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Road Transport Act 1981

Act No. 6 of 1981

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Road Transport Act 1981

[Date of Assent 17-7-8]
[Commencement: See Section 1]

ACT NO. 6 OF 1981
ACT

To provide for a co-ordinated development and flexible control of the means of and facilities for road transport by way of permits in accordance with the transport policy approved by Government and for connected purposes.

Enacted by the Assembly

Part 1
Preliminary

1. This Act may be cited as the Road Transport Act 1981 and shall come into operation on a date to be fixed by the Minister by notice in the Gazette.

2. In this Act, unless the context otherwise requires – “authorized vehicle” in connection with a permit of any class, means a vehicle specified in such permit and authorized for use in accordance with such permit;

“bus” means a motor vehicle used for the carriage of passengers and having more than eight seats in addition to the driver’s seat;

“Board” means the Road Transport Board appointed under section 3;

“carriage of goods” includes the haulage of goods;

“carriage on own account” means –

(a) the delivery and collection by a person in a vehicle owned by him of goods sold, used or let on hire or hire purchase in the course of and ancillary to trade or business carried on by him;

(b) the delivery or collection by a person in a vehicle owned by him of goods which have been, or are to be, subject to a process or treatment in the course of and ancillary to a trade or business carried on by him;

“closed-door-tour” means a service provided by a passenger carrying motor vehicle when the same group of passengers is conveyed for the whole journey without picking up or setting down passengers on route;

“driver” means a person who drives or attempts to drive any motor vehicle;

“fare” means the amount of money paid or payable for the conveyance of a passenger in a public motor vehicle, and the amount paid or payable for the conveyance of such passenger’s luggage;

“goods” include goods or burden of any description; “goods vehicle” means a vehicle wholly or primarily constructed or adopted for the carriage of goods other than any class of vehicle which the Minister may, by notice in the Gazette, declare not to be a goods vehicle for the purposes of this Act;

“motor vehicle” means any vehicle self-propelled by mechanical or electrical power but excluding any vehicle running on a specially prepared way such as a railway and such other vehicles as the Minister may, from time to time by notice in the Gazette, declare not to be a motor vehicle for the purpose of this Act;

“Owner” in relation to a vehicle, includes a joint owner of a vehicle and when a vehicle is the subject of hire-purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“permit” means a permit issued under this Act;

“public motor vehicle” means any motor vehicle used for the conveyance of passengers or goods or both, for hire or reward, or plying for hire, and a motor vehicle hired out without a driver by a person in the course of his business of hiring out motor vehicles but does not include –

(a) a goods vehicle, the carrying capacity of which does not exceed 1,000 kg;

(b) a government vehicle used for government purposes;

- (c) a vehicle used for the purposes of funerals;
- (d) a vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;
- (e) a vehicle equipped and used solely for fire fighting purposes;
- (f) a vehicle equipped and used solely as an ambulance;
- (g) a vehicle used under and in accordance with the terms and conditions of a motor dealer's license;
- (h) a motor vehicle owned by a local authority and which is not a bus;
- (i) a motor vehicle which is used for the conveyance of school children and which is not a bus; and
- (j) any other class of motor vehicle which the Minister may, by notice in the Gazette exempt from this Act;

“public road” has the same meaning as in the Road traffic Act 1981;

“taxi service” means the use of a passenger car or a bus to convey a passenger or a group of passengers within a local area where the vehicle is stationed and to and from such local area for hire or reward;

“trailer” has the same meaning as ‘in the Road Traffic Act 1981.

Part II

Road Transport Board and Transport Controller

3. (1) There shall be appointed a Road Transport Board which shall be responsible for the ‘administration of this Act and shall perform the duties and functions and exercise the powers conferred upon it by this Act.

(2) The Board shall consist of –

- (a) a chairman, and
- (b) not less than 2 or more than 4 other members ‘appointed by the Minister, who possess wide experience of and have shown ability in transport, industrial commercial or financial matters or in the conduct of public affairs.

(3) Whenever the chairman of the Board is unable to attend any meeting thereof, he may designate any other member of the Board, not being an advisory member, to act as chairman at the meeting, or if the chairman is not in the position to make such designation, the members shall elect one of them present to act as chairman for the purposes of that meeting.

(4) The Minister may ‘appoint any person who possesses special knowledge of road transport, road construction or road traffic regulation, as ‘an advisory member of the Board, and, any person so appointed shall have the right to attend and take part in the proceedings of any meeting of the Board, but shall have no right to vote.

(5) A member of the Board, other than a public officer, shall be paid such remuneration as the Minister may, after consultation with the Minister responsible for finance, determine.

4. (1) No person shall be appointed as a member of the Board –

- (a) if he is an unrehabilitated insolvent;
- (b) if he has been convicted of an offence and sentenced to imprisonment without the option of a fine;
- (c) if he or any of his near relatives is financially interested in any public motor vehicle operations or is engaged in any activity connected with such operations which, in the Minister's opinion, may interfere with the impartial discharge of duties of such a member.

(2) A member of the Board shall vacate his office –

- (a) if he becomes subject to any of the disqualifications for appointment mentioned in subsection (1);
- (b) if he ‘is removed from office under subsection (3); or

(c) if he resigns by notice in writing and addressed to the Minister.

(3) The Minister may remove any member of the Board, including an advisory member, from office

(a) if such member fails to comply with the conditions and terms of his appointment;

(b) if in the opinion of the Minister, such member has been guilty of improper conduct or habitually neglected his duties as a member of the Board; or

(c) if in the opinion of the Minister, such member is unable to perform his duties as a member of the Board

5. (1) The chairman and two members of the Board, excluding advisory members, shall constitute a quorum, for any meeting of the Board.

(2) The Majority decision of members, excluding advisory members, present at any meeting of the Board shall constitute the decision of the Board.

(3) The chairman shall in the event of equality of votes, have a casting vote in addition to his deliberative vote.

6. (1) The Minister shall, subject to the law relating to the public service, appoint a Transport Controller who shall be responsible for the daily administration of this Act, the keeping and recording of proceedings of the Board and shall perform the duties and functions and exercise the powers delegated to him by the Board members under section 7.

(2) The Transport Controller shall keep records, books, registers, other documents and issue permits as the Board may from time to time direct.

(3) All permits issued pursuant to this Act shall bear the signature of the Transport Controller or the signature of some other person to whom the Transport Controller has delegated his power to issue such permits and in accordance with the decisions of the Board.

7. (1) It shall be the function and duty of the Board—

(a) to investigate any matter relating to the operations of public motor vehicles and to carriage on own account and to submit recommendations thereon to the Minister and, at the request of the Minister, to investigate and report upon any other matter falling within the scope of this Act;

(b) to follow in its decisions, the approved transport policy as directed by the Minister;

(c) to hold public sittings for the purpose of hearing and determining applications for permits or amendments of any terms or conditions of the permits, in such places and at such times as appear necessary, having regard to this Act and the interests of the applicants and any objectors

Provided that no public sitting shall be necessary –

(i) in respect of an application for a B-permit;

(ii) for the issue of a short-term permit under section 10;

(iii) for the renewal of a permit of any class;

(iv) for the variation or amendment of a permit where the Board is of the opinion that it is not necessary that a public sitting be held.

(2) The Board may hold such enquiries as it finds necessary into an applicant's reliability and financial stability, and the facilities at his disposal for carrying out repairs.

(3) The Board may designate any public officer to be a transport inspector.

(4) The Board may delegate to the Transport Controller the duties listed in subsection (1) (C) (1) to (iv) and to public officers stationed at border posts the issue of short-term permits to foreign vehicles operated on own account which 'have not been authorized by the Board but are required by this Act to have a permit.

(5) Whenever any person intends to testify or is testifying before the Board 'in connection with any matter with which the Board is dealing the Chairman of the Board may administer an oath or 'affirmation to that person and 'if he refuses to be sworn or to take an affirmation, the Board may refuse to hear him.

Part III Permits

8. (1) No person shall, except in accordance with the terms required and conditions of a permit, use on a public road –

- (a) a public motor vehicle; and
- (b) a motor vehicle operated on own account the carrying capacity of which exceeds 1000kg.

(2) When a goods vehicle is being operated on a public road for the carriage of goods, the driver of such vehicle, if it belongs to him or is in his possession under an agreement for hire-purchase, and, in any other case, the person in whose ownership or possession the vehicle is, shall, for the purposes of this Act, be deemed to be the user of the vehicle.

(3) Where goods are carried by a goods hire vehicle which has been hired by a person who, at the time of the carriage of such goods, is, within the meaning of this Act, the user of such vehicle, such person shall be, deemed to be using a public motor vehicle.

(4) A person who contravenes subsection (1) is guilty of an offence.

9. (1) The following classes of permits may be issued under this Act –

- (a) a public carrier's permit to be known as an A-permit;
- (b) a private carrier's permit to be known as a B-permit;
- (c) a public service permit to be known as a C-permit;
- (d) a taxi service permit, to be known as a D-permit; and

(e) a motor vehicle rental service permit, to be known as an E-permit;

(2) An A-permit shall entitle a holder thereof to use the authorized vehicle, subject to conditions attached to the permit, for the carriage of goods for hire or reward, or for the carriage of goods for or in connection with his business as a carrier of goods, or for hire and reward and on own account; but an A-permit is not valid for cartage contracts with the railways unless such permit is extended by the Board to cover such operations.

(3) (a) A B-permit shall entitle a holder thereof to use the authorized vehicle subject to conditions attached to the permit, for the carriage of goods on own account.

(b) Notwithstanding anything in this Act contained, the Board may, in case of emergency and subject. to such conditions 'as the Board thinks fit, authorize a holder of a B-permit to hold a short term permit contemplated in section 10.

(4) A C-permit shall entitle a holder thereof to use the authorized bus, subject to conditions attached to such permit, to carry passengers and goods for hire or reward or on own account.

(5) A D-permit shall entitle 'a holder thereof to use the authorized motor car or bus, subject to conditions attached to the permit, to carry passengers in taxis service and for closed-door tours.

(6) An E-permit shall entitle a holder thereof to hire out the authorized vehicle, subject to conditions attached to the permit, for the carriage of goods or passengers.

(7) (a) The vehicles authorized to be used under a permit shall be—

- (i) such motor vehicles, being vehicles belonging to the holder of the permit or in his possession under a hire-purchase agreement, as are specified in the permit; and

- (ii) trailers belonging to the holder of the permit or in his possession not exceeding at any time such maximum number as may be specified in the permit.
- (b) For the purposes of this subsection, different types of motor vehicles or different types of trailers, as the case may be, may be distinguished in a permit and a maximum number may be specified in the permit for vehicles and trailers of each type.
10. (1) The short-term permits shall enable goods vehicles or passenger carrying vehicles to be used temporarily -
- (a) for the purposes of a seasonal business;
- (b) for the purposes of the execution of a particular piece of work; or
- (c) for any purpose of a limited duration.
- (2) The Board may grant a short-term permit for a period not exceeding 3 months if it is satisfied that the demand for the use of the vehicle to be authorized is urgent and that the demand does not conflict with the public interest, including the interests of persons requiring, and of persons providing, facilities for transport.
- (3) A person aggrieved by the grant or refusal of a short-term permit may appeal to the Minister whose decision shall be final.
11. (1) A permit other than a short-term permit contemplated in section 10, shall, unless previously revoked, remain in force until the 31st December.
- (2) If on the date of expiration of a permit proceedings are pending before the Board for the renewal of a permit, the existing permit shall continue to be in force until such proceedings are disposed of, without prejudice to the exercise in the interim by the Board of its power of revocation or suspension under section 13.
12. (1) When a holder of a permit applies to vary the number of vehicles to which the permit relates the Board may increase or decrease the number of such vehicles, as the case may be.
- (2) When a holder of a permit applies to vary the operating area or route, the Board may take such action as may be necessary under section 7.
13. (1) The Board may revoke or suspend a permit on the ground that there has been a break of any of the conditions of the permit or that an authorized vehicle to which the permit relates has not been used for 3 months.
- (2) The Board may revoke or suspend a permit on the grounds that the owner or driver of an authorized vehicle to which the permit relates has been convicted of an offence under this Act.
- (3) When a permit is revoked or suspended, the Board shall, if requested by the permit holder, state in writing the grounds for such revocation or suspension.
- (4) In addition thereto, the Board may direct that one or more of the authorized vehicles be removed from the permit, or that the maximum number of vehicles authorized in the permit be reduced.
14. An applicant shall, in the case where at the time of the application he has not yet purchased but intends to buy a vehicle in respect of which the application was made, furnish the prescribed details required for such vehicle within 3 months after the date of the approval of his application, and if he fails to do so, the approval shall lapse and no subsequent application by the same person for a similar permit shall, except at the discretion of the Board, be entertained by the Board until 6 months from the date of such application have lapsed.
15. Where an application made by any person for a permit has been refused by the Board, no subsequent application for a similar permit shall, except at the discretion of the Board, be entertained until 6 months from the date of such application have lapsed.
16. Where a holder of a permit sells, transfers, except by way of security for any purpose, or otherwise disposes of the vehicle, or of business in respect of which the permit was issued, such permit shall expire with effect from the date of such sale, transfer or other disposal, and the holder shall return such permit to the Board.
17. A permit holder may, in the event of a break-down or other unforeseeable emergency

in connection with an authorized vehicle, temporarily substitute another vehicle for such service authorized under his permit provided –

- (a) he shall, within 48 hours thereof, report such substitution to a police station;
- (b) he shall, within 10 days thereof report such substitution to the Board in writing; and
- (c) no such substitution shall last more than 30 days without the consent of the Board.

18. It shall be a condition of every permit:

- (a) that provisions of the law relating to road traffic and of permit road transport be complied with;
- (b) that authorized vehicles be maintained in a fit and serviceable condition; and
- (c) that instructions by the Board relating to keeping of records be complied with.

(2) The Board may attach to a permit any condition needed to ensure proper operations under the permit, and in addition any of the following conditions

- (a) that the authorized vehicle be or be not used in a specified area or over specified routes;
- (b) that certain classes or descriptions of goods be or be not carried;
- (c) that the fares and charges to be used in connection with the carriage of passengers or goods are to be approved by the Board;
- (d) that copies of the time-table and fare table be carried on the vehicles and be made available for inspection;
- (e) that passengers not be taken up or set down between specified points;
- (f) that every fare-paying passenger be provided with a ticket in respect of the fare paid; and
- (g) that the safety and convenience of the public be safeguarded.

(3) The Board may from time to time, cancel or vary any of the conditions attached to a permit, and may insert additional conditions.

Part IV Appeals

18. (1) Subject to section 10(3) a person who –

- (a) being an applicant for the grant or amendment of a permit is aggrieved by the decision of the Board on his application;
- (b) having made an objection to any application is aggrieved by the decision of the Board on such objection; or
- (c) being a holder of a permit is aggrieved by the revocation or suspension thereof;

may appeal to the Minister, and any such appeal shall be accompanied by a prescribed cash deposit, which may, in the discretion of the Minister on the conclusion of the appeal, be refunded to such person or be awarded to the other party to the appeal as costs.

(2) (a) The Minister may on appeal confirm or reverse the decision of the Board, or make such order as he thinks fit.

(b) The Minister may summarily reject any appeal which is frivolous or discloses no reasonable cause for the Minister to interfere with the decision of the Board.

20. (1) Every appeal made pursuant to section 19 shall set out the grounds of appeal, and, shall be sent to the Board within 21 days from the date of notification of the decision of the Board.

(2) The appellant shall send a copy of his appeal to every other person who was a party to the proceedings before the Board in respect of which the appeal is lodged, at the same time when he sends his appeal to the Board.

21. The Board shall within 7 days of receipt of such appeal, forward the appeal to the Minister, together with its comments and any relevant documents, and, it shall also advise the appellant

that his appeal has been forwarded to the Minister.

22. On receiving an appeal, the Minister shall fix a day for the hearing of the appeal and shall cause notice thereof to be served on every other person who has pursuant to section 20 been served with a copy of the appeal.

23. (1) On the day fixed for the hearing, the appellant shall be given the right of hearing in support of his appeal.

(2) The Minister shall hear any other person who has been served with a copy of the appeal under section 20 and the appellant shall be entitled to reply.

(3) If the appellant fails to attend the scheduled appeal, the Minister may order that the appeal be dismissed, but if the other party duly served pursuant to section 20 does not attend and the appellant attends, then the appeal may be heard in such party's absence.

(4) The parties to an appeal may appear in person or be represented by a person of their choice.

Part V

Offences and Penalties

24. (1) A person who with intent to deceive –

(a) forges or alters or uses or allows himself to be used by any other person, a permit, or any document, plate, disc or mark by which the subject of the permit is to be identified as authorized by this Act;

(b) prepares or has in his possession any document, plate, disc or mark so closely resembling a permit or plate, disc or mark as aforesaid; or

(c) alters any record to be kept under this Act;

is guilty of an offence and liable to a M1000 and 6 months imprisonment.

(2) A person who, for the purpose of –

(a) obtaining a permit for himself or for any other person;

(b) preventing the grant or amendment of any permit; or

(c) procuring the insertion of any condition 'in any permit; knowingly makes a false statement is guilty of an offence and liable to M500 and 3 months imprisonment.

25. Where a permit holder transfers his vehicle which relates to the permit to any other person by way of security, it shall be an offence, except with a written consent of the Board another's for such other person to operate that vehicle under such permit, permit

26. A person who uses a vehicle in contravention of this Act, or, being the owner of the vehicle, permits it to be used and a driver or other person in charge of any authorized vehicle who uses such vehicle in contravention of the permit to which it relates, or, being the owner. of such vehicle, permits it to be used, is guilty of an offence.

27. A person guilty of an offence under this Act, for which no special penalty is provided, is in the case of first offence liable Where no to M500 and 3 months imprisonment, and in the case of a second and subsequent offence, to a fine of M1000 and 6 months imprisonment, and the court convicting a person of an offence involving an unauthorised operation of a public motor vehicle may declare the motor vehicle or the convicted person's rights in such vehicle, to be forfeited to the State.

28. (1) A police officer, a transport inspector or a person authorised by the Transport Controller in writing, may stop any vehicle to ascertain whether or not this Act is being complied with, and may demand for inspection the production of any permit or other document which, may under this Act, be required to be carried on such vehicle ,and may require the driver or any other person travelling on such vehicle to give such information as such authorised officer may require.

(2) A police officer, a transport inspector or any other person authorised by the Transport Controller in writing, may seize and impound any vehicle suspected upon reasonable grounds of having been used in connection with the operation of unauthorised public motor vehicle service or carriage on own account.

(3) Any person who obstructs a police officer, a transport inspector or an authorised person

in the execution of the powers conferred on him by subsections (1) and (2) or falls to comply with any lawful order given by such officer or person, or refuses to give information when requested to do so, is guilty of an offence.

29. The Minister may make regulations for the better carrying out of the objects of this Act and in particular but without prejudice to the generality of the foregoing, may make regulations with respect to any of the following matters:

- (a) the particulars to be furnished for any of the purposes of this Act;
- (b) the procedure on application for, and the determination of questions in connection with the grant, variation, suspension or revocation of permits;
- (c) the fees payable on the grant and variation of permits and on the issue of any document under this Act;
- (d) the means whereby authorised vehicles are to be identified;
- (e) the issue of permits and any other documents under this Act;
- (f) the custody of permits or any other documents, the production, return and cancellation of such permits or documents on expiry, suspension or revocation; and
- (g) the notification of the Board of vehicles which have ceased to be used as authorised vehicles.

30. (1) Subject to the provisions of subsections (2) and (3), Division B-Road Transport, of the Road Traffic and Transport Order 1970, is repealed.

(2) Any regulation, notice, order, prohibition, authority, permission, information or document issued, made, given or granted and any other action taken under any provisions of the law repealed by subsection (1) shall, if not inconsistent with the provisions of this Act, be deemed to have been issued, made, given, granted or taken under the corresponding provisions of this Act.

(3) Any person appointed under the provisions of the repealed law to perform duties which are similar to those duties which would be required of a person appointed to an office under this Act, shall, whether or not he holds the qualifications in terms of this Act for such office, be deemed to have been appointed to such office 'in terms of this Act.