

TANGANYIKA



No. 48 OF 1962

I ASSENT,

Rh Tumbo

Governor-General

18 TH JULY, 1962

An Act to amend the Transport Licensing Ordinance and the Inland Water Transport Ordinance and to repeal the Use of Motor Vehicles (Restriction) Ordinance

[-----]

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Transport Licensing Ordinance (Amendment) Act, 1962, shall be read as one with the Transport Licensing Ordinance (hereinafter called the Ordinance) and, subject to the provisions of section 22, shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Short title construction and commencement cap. 373

2. Section 2 of the Ordinance is hereby amended-

Section 2 of cap. 373 amendment

- (a) by inserting immediately after the definition "carriage of goods" the following new definition:-
 - " 'district route' means any route which in the opinion of the Transport Licensing Authority constituted as in section 3 should be a district route for the purposes of this Ordinance;"
- (b) in the definition "licensing authority" by deleting the word "appointed" and substituting therefore the word "established";
- (c) by deleting the definition Minister, and substituting therefor the following new definitions:-
 - " 'member', when used in relation to the licensing authority, includes the chairman and deputy chairman and also includes a local member appointed under section 5;
 - 'Minister' means the Minister for the time being responsible for communications;" and
- (d) by inserting in the appropriate alphabetical position the following new definition: -
 - ⁴⁴ "officer in charge of police" has the meaning assigned to it in Cap. 322 section 2 of the Police Force Ordinance;"

3. Section 3 of the Ordinance is hereby amended-

Sections 3 of cap. 373 amendment

- (a) in subsection (1) thereof, by inserting immediately after the words "which shall" in the third line, the commas and words ". subject to the provisions of section 5", ;

- (b) in subsection (2) thereof, by inserting immediately after the words "licensing authority" the words "specified in subsection (1)".
- (c) in subsection (3) thereof, by inserting immediately after the words "licensing authority" in the first line the words "who is appointed under subsection (2)";
- (d) in subsection (4) thereof, by inserting immediately after the word "appointed" in the first line the words "under subsection (2)";
- (e) in subsection (5) thereof, by deleting the word "membership" in the last line and substituting therefor the words "appointment under this section as a member";
- (f) in subsection (7) thereof, by deleting the words "The business" and substituting therefor the words and symbols "Subject to the provisions of section 5A, the business";
- (g) in subsection (9) thereof-
 - (i) by inserting immediately after the word "authority" in the first line the words "appointed under subsection (2)"; and
 - (ii) by deleting the words "two members" wherever they appear in the seventh line and substituting therefor in each case the words "two such members"; and
- (h) by deleting subsection (10) thereof.

Section 4 of
Cap. 373
repealed
and
replaced

4. Section 4 of the Ordinance is hereby repealed and replaced by the following new section:-

4.-(1) The licensing authority may, with the prior approval of the Minister, delegate to such persons and upon such conditions as may be approved by the Minister the exercise of all or any of its powers under section 10 to grant private carriers' licences.

(2) When making any delegation under subsection (1) or at any time thereafter, the licensing authority may, with the prior approval of the Minister, give directions to any person to whom the delegation is made as to the exercise of the delegated powers and such person shall give effect to such directions."

Sections 5
and 6 of
Cap. 373
repealed
and
replaced

5. Sections 5 and 6 of the Ordinance are hereby repealed and replaced by the following new sections to be numbered 5, 5A, 5B and 6 respectively:-

5.-(1) When considering an application for a licence, other than a private carrier's licence, relating to a district route, the licensing authority shall be constituted in accordance with the provisions of this section and its business shall be conducted in accordance with the procedure laid down in section 5A.

(2), In addition to the members appointed under section 3, the licensing authority shall consist of one local member for each district or part of a district through which the district route passes.

(3) The local members shall be appointed by the chairman of the licensing authority from persons nominated ~~FOR~~ the purpose by the district councils of those districts through which or through part of which the district route passes.

"Local
members of
licensing
authority

(4) A local member shall remain a member of the licensing authority for such period (not exceeding two years) as the chairman thereof shall specify at the time; of the appointment of such member and, if no such period is specified, he shall cease to be a member of the licensing authority at the close of the sitting thereof at which he first takes part as a local member.

(5) No person holding a public carrier's licence or road service licence or having an interest in any company, firm, partnership, association or any other body or concern holding such a licence shall be eligible to be appointed as a local member of the licensing authority.

Procedure when licensing authority sits with local members

5A.-(1) Where the licensing authority, constituted in accordance with section 5, considers an application for a licence relating to a district route, the decision of the authority shall, subject to the provisions of subsection (2), be the decision of the majority of the members thereof including those local members appointed for the districts through which or through part of which the district route passes and, in the event of an equality of votes, the chairman shall in addition to his deliberative vote have a casting vote.

(2) The validity of the proceedings and acts of the licensing authority constituted in accordance with section 5 shall not be affected by any vacancy amongst the local members thereof or by any defect in the appointment of a local member thereof:

Provided that the provisions of this subsection shall not be construed as obviating or derogating from the necessity for a quorum in accordance with subsection (9) of section 3.

Licensing authority may sit assessors in certain cases

5B.-(1) The licensing authority may, in its discretion, when considering an application for a licence, other than a private carrier's licence, sit with such number of assessors as it may deem expedient. Such assessors shall be chosen from a panel of assessors to be kept by the licensing authority:

Provided that the licensing authority shall not sit with assessors when considering any application which relates to a district route.

(2) Where the licensing authority sits with assessors, it shall not be bound by the opinion of the assessors but if the licensing authority disagrees with the opinion of an assessor it shall record the opinion of that assessor.

(3) No person holding a public carrier's licence or road service licence or having an interest in any company, firm, partnership, association or any other body or concern holding such a licence shall be eligible to sit as an assessor.

Licences to be under had of member of licensing authority

6. Save where the power to grant private carriers' licences has been delegated under section 4, all licences granted under of this Ordinance shall be under the hand of one of the members of the licensing authority appointed under section 3."

Section 9
of Cap. 373
amended

6. Section 9 of the Ordinance is hereby amended-

- (a) by inserting immediately after the word and comma "and," in fourth line of subsection (2) thereof the words and symbols subject to the provisions of subsection (6) of section 28A,"; and
- (b) by inserting immediately after paragraph (e) of subsection (6) thereof the following new paragraph to be lettered (ee):-
 - (ee) to the use of a vehicle with a tare weight not exceeding fifteen hundredweight, by the owner of such vehicle for the carriage of goods owned by him;

Section 10 of
Cap. 373
amended

7. Section 10 of the Ordinance is hereby amended-

- (a) by deleting subsections (2) and (3) thereof and substituting therefor the following new subsections to be numbered (2), (3) and PA) respectively: -

"(2) A public carrier's licence shall, subject to any conditions attached to the licence, entitle the holder to use the authorized vehicles either for the carriage of goods for hire or reward or for the carriage of goods for or in connection with any trade or business carried on by him.

(3) A private carrier's licence shall, subject to the provisions of subsection (3A) and to any conditions attached to the licence, entitle the holder to use the authorized vehicles for the carriage of goods for or in connection with any trade or business carried on by him and it shall be a condition of the licence that no authorized vehicle shall be used for the carriage of goods for hire or reward other than goods sold and delivered by the holder in cases where under the contract of sale a charge is made for the delivery of the goods,

Provided that the licensing authority may, in case of emergency and subject to such conditions as it thinks fit to impose, authorize the holder of a private carrier's licence to use an authorized vehicle for the carriage of goods for any person to whom he lets the vehicle, if the licensing authority is satisfied that the needs of that person cannot conveniently be met from other sources.

(3A) Every private carrier's licence shall be issued for one of the following areas: -

(i) the Dar es Salaam area, comprising the Dar es Salaam Region and the Kisarawe, Bagamoyo and Rufiji Districts;

(ii) the Tanga area,- comprising the Tanga Urban, the Tanga Rural and the Pangani Districts; and

(iii) the remainder of Tanganyika,

and it shall be a condition Of the licence that the authorized vehicles shall not be used in any area other than' the area for which the licence is issued:

Provided that in any of the following cases, that is to say-

- (i) where the applicant for a licence carries on business in Tanganyika as a manufacturer, and wishes to transport goods manufactured by him;

- (ii) where the applicant for a licence is engaged in Tanganyika in mining or prospecting operations and wishes to transport goods owned by, him for the purposes of those operations;
- (iii) where the applicant for a licence carries on business in Tanganyika as a contractor in the field of building, road or railway construction or water development and wishes to transport goods owned by him for the purposes of such business;
- (iv) where the applicant for a licence resides and carries on business in the Southern Region and wishes to transport goods from that Region to Dar es Salaam;
- (v) where the applicant for a licence wishes to transport fruit, vegetables or other perishable goods; and
- (vi) in such other cases as the Minister may prescribe,

the licensing authority may, in its discretion and subject to such conditions as it thinks fit to impose, permit the authorized vehicles to be used in an area or areas other than the area for which the licence is issued and where the licensing authority so permits it shall endorse the licence accordingly."

- (b) by deleting paragraph (d) of subsection (5) thereof; and
- (c) by deleting subsection (6) thereof.

8. Section 11 of the Ordinance is hereby amended-

- (a) in subsection (1) thereof, by deleting the words "one year" in paragraph (b) thereof and substituting therefor the words "two years", and

(b) in subsection (4) thereof-

- (i) by adding thereto the following marginal note:-
"Contract licences"; and
- (ii) by deleting from the eighth, ninth, tenth and eleventh lines the words and commas "the licensing authority shall, unless he is satisfied that, having regard to the previous conduct of the applicant in the capacity of a carrier of goods, he is not a fit person to receive a licence" and substituting therefor the words and comma "the licensing authority may, in its discretion".

9. Section 16 of the Ordinance is hereby amended by deleting the words and comma "or in the case of an application for a public carrier's licence," in the third and fourth lines thereof.

10. Section 19 of the Ordinance is hereby amended-

- (a) in subsection (1) thereof, by deleting the words "objections to in the penultimate line and substituting therefor the words "reasons opposing"; and
- (b) in subsection -(3) thereof-
 - (i) by inserting immediately after the word "used" in the fourth line the words and commas ", without the prior written permission of the grantee,";

Section 11 of
cap 373
amended

Section 16 of
cap 373
amended

Section 19
of cap. 373
amended

(ii) by inserting immediately after the word "vehicle" in the sixth line the words "or a vehicle which is licensed only for use on a whole-hire basis and which is not designed or intended for carrying more than seven persons and the driver of such vehicle".

(iii) by deleting the words "or in any area" in the eighth line and substituting therefor the words "or between any places within any area".

Section 22
of Cap. 373
amended

11. Section 22 of the Ordinance is hereby amended by inserting immediately after paragraph (k) thereof the following new paragraph to be lettered (kk):-

"(kk) the desirability of encouraging increased African participation in the transport industry of Tanganyika,"

Section 23
of Cap. 373
amended

12. Section 23 of the Ordinance is hereby amended-

(a) by deleting the words "a public carrier's licence or a road service licence" in the first and second lines of subsection (2) thereof and substituting therefor the words "any licence"; and

(b) by deleting paragraph (c) of subsection (3) thereof and substituting therefor the following new paragraphs to be lettered (c) and (cc): -

"(c) the vehicles shall be operated in accordance with time tables approved by the licensing authority and that copies of the time tables and fare tables shall be carried and be available for inspection in every vehicle used on the service;

(cc) the holder of the licence reports to the licensing authority in the event of any vehicle specified in the licence not being used on the service for any period exceeding one month;"

Section 24
of Cap. 373
amended

13. Section 24 of the Ordinance is hereby amended-

(a) by deleting the words "a licensing authority" in the second line of subsection (1) and the first line of subsection (3) thereof and substituting therefor in each case the words "the licensing authority";

(b) by deleting the word "he" in the fourth line of subsection (3) thereof and substituting therefor the word "it"; and

(c) by deleting subsection (4) thereof.

Section 25
of Cap. 373
amended

14. Section 25 of the Ordinance is hereby amended in subsection (3) thereof-

(a) by deleting the words "goods vehicle" in the second line thereof; and

(b) by inserting immediately after the word "reduced" in the fifth line thereof the comma and words ", or that the licence shall cease to apply in respect of certain routes".

Section 27
of Cap. 373
amended

15. Section 27 of the Ordinance is hereby amended-

(a) in subsection (1) thereof, by deleting the words "objections may be made to the grant of the application" in the last two lines and substituting therefor the words "reasons may be advanced opposing the grant of the application";

- (b) in subsection (2) thereof, by deleting the words "any objections to the application which may be made" in the second and third lines and substituting therefor the words "any reasons opposing the application which may be advanced";
- (c) in subsection (3) thereof, by deleting the word "objection" at the end of Paragraph (c) and substituting therefor the words "reasons to be advanced opposing the application";
- (d) in subsection (4) thereof, by deleting the words "objection to" and substituting therefor the words "reasons advanced opposing";
- (e) in subsection (5) thereof, by deleting the words "the making and consideration of objections" in the sixth and seventh lines, and substituting therefor the words "the advancement and consideration of reasons opposing an application"; and
- (f) in the marginal note thereto, by deleting the words "Objections to" and substituting therefor the words "Reasons may be advanced opposing"

16. Section 28 of the Ordinance is hereby amended in subsection (1) thereof-

Section 28 of cap.373 amended

- (a) by deleting the words "a licensing authority" wherever they appear therein and substituting therefor in each case the words "the licensing authority";
- (b) by deleting the words "made an objection to" in the first line of Paragraph *N* thereof and substituting therefor the words "advanced reasons opposing"; and
- (c) by deleting the words "an objection" in the second line of paragraph (b) thereof and substituting therefor the word "reasons".

17. The Ordinance is hereby amended by inserting immediately after Part VI thereof the following new Part VIA: —

New Part added to cap.373

"PART VIA

LICENCES TO CO-OPERATIVE SOCIETIES

Licences to be issued to co-operative societies cap.211

28A.-(1) Notwithstanding anything in this Ordinance contained. the person (hereinafter in this section called the Registrar) for the time being exercising the functions of Registrar of Co-operative Societies under the Co-operative Societies Ordinance may, subject. to the provisions of subsection (2), in writing and after consultation with the licensing authority, designate in accordance with the provisions of this section a co-operative society registered under that Ordinance as being a society suitable to be granted a public carrier's licence or a road service licence under this Ordinance.

(2) The Registrar shall not designate a co-operative society under subsection (1) unless he is satisfied that the society will, on the grant of a licence to it under subsection (4), be capable of complying with the provisions of this Ordinance and with any conditions attached to the licence.

(3) When designating a co-operative society under subsection (1) the Registrar shall specify-

- (a) the vehicles authorized to be used under the licence;
- (b) the routes in respect of which the licence shall be effective; and
- (c) the conditions which shall be attached to the licence.

(4) Where a co-operative society is designated under subsection (1), the licensing authority shall, in accordance with the matters and conditions specified by the Registrar under subsection (3), grant to the society a public carrier's licence or a road service licence, as the case may be.

(5) No reasons may be advanced by any person opposing the grant of a licence under this section and no appeal shall lie against the grant by the licensing authority of such a licence but, subject as aforesaid, a licence granted under this section shall be subject to all the provisions of this ordinance in the same manner and to the same extent as any other licence of the same class granted under this Ordinance.

(5A) Where a vehicle, the driver of which is not himself the user thereof within the meaning of section 9, is used by and for the purposes of a co-operative society, the society shall for the purposes of section 9 be deemed to be the person by whom the vehicle is being used notwithstanding that the vehicle is in the ownership of some other person."

Section 30
of cap.373
amended

18. Section 30 of the Ordinance is hereby amended by deleting the word "fee" in the marginal note thereto and substituting therefor the word "fare".

New
sections 34A
and 34B
inserted
in cap. 373

19. The Ordinance is hereby amended by inserting immediately after section 34 thereof the following new sections to be numbered 34A and 34B: ~

"Power
to detain
vehicles

34A.-(1) Where any police officer of or above the rank of Assistant Superintendent or any officer in charge of police has reasonable grounds for believing that any vehicle which is registered outside Tanganyika is being used in contravention of section 9 he may take such vehicle into his custody and for this purpose may, if it is in motion, stop such vehicle.

(2) Where a vehicle is taken into custody under subsection (1) it may be detained at a police station or other place of safety until inquiries to ascertain whether the vehicle was being used in contravention of section 9 have been completed and until the identity of the person who is the user of the vehicle within the meaning of that section has been established, and, in the event of proceedings being instituted against such person for a contravention of that section, the vehicle may be further detained until his conviction, acquittal or discharge in such proceedings.

Appearance
by advocates

34B. Save with the permission of the licensing authority, no advocate or legal practitioner may appear or act for any party in any proceedings under this Ordinance before the licensing authority, and, save with the permission of the Appeal Tribunal appointed under section 28, no advocate or legal practitioner may appear or act for any party in any proceedings under this Ordinance before that Tribunal."

20. The Ordinance is hereby amended by deleting the words "Governor and "Governor in Council" wherever they appear therein and substituting therefor in each case the word "Minister"

General
amendment
of Ordi-
nance
cap. 172
amended

21. The Inland Water Transport Ordinance is hereby amended by repealing section 3 thereof and substituting therefor the following new section: -

"Licensing
authority
Cap. 373 **3.** The licensing authority shall be the Transport Licensing Authority constituted in accordance with section 3 of the Transport Licensing Ordinance."

22.-(1) The Use of Motor Vehicles (Restriction) Ordinance is hereby repealed.

Repeal of
cap. 170

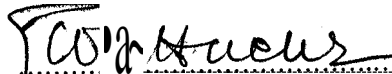
(2) The provisions of this section shall come into operation on the first day of January, 1963.

23.-(1) Notwithstanding the amendment of section 10 of the Ordinance by section 7 of this Act, every private carrier's licence issued under the Ordinance and in force immediately prior to the coming into operation of this Act shall, unless earlier revoked or suspended under the provisions of the Ordinance, remain in force without restriction as to area for the period specified in section I I of the Ordinance.

Saving
provisions

(2) Notwithstanding the amendment of the Inland Water Transport Ordinance by section 21 of this Act, every licence issued under that Ordinance and in force immediately prior to the coming into operation of this Act shall, unless earlier revoked under the provisions of that Ordinance, remain in force for the period specified in section 7 of that Ordinance.

Passed in the National Assembly on the second day of July, 1962


Clerk of the National Assembly