared project to an Urban Transport Company, which shall be upon formal notification signed by the Chairman, and five members, one of which shall be the Secretary to Government, Finance Department, and containing the common seal of the Authority;
- (l) maintain the currency of the assigned declared project until such time as Government directs or on the basis of evidence submitted by the Authority that the Urban Transport Company is unable to fulfill its obligations in respect of the assigned declared project, the assignment for that declared project be withdrawn and responsibility for that declared project be over handed to the Authority or another Urban Transport Company;
- (m) issue accreditation certificate to the contractor, engineer and other officials and officers engaged in the construction of mass transit system.

- Legal Officer*
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Law Department
- (n) ensure safe, secure and clean mass transit system and the effective protection of its right of way and property, including co-ordination with Government to depute security personnel, police, including traffic police to maintain traffic in an orderly condition on the mass transit area;
 - (o) acquire, hold and dispose of all assets in accordance with legal procedure and provisions of this Act;
 - (p) regulate the charges relevant to its functions, including prescribing of fares and fines for any violation under this Act, in respect of all forms of vehicles, including public transport vehicles, within its area of responsibility;
 - (q) giving directions to any person or entity to desist from operation and competing mass transit system, transport system or services or interfere with the operations of declared projects which fall within the ambit of this Act;
 - (r) establish and maintain effective third party oversight of declared project mechanisms;
 - (s) arrange training to the employees of the Authority, as may be specified by Government, from time to time;
 - (t) provide for the general awareness of the public on plans and actions of the Authority, including maintenance of a functioning and responsive customer comment or complaints facility for the receipt of input from passengers and the general public by mobile, internet or hard copy, as the case may be;
 - (u) incur any expenditure for carrying out its responsibilities within the allocated budget;
 - (v) submit its report to Government on annual basis about the performance of various sectors engaged by the Urban Transport Company, in accordance with pre-agreed key policy performance indicators covering mode share, financial, social, environmental, safety, security, public perceptions or feedback, other items as Government may require;
 - (w) enter into contracts, acquire, purchase, take, hold and enjoy the property of every description and convey, assign, surrender, yield up, charge, mortgage, reassign, transfer or otherwise dispose of or deal with it, upon such terms as it may deem fit; and
 - (x) perform any other function, as may be assigned to it by Government.

5. **Area of responsibility.**---(1) Notwithstanding anything contained in section 45 of the Motor Vehicles Ordinance, 1965 (Ord: No. XIX of 1965), the Authority shall have the sole jurisdiction in relation to public transport vehicles, motor vehicles and authorized vehicles which are allowed to be operated in the mass transit area, its route permits and matters ancillary thereto. The Authority shall be empowered to exercise all or any of the functions of the Provincial Transport Authority or the Regional Transport Authority, as the case may be, as specified in the Motor Vehicles Ordinance, 1965 (Ord No. XIX of 1965), within the mass transit area.

(2) The Authority shall work in co-ordination with the relevant Departments of Government, Federal Government or with the relevant constituent bodies, as the case may be, where it is necessary to achieve its objectives and where its actions and decisions, pursuant to this Act, shall have an impact on them. Where a mass transit plan, strategy, roadmap or project in whole or in part, falls within the jurisdiction of another Government agency or body or local governments, as the case may be, to the extent that such agency or body shall not unreasonably impede or hinder such mass transit plan, strategy, roadmap or project.

(3) In the event of any dispute, arises between the Authority and the relevant Department of Government or a constituent body or local governments, as the case may be, such dispute shall be referred to the Chief Secretary for resolution. The decision so passed by the Chief Secretary, in this regard, shall be final.

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Govt. of Khyber Pakhtunkhwa
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Chapter-III Management and Operation of the Authority

6. The Board.---(1) There shall be a Board, to be known as the Board of Directors. The general direction and administration of the Authority and its affairs shall vest with the Board, which shall exercise all powers and do all acts and things which may be exercised and performed by the Authority. The Board shall consist of-

- | | | |
|--------|--|----------------------|
| (i) | Chief Minister, Khyber Pakhtunkhwa; | Chairman |
| (ii) | Minister for Transport and Mass Transit, Khyber Pakhtunkhwa; | Co-Chairman |
| (iii) | Additional Chief Secretary, to Government Planning and Development Department; | Member |
| (iv) | Secretary to Government Local Government, Elections and Rural Development Department; | Member |
| (v) | Secretary to Government Transport and Mass Transit Department; | Member |
| (vi) | Secretary to Government Finance Department; | Member |
| (vii) | Cantonment Executive Officer of the concerned Cantonment Board; | Member |
| (viii) | Deputy Inspector General (Traffic Police) of the concerned district; | Member |
| (ix) | three Members of Provincial Assembly, including at least one female member to be nominated by the Speaker, Provincial Assembly; | Member |
| (x) | three eminent persons, including at least one female, one from civil society and two from corporate sector, to be nominated by the Chairman in consultation with the Secretary, Transport and Mass Transit Department; | Member |
| (xi) | a technical expert (transport) from private sector, to be nominated by the Secretary, Transport and Mass Transit Department; and | Member |
| (xii) | The Managing Director. | Member-cum-secretary |

7/16 (9)

(2) The Board may co-opt person from any Government agency, body or authority dealing with the urban transport, urban planning and policy areas and on matters requiring specialized skills and knowledge, to assist the Board with its ongoing functions. Such co-opted members shall have no right of vote.

(3) The term of office of the non-official members shall be three years unless resigned or removed by Government earlier.

(4) Upon expiry of the term of office, the non-official members shall be eligible for re-appointment for another term of three years.

(5) Any non-official member, appointed in a casual vacancy shall hold office for the unexpired portion of the term of the vacancy only.

(6) No act or proceedings of the Board shall be invalid merely on the grounds of the existence of a vacancy or any defect in the constitution thereof.

(7) Any non-official member may, at any time, give notice of intention of his resignation from the Board to Government and such resignation shall become effective upon acceptance by Government.

(8) The non-official members as well as any co-opted member, if any, may receive remuneration as determined by the Authority and shall perform the duties required of them as part of the normal duties as required by the Board to ensure implementation of the policies of the Authority in accordance with sections 4 and 5 of this Act.

(9) Each member shall provide to Government an affidavit with regard to his direct or indirect non-involvement in the interest of any company or commercial enterprises, in relation to the affairs of the Authority or the Urban Transport Company, in any manner, as the case may be.

(10) No member shall personally be liable for any contract made or expenditure incurred by or on behalf of the Authority, unless it involves gross negligence and misconduct or the same has not been done in accordance with the law, the approved procedures, guidelines or operating manuals of the Authority, issued from time to time.

(11) The non-official members shall, at the time of their appointment as well as at the end of every financial year, declare their assets by submitting the assets declaration to Government, which shall be confirmed by Government, as correctly representing the sum of assets held by them.

(12) Government may, by notification in the official Gazette, remove or replace any non-official member if such member-

- (a) refuses or fails to discharge or becomes, in the opinion of Government, incapable of discharging his responsibilities as entrusted to him under this Act; or
- (b) has been declared insolvent; or
- (c) has knowingly acquired or continues to hold without due permission in writing of Government, directly or indirectly any share or interest in any contract or employment in the Authority or the Urban Transport Company or on behalf of the Authority; or
- (d) fails to provide to a Government within thirty (30) days of any changes either acquisition or devolution to the register of interest held by that member which is required to be included in the register of interest; or

- (e) absents himself from any two consecutive meetings of the Board, without leave of absence.

7. **The Managing Director.**---(1) There shall be a Managing Director of the Authority, having such qualification and shall be appointed by Government on such terms and conditions, as may be prescribed.

(2) The Managing Director shall be the Chief Executive Officer as well as the Principal Accounting Officer of the Authority and shall be the whole time officer of the Authority.

(3) The term of office of the Managing Director shall be three years and shall be eligible for re-appointment for another term of three years or for a shorter term, as Government may determine.

(4) The Managing Director shall attend all meetings of the Board and shall be answerable to the Board for strategic and policy deliverables.

(5) All orders, decisions and other instruments of the Authority shall be authenticated by the signature of the Managing Director and in his absence by any officer of the Authority, authorized by the Board in this behalf.

(6) The Managing Director shall be responsible for the overall administration and operation of the Authority and he shall-

- (a) be responsible for overseeing and implementing, in expeditious and efficient manner, the decisions taken or schemes approved by the Board;
- (b) have the authority to exercise administrative control over the personnel of the Authority and exercise such administrative authority as may be entrusted by the Board;
- (c) prepare and submit the annual budget proposal to the Board for approval;
- (d) prepare the annual report of the Authority for submission to the Board;
- (e) act on behalf of the Authority in an emergency, subject to the obligations to report such actions to the Board and at its next meeting and if necessary the ratification of the Board, regarding any action taken; and
- (f) perform such duties and exercise such powers as may be assigned or delegated to him by the Board from time to time.

8. **Restricted usage of roads.**---The Authority or the Urban Transport Company, in consultation with the Authority, may prohibit or restrict either permanently or temporarily the taking of any class of vehicles or animals or the movement of pedestrians over mass transit area, if such prohibition or restriction is, in the opinion of the Authority, necessary for the safety of the public, mass transit system, authorized vehicles, motor vehicles or public transport vehicles to ply on the mass transit area.

9. **Internal controls.**---(1) The Authority shall ensure the establishment and currency in perpetuity of a proper system of internal control, consisting of such policies and procedures to be adopted by the Authority, to assist in achieving the objectives of this Act and for ensuring, as far as practicable, the orderly and efficient conduct of its activities, including adherence to the policies, the safeguarding of assets, the prevention

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Law Department

and detection of fraud and error, the accuracy and completeness of the accounting records and the timely preparation of reliable financial and operational information.

(2) The Authority shall ensure the establishment of adequate and appropriate systems of internal control of the Urban Transport Company or person engaged by the Authority or the Urban Transport Company for the implementation, management, monitoring and maintenance of declared projects or any activity associated with such projects as are required by the Authority, from time to time. For assistance in this process, the Authority, as it deems appropriate, shall issue guidelines or operating manuals for elaboration of various matters under this Act.

10. **Transfer of properties and assets.**--- Government may, by notification in the official Gazette, subject to the provisions of this Act and terms and conditions as may be determined by Government, from time to time, transfer the ownership of any road or part thereof, station, depot, corridor, rail track or any ancillary facilities or structures to the Authority for carrying out the purposes of this Act. Existing properties and assets of Government, pertaining solely to mass transit systems, shall be transferred to the Authority.

11. **Appeal.**---(1) Any person, agency, organization or entity, as the case may be, aggrieved by the order of an Urban Transport Company, may, within thirty days, after passing of such order, file an appeal before the appellate committee, constituted by the Authority. The number of the members of the appellate committee and its procedure for disposing of appeals shall be such as may be prescribed by the Authority.

(2) No order, during appeal proceedings, shall be passed by the appellate committee, without giving an opportunity of being heard to the aggrieved person, agency, organization or entity, as the case may be.

(3) The appellate committee shall, after receiving the appeal, under subsection(1), dispose of such appeal within a period of ninety days:

Provided that the decision of the appellate committee shall not be rendered invalid by reason of any delay in its delivery:

Provided further that the appellate committee shall record the reasons for not delivering the appeal within the specified time.

12. **Appointment of Collector etc.**---(1) Government shall appoint such number of officers, who shall act as Collectors for the purpose of recovering any amount, including fines, compensations or payments due to any person, agency, organization or entity, as the case may be, for which they are liable to be paid to the Authority, under the Land Revenue Act, 1967 (Act No. XVII of 1967) and Recovery of Government Dues Ordinance, 1962 (West Pakistan Ordinance No. XXII of 1962)..

(2) The qualifications, terms and conditions and jobs descriptions of such officers shall be, as may be prescribed by Government.

Chapter-IV The Fund

13. **The Fund.**---(1) Government shall, by notification in the official Gazette, establish a Fund, vesting in the Authority to be known as the Khyber Pakhtunkhwa Urban Mobility Authority Fund which shall be used by the Authority to meet all its expenses and charges in connection with its functions and powers under this Act.

(2) The Fund shall be utilized for the purpose of the mass transit system and shall be regulated under the overall supervision of the Authority in such a manner as may be prescribed by Government.

(3) The Fund shall not be lapsable on the expiry of financial year.

(4) The Fund shall, in addition to meet all expenses and charges, be used for the payment of-

- (a) charges, costs and expenses in connection with the delivery of or ongoing management and maintenance of a declared project;
- (b) loans and interest thereon;
- (c) salaries and other remuneration to all staff, the Board and experts, consultants, firms as are engaged by the Authority for any work under this Act; and
- (d) all expenses incurred in carrying out the purposes of this Act.

(5) The Fund shall be financed by-

- (a) fees and other amounts received by the Authority;
- (b) grants or contributions obtained from existing and future revenue sources including value capture revenues of Government or Federal Government or any local authority, associations, trusts, constituent bodies or organization;
- (c) foreign aid and loans obtained or raised by the Federal Government or Government for the use of the Authority and on such terms and conditions as may be approved by Federal Government or Government as the case may be;
- (d) proceeds of all charges, income from sale of assets and any recovery made under this Act; and
- (e) any other lawful sums as may be received by the Authority.

(6) The Authority may invest its surplus funds in accordance with the investment policy approved by the Board.

14. **Powers to borrow money.**--- The Authority may, with the prior approval of Government, from time to time and on such terms and conditions as may be specified by Government, borrow money from Government, Federal Government, National or International Organizations, as necessary for the purpose of performing its functions under this Act.

15. **Audit and Accounts of the Authority.**---(1) The Authority shall maintain complete and accurate accounts and other related records in such form and in such manner as may be prescribed by Government. The accounts of the Authority shall be audited annually by the Auditor General of Pakistan.

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(2) The Authority shall establish and maintain an adequate and appropriate accounting system in order to ensure an appropriate audit trail of all financial transactions in accordance with International Accounting Standards or as directed by Government.

16. **Annual reports.**---(1) The Authority shall submit to Government, as soon as possible after the end of every financial year, a report on the conduct of its affairs for that year.

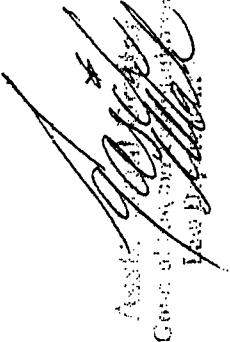
(2) Government may require the Authority to furnish to it, estimates, statistics or other information regarding any matter of any subject with which the Authority is involved in such a manner and format as may be prescribed by the Government.

(3) The financial statements, audited accounts, estimates and other information, including plans and the performance of declared projects shall be uploaded on the website of the Authority for public information.

Chapter-V Development, Amenities and Facilities in the Mass Transit System

17. **Formulation of a mass transit plan.**---(1) The Authority shall formulate a mass transit plan with the approval of Government.

(2) The mass transit plan shall include at least the following:

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- (a) existing and projected population and land use;
 - (b) existing and projected traffic counts;
 - (c) existing and projected passenger transport demand;
 - (d) existing public transport vehicle permits and route network;
 - (e) recommended solutions for traffic management;
 - (f) recommended solutions for public passenger transport modes;
 - (g) recommended solutions for non-motorized transport modes;
 - (h) recommended solutions for intermodal co-ordination;
 - (i) outline business case for the priority recommendations; and
 - (j) project implementation and management arrangements.

(3) The mass transit plan shall be based on sufficient primary and secondary data to provide a credible baseline measurement for future trend monitoring and to ensure suitability for funding and implementation based on financial, social, environmental and other factors as per the policies of Government.

(4) In addition to the tasks or work assigned to the Urban Transport Company under this Act, the Authority may get the work implemented through relevant Departments of Government, as deposit work.

