

THE TRANSPORT LICENSING ACT, 1973

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THE UNITED REPUBLIC OF TANZANIA



No. 1 OF 1973

I ASSENT

Julius K. Nyerere
President

8TH MARCH, 1973

An Act to repeal and replace the Transport Licensing Ordinance

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Transport Licensing Act, 1973 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Short title
and
commence-
ment

2. The Minister may, if he considers it expedient or desirable so to do, from time to time, by order in the *Gazette* suspend the operation of any or all of the provisions of this Act either as to Tanganyika as a whole or as to any area or areas of Tanganyika.

Minister
may suspend
operation
of provision
of this Act

3.—(1) In this Act, unless the context otherwise requires—
“appointing authority” means, in the case of the Central Licensing Authority, the Minister and in the case of a Regional Licensing Authority, the Regional Commissioner of the region for which the Authority is established;

Interpre-
tation

“authorized vehicle” means a vehicle authorized to be used under a licence issued under the provisions of this Act;

“carriage of goods” includes the haulage of goods;

“carrier’s licence” means a licence granted under this Act in respect of a goods vehicle;

“Central Licensing Authority” means the Central Transport Licensing Authority established by section 4;

“driver” in relation to a trailer means the driver of the vehicle by which the trailer is drawn, and where a separate person acts as steersman of a motor vehicle includes that person as well as any other person engaged in the driving of the vehicle, and the expression “drive” shall be construed accordingly;

“fares” includes sums payable in respect of a contract ticket or a season ticket;

“goods” includes goods or burden of any description;

“goods vehicle” means a motor vehicle constructed or adapted for use for the carriage of goods or a trailer so constructed or adapted, whether used or constructed or adapted solely for that purpose or not;

“licence” means a licence granted under this Act;

“licensing authority” means a licensing authority established under section 4 and, unless the context otherwise requires, any person to whom powers have been delegated under section 5; and in relation to an application for, or an objection to, or a grant of, or refusal to grant, a licence references in this Act to a licensing authority shall be construed as a reference to the licensing authority having jurisdiction under section 16 or section 17 to entertain such application or objection and to any person or authority to whom such jurisdiction has been delegated;

“member” when used in relation to a licensing authority, includes the chairman and deputy chairman;

“Minister” means the Minister for the time being responsible for communications;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;

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“officer in charge of police” has the meaning assigned to it in section 2 of the Police Force Ordinance;

“owner” in relation to a vehicle which is the subject of hiring agreement or hire purchase agreement means the person in lawful possession of the vehicle under that agreement;

“public interest” means the interest and convenience of the people of the United Republic resident in Tanganyika;

“public service vehicle” means a motor vehicle which carries or is intended to carry passengers for hire or reward, whether used or constructed solely for that purpose or not;

“Regional Director” means the Regional Director (Tanzania), East African Posts and Telecommunications Corporation;

“Regional Licensing Authority” means a Regional Transport Licensing Authority established by section 4;

“road” means the carriageway or portion of any road to which the public has right of access for vehicular traffic being that portion commonly in use for vehicular traffic, and includes the portion of any bridge used for that purpose;

“road authority” means the officer or body of persons or the duly authorized representative of such officer or body of persons in whom the responsibility for the maintenance of any particular road or roads is vested;

“road service licence” means a licence granted under this Act in respect of a public service vehicle;

“trailer” means a vehicle drawn by a motor vehicle;

“urban area” means any area declared to be an urban area for the purpose of this Act by the Minister.

(2) Nothing in this Act shall be construed as conferring upon an appointing authority the right to exercise his functions under this Act in relation to any licensing authority other than the licensing authority in respect of which he is the appointing authority.

PART II

LICENSING AUTHORITY

4.—(1) There shall be established a Central Transport Licensing Authority and also, for every region in Tanganyika, a Regional Transport Licensing Authority. Establishment of licensing authorities

(2) Every licensing authority shall consist of a chairman, a deputy chairman and one other member who shall act as the secretary.

(3) The members of the Central Licensing Authority shall be appointed by the Minister. The members of a Regional Licensing Authority shall be appointed by the Regional Commissioner of the region for which the Authority is established.

(4) Each member of a licensing authority who is appointed under subsection (3) shall, unless the appointing authority otherwise directs, be required to devote the whole of his time to the duties of his office and shall hold office for such term as the appointing authority may determine at the time of his appointment and shall be eligible for re-appointment from time to time on the expiration of his term of office.

(5) Where a member of a licensing authority is absent from Tanganyika or is unable to perform his duties for any reason, the appointing authority may appoint another person to be a temporary member of the licensing authority to perform and discharge the functions of such person for the period during which such person is so absent or disabled from acting.

(6) Subject to such exceptions as the Minister may allow, no person holding a 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 for appointment under this section as a member of a licensing authority.

(7) Every licensing authority shall sit on such occasions and at such places as it may in its discretion determine.

(8) The business of a licensing authority shall be conducted in such manner as may be prescribed:

Provided that until such procedure has been prescribed a licensing authority shall conduct its business in such manner as it shall determine.

(9) The appointing authority may authorize the appointment of such staff as from time to time shall appear to him to be necessary for the discharge of the functions of the licensing authority in respect of which he is the appointing authority.

(10) Two members of a licensing authority appointed in accordance with this section shall form a quorum, and where in any provision of this Act any duty is imposed, or any power given, to a licensing authority, such duty shall be deemed to be discharged and such power shall be deemed to be exercised in accordance with such provision when discharged or exercised by any two such members and any act or omission of any two such members shall be deemed to be the act or omission of the licensing authority.

Powers of licensing authority may be exercised by delegate

5.—(1) Where in the opinion of the appointing authority it is desirable so to do, the appointing authority may direct that the power of the licensing authority under section 12 to grant a short term licence for the purpose of the execution of a particular piece of work may be exercised in any area by the the Area Commissioner having jurisdiction over such area, or by such other licensing authority or public officer or other authority as the appointing authority may appoint in that behalf.

(2) Where a direction under subsection (1) is given the Area Commissioner, the authority or the public officer appointed by the appointing authority, as the case may be, shall be deemed to be the licensing authority for the purposes of granting a short term licence for the execution of a particular piece of work.

(3) Notwithstanding the provisions of section 11, where a short term licence is granted by any person authorized to do so by this section, such licence shall expire on the completion of the work specified therein and no person or authority authorized by this section to grant such licence shall, without the approval of the appointing authority, grant such licence in respect of the same vehicle more than once in any month.

Licensing authority may sit with assessors in certain cases

6.—(1) A licensing authority may, in its discretion, when considering an application for a 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.

(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) Subject to such exceptions as the Minister may allow no person holding a carrier's licence or a 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.

Licensing to be under hand of licensing authority

7. All licences granted under this Act shall be under the hand of one of the members of the licensing authority granting the same.

Licensing authority to submit report

8. Every licensing authority shall submit to the Minister an annual report of the proceedings transacted by it.

Liability for proceedings of licensing authority Acts 1970 No. 7

9. Without prejudice to the provisions of section 284A of the Penal Code or the Specified Officers (Recovery of Debts) Act, 1970, neither a licensing authority nor any member, officer or servant of a licensing authority shall be personally liable for any act or default which is done or omitted to be done in good faith in the course of the proceedings of the licensing authority under the provisions of this Act.

PART III

LICENCES

10.—(1) Subject to the provisions of subsection (6), no person shall, ^{Licensing of transport} except under and in accordance with the terms of a licence—

- (a) use a goods vehicle or a public service vehicle for the carriage of goods for hire or reward or for or in connection with any trade or business carried on by him;
- (b) use any motor vehicle designed or intended for carrying more than four persons and the driver of such vehicle for the conveyance of any person for hire or reward.

(2) When a goods vehicle is being used on a road for the carriage of goods or a motor vehicle is being used for the carriage of persons, the driver of the vehicle, if it belongs to him or is in his possession under an agreement for hire, hire purchase or loan, 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 person by whom the vehicle is being used.

(3) Where at any time goods are carried in a goods vehicle or passengers are carried in a motor vehicle, being a vehicle which has been let on hire by the person who, at the time of the carriage of the goods or passengers, is within the meaning of this Act the user of the vehicle, the goods or passengers, as the case may be, shall be deemed to be carried by that person for hire or reward.

(4) For the purposes of this Act, where a carrier's licence prohibits the carriage of any goods for hire or reward—

- (a) the delivery or collection by a person of goods sold, used or let on hire purchase in the course of a trade or business carried on by him;
- (b) the delivery or collection by a person of goods which have been or are to be, subjected to a process or treatment in the course of a trade or business carried by him;
- (c) the carriage by a person engaged in agriculture in any locality of goods for or in connection with the business of agriculture carried on by another person in that locality, so long as the goods are carried on a vehicle which the person carrying them is authorized by a licence to use for the carriage of goods for or in connection with his agricultural business;
- (d) the carriage of goods in a vehicle by manufacturer, agent or dealer, whilst the vehicle is being used by him for demonstration purposes,

shall be deemed not to constitute a carrying of goods for hire or reward.

(5) It is hereby declared that, for the purposes of this Act, the performance by a local authority of its functions shall be deemed to be the carrying on of a business.

(6) This section shall not apply—

- (a) to the use of a vehicle for the purpose of funerals;
- (b) to the use of a vehicle for ambulance purposes;

- (c) to the use by a local authority or a person acting in pursuance of a contract with a local authority, of a vehicle for road cleansing, road watering or the collection or disposal of refuse, night soil or the contents of cesspits;
- (d) the use of a vehicle for towing a disabled motor vehicle or for removing goods from a disabled vehicle to a place of safety;
- (e) to the use of any vehicle owned by or in the possession of the Government, the Community or a Corporation within the Community;
- (f) 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;
- (g) to the use of any vehicle or class of vehicle exempted by the Minister by notice in the *Gazette* or to the use of a vehicle for any purpose so exempted.

(7) If any person uses a motor vehicle in contravention of this section he shall be guilty of an offence and shall be liable on conviction, in the case of a first offence, to a fine not exceeding ten thousand shillings, and in the case of a second or subsequent offence to a fine not exceeding fifty thousand shillings, and in addition thereto, the court may, in the case of a third or subsequent offence, order the forfeiture of the vehicle in relation to which the offence is committed, whether or not the previous offences were committed in relation to the same vehicle.

Classes of
licences

11.—(1) The following classes of licences may be granted under the provisions of this Act—

- (a) in respect of a goods vehicle, a carrier's licence;
- (b) in respect of a public service vehicle, a road service licence.

(2) A carrier's licence shall, subject to any conditions attached to the licence, entitle the holder to use the authorized vehicle 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 road service licence shall entitle the holder thereof to use the authorized vehicle for the carriage for hire or reward of passengers and their baggage:

Provided that a licensing authority may, in its discretion and subject to such conditions as it may impose in a road service licence, permit the holder of such licence to carry goods.

- (4) The vehicles authorized to be used under a licence shall be—
 - (a) such motor vehicles, being vehicles belonging to the holder of the licence or in his possession under a hire purchase agreement, as are specified in the licence;
 - (b) motor vehicles from time to time in the possession of the holder of the licence under an agreement for hire or loan not exceeding at any time such maximum number as is specified in the licence;

(c) trailers from time to time belonging to the holder of the licence or in his possession under an agreement for hire purchase, hire or loan, not exceeding at any time such maximum number as is specified in the licence for vehicles or trailers of such type.

(5) For the purpose of paragraph (b) or paragraph (c) or subsection (4), different types of motor vehicles or different types of trailers, as the case may be, may be distinguished in a licence and a maximum number may be specified in the licence for vehicles or trailers of such type.

(6) A motor vehicle specified in the licence shall not, while it remains so specified, be eligible of being effectively specified in any other licence under this Act.

(7) A person may be the holder of two or more licences whether of the same class or of different classes.

12.—(1) Subject to the provisions of subsection (2), licences shall, unless previously revoked, remain in force for— Duration of licences

(a) in the case of a carrier's licence, a period of two years from the date of issue;

(b) in the case of a road service licence, a period of two years from the date of issue.

(2) With view to enabling goods vehicles or public service vehicles to be used temporarily—

(a) for the purpose of a seasonal business;

(b) for the purpose of the execution of a particular piece of work; or

(c) for any other purpose of limited duration,

a licence of any class may be granted for a period not exceeding three months.

(3) If, on the date of the expiration of a licence, other than a short term licence, or a licence granted under the provisions of subsection (4), proceedings are pending before a licensing authority on an application by the holder of that licence for the grant to him of a new licence, the existing licence shall continue in force until the application is disposed of, without prejudice, however, to the exercise in the meantime of the powers of suspension and revocation conferred by this Act.

(4) If on an application for a carrier's licence the applicant satisfies the licensing authority that any of the authorized vehicles will be used exclusively for the purpose of a contract entered into by the applicant with a person carrying on a trade or business (not being the business of carrying or arranging for the carrying of goods) for the carriage of goods for or in connection with that trade or business during any continuous period of less than one year but more than three months, the licensing authority may, in its discretion grant the application so far as regards those vehicles, subject to conditions for securing that such vehicles shall be used exclusively for the purposes of the contract and shall, on the termination of the contract, cease to be authorized vehicles unless the licensing authority, on an application made to it with respect thereto, otherwise directs.

(5) In this Act "a short term licence" means a licence granted under subsection (2) or (4).

Licence not transferable without consent in writing of licensing authority

13. No licence shall be transferable except with the written consent of the licensing authority issuing the same or, in the case of an exclusive licence issued under the provisions of section 23, with the written consent of the Minister endorsed on such licence. Such consent shall only be given where the licensing authority or the Minister, as the case may be, is satisfied that the licence which it is desired to transfer has been fully utilized during the period of three months immediately preceding the date of the proposed transfer.

Protection of public interest

14.—(1) It is hereby declared that nothing in this Act shall be construed as conferring on the holder of a licence any right to the continuance of any benefits arising from the provisions of this Act, or from a licence, or from any condition attached to a licence.

(2) The grant of a licence under this Act shall not relieve the holder from complying with the provisions of any written law in force in respect to motor vehicles, road traffic or use of highways.

Licensing authority may obtain opinion of road authority

15. When considering an application for a licence, the licensing authority may obtain and take into account the opinion of the appropriate road authority as to the suitability of the vehicle or vehicles for the road or roads on which the applicant proposes to operate.

PART IV

PROCEDURE ON APPLICATION FOR LICENCES

A. Jurisdiction of Licensing Authorities

Regional Licensing Authority

16.—(1) Every Regional Licensing Authority shall have exclusive jurisdiction to entertain, consider and determine applications for, and grant or refuse to grant—

- (a) a carrier's licence or a road service licence for the carriage of goods or passengers within the region in respect of a vehicle operating only within the region;
- (b) subject to the provisions of subsections (2) and (3) a carrier's licence or a road service licence for the carriage of goods or passengers from a place or places within the region to a place or places within a contiguous region.

(2) A Regional Licensing Authority shall have no jurisdiction to entertain, consider or determine applications for, or grant, a licence for the carriage of goods or passengers between the region for which such Authority is established and any contiguous region—

- (a) where the greater portion of the proposed route runs along the main highway or the trunk road connecting the two regions;
- (b) where the distance which the vehicle will cover in such contiguous region exceeds the distance which it will cover in the region for which the Authority is established; or
- (c) where neither the vehicle is based nor the applicant ordinarily resides within the region for which the Regional Licensing Authority is established.

(3) A Regional Licensing Authority shall have no jurisdiction to licence the same vehicle to operate between the region for which it is established and two or more contiguous regions.

(4) A grant of licence in contravention of the provisions of subsection (2) or (3) shall be valid and effective if such grant is subsequently confirmed by the Central Licensing Authority.

(5) Nothing in this section shall be construed as precluding a Regional Licensing Authority from exercising any of the functions of the Central Licensing Authority where such function has been lawfully delegated to such Regional Licensing Authority.

17. The jurisdiction to entertain, consider and determine, and grant or refuse to grant any licence under this Act other than a licence to which subsection (1) of section 16 applies shall vest in the Central Licensing Authority.

18. The Minister may, after consultation with the President, and by order in the *Gazette*, delegate to a Regional Licensing Authority the jurisdiction of the Central Licensing Authority or any other Regional Licensing Authority to entertain, consider and determine, and grant or refuse to grant any particular application for a licence or applications for any category of licences specified in such order.

B. Goods Vehicles Licences

19.—(1) In the case of goods vehicles, a person applying for a licence shall submit to the appropriate licensing authority a statement in the prescribed form—

- (a) containing, such particulars as may be prescribed, in respect of motor vehicles proposed to be used under the licence and which belong to the applicant or are in his possession under a hire purchase agreement or which, if the application is granted, he intends to acquire or obtain possession of under such an agreement;
- (b) specifying the number and type of hired motor vehicles and of trailers proposed to be so used; and
- (c) giving details of the facilities for the transport of goods intended to be provided by him under the licence for other persons, including particulars of the area within which, or the places between which, it is intended that the authorized vehicles will normally be used for the purpose of carrying goods and in the case where such goods are intended to be carried for hire or reward, the rates proposed to be charged therefor.

(2) A separate application shall be made in respect of each permanent base or centre from which it is intended that the authorized vehicles will normally be used:

Provided that, where applications are made by a person for a carrier's licence in respect of two or more bases or centres, the licensing authority may, if it thinks fit, grant a single licence in respect of those applications or any of them.

Discretion of licensing authority to grant or refuse an application for a goods vehicle licence

20. A licensing authority shall, subject to the provisions of this Act have full power in its discretion either to grant or to refuse an application for a goods vehicle licence, to grant a licence subject to such conditions as it may impose under this Act, or to grant a licence in respect of motor vehicles other than those of which particulars were contained in the application, or in respect of motor vehicles or trailers less in number than, or differing in type from, those for the use of which the application is made.

C. Road Service Licences

Procedure

21. Every person applying for a road service licence shall submit to the licensing authority—

- (a) particulars of the type or types of vehicle to be used; and
- (b) in the case of regular services, the time tables and fare tables of the services which it is proposed to provide under the licence; and
- (c) in any other case, such particulars as to the fares to be charged, the frequency of the services and the times expected to be taken on the journeys included in these services as the licensing authority may require; and
- (d) where he wishes the licensing authority to exercise the discretion conferred on it by the proviso to subsection (3) of section 11, the particulars required under paragraph (c) of subsection (1) of section 19.

Discretion of licensing authority to grant or refuse an application for a road service licence
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22.—(1) A licensing authority shall, subject to the provisions of this Act, have full power in its discretion either to grant or to refuse an application for a road service licence in respect of all or any routes within Tanganyika and subject to such conditions as it may in its discretion impose but it shall not grant such licence if it appears from the particulars furnished in pursuance of section 21 of this Act that any of the provisions of the Traffic Ordinance are likely to be contravened.

(2) It is hereby expressly declared without prejudice to the generality of subsection (1) that a licensing authority, when granting an application for a road service licence, may attach as a condition of such licence that any vehicle authorized for use under the licence shall, when so used, carry an emergency supply of food and drink to an extent to be specified in the licence.

Exclusive licences

23.—(1) Notwithstanding any other provisions of this Act a licensing authority may, with the approval of the Minister and subject to such conditions as it may impose, grant to any person an exclusive licence authorizing such person to operate vehicles for the carriage of passengers in any urban area or part thereof over such routes or between such places therein and for such period as the Minister may decide, and the provisions of this Act regarding applications for and reasons opposing the grant of a licence shall apply to an application for and grant of any exclusive licence under this section.

(2) Where a licensing authority intends, subject to the approval of the Minister, to grant an exclusive licence under the provisions of subsection (1) it shall, by notice in the *Gazette*, give notice of its intention to grant such licence, and no such licence shall be granted until a period of three months after the date of the publication of such notice has elapsed.

(3) Where a licensing authority has granted an exclusive licence under this section it shall publish notice of such grant in the *Gazette* and thereafter if any person other than the grantee operates, uses or causes or permits to be used, without the prior written permission of the grantee, any vehicle (other than a vehicle which is designed or intended for carrying less than four persons excluding the driver of such vehicle, or a vehicle which is licensed only for use on a whole-hire basis and which is designed or intended for carrying less than seven persons excluding the driver of such vehicle) for the purpose of carrying passengers and their goods for hire or reward on any route or between any places within any area for which the said exclusive licence has been granted he shall be guilty of an offence and shall on conviction therefor be liable to a fine not exceeding ten thousand shillings for a first offence and to a fine not exceeding twenty thousand shillings or imprisonment for a period not exceeding six months or to both such fine and such imprisonment for a second or subsequent offence.

D. General

24. In any case in which a licensing authority refuses to grant a licence, or grants a licence which differs from the licence applied for, or attaches conditions to which the applicant does not agree, the licensing authority shall, if requested by the applicant, state in writing the reasons for its decision.

25.—(1) A person applying for a licence shall, in addition to the particulars which he is required under the provisions of this Part to furnish with his application, give to the licensing authority any information which the authority may reasonably require for the discharging of its duties in relation to the application and in particular, shall, if required by the licensing authority, submit to it such particulars as it may require with respect to any business as a carrier of passengers or goods for hire or reward carried on by the applicant at any time before the making of the application and of the rates charged or proposed to be charged by the applicant.

(2) A licensing authority may hold such inquiries as it thinks necessary for the proper exercise of its functions under this Act including inquiries into an applicant's reliability, financial stability and the facilities at his disposal for carrying out mechanical repairs.

(3) The licensing authority holding an inquiry under this Act may by order require any person to attend as a witness and give evidence or to produce any document in his possession or power which relate to any matter at the inquiry and are such as would be subject to production in a court of law, and any person who fails without reasonable excuse to comply with the provisions of any such order shall be guilty of an offence and shall, on conviction be liable to a fine not exceeding two thousand shillings.

Minister
may give
directions

26. The Minister may give to a licensing authority directions of a general or specific character as to the exercise and performance by the authority of its functions under this Act and the authority shall give effect to such directions.

Licensing
authority
shall have
regard to
certain
matters in
exercising its
discretion

27. In exercising its discretion a licensing authority shall have regard to the following matters:—

- (a) the extent to which the proposed service is necessary or desirable in the public interest, including the interest or interests of persons requiring, as well as those persons providing, facilities for transport;
- (b) the extent to which it is necessary in the public interest to prevent uneconomic competition with other systems of transport including transport by railway, steamer and air services or road transport operated by any public corporation;
- (c) the extent to which the needs of the areas or routes proposed to be served are already met by land, water or air transport services;
- (d) the applicant's reliability, financial stability and the facilities at his disposal for carrying out the proposed services;
- (e) the suitability of the routes on which a service may be provided under the licence, including the general condition of the roads and the size of the vehicles proposed for use;
- (f) where the applicant is already the holder of an existing licence of the same class, the extent to which he is authorized to use goods vehicles thereunder for the carriage of goods for hire or reward;
- (g) the previous conduct and the antecedents of the applicant including, where the applicant is a body of persons, the previous conduct and antecedents of the members and officers of such body;
- (h) the number and type of vehicles to be used under the proposed licence, including the need for providing for occasions when vehicles are withdrawn from service for overhaul or repair;
- (i) in the case of an application for a carrier's licence, the extent to which the applicant intends that the vehicle proposed to be used under the licence shall be used for the carriage of goods for hire or reward;
- (j) the provision of adequate, suitable and efficient services, the elimination of unnecessary services and unremunerative services and the co-ordination of all forms of passenger transport;
- (k) any representations or objections which may be made in the prescribed manner by persons already providing transport facilities along or near to the route or routes or any part thereof along which the proposed service will run, or by any local authority in whose area any such route or routes or part thereof is situated;
- (l) the desirability of encouraging increased participation by public corporations and citizens of the United Republic in the transport industry of Tanganyika;

- (m) any matter it may think necessary to have regard to in respect of conditions peculiar to the area or route in or on which a service is proposed;
- (n) any directions given by the Minister under section 26.

PART V

CONDITIONS, VARIATION, REVOCATION AND SUSPENSION OF LICENCES AND PENALTY FOR NON-COMPLIANCE WITH CONDITIONS OF LICENCES

28.—(1) It shall be a condition of every licence—

Conditions
of licences

- (a) that all authorized vehicles are maintained in a fit and serviceable condition;
 - (b) that the provisions of any law for the time being in force relating to limits of speed and weight, laden and unladen, the loading of goods vehicle, and the number of passengers to be carried, are complied with in relation to the authorized vehicles;
 - (c) that in relation to the authorized vehicles the provisions of any law for the time being in force with respect to the time for which the drivers of certain vehicles may remain continuously on duty and the hours which they are to have for rest are observed;
 - (d) that the provisions of this Act and of the regulations relating to the keeping of records are complied with.
- (2) A licensing authority may attach to any carrier's licence all or any of the following conditions:—
- (a) a condition that the authorized vehicles shall or shall not be used in a specified area or over specified routes;
 - (b) a condition that certain classes or descriptions of goods shall or shall not be carried;
 - (c) a condition specifying the charges or the maximum or minimum charges to be made for the carriage of goods;
 - (d) a condition that the holder of the licence shall if so required by the licensing authority on the request of the Regional Director carry mail in his authorized vehicles at a rate to be agreed between the holder of the licence and the Regional Director and, in the event of failure so to agree, at a rate to be fixed by the licensing authority;
 - (e) such other conditions as may be prescribed in the public interest or with a view to preventing uneconomic competition.

(3) A licensing authority may attach to a road service licence such conditions as it may think fit with regard to the matters to which it is required to have regard under this Act and, in particular, for securing that—

- (a) the fares shall not be unreasonable;
- (b) where desirable in the public interest, the fares shall be so fixed as to prevent wasteful competition with alternative forms of transport, if any, along the routes or any part thereof, or in proximity thereto;

- (c) the vehicles shall be operated in accordance with time tables approved by the licensing authority and that copies of the time tables and fares tables shall be carried and be available for inspection in every vehicle used on the service;
- (d) 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;
- (e) passengers shall not be taken up or shall not be set down except at specified points,

and generally for securing the safety and convenience of the public.

(4) The licensing authority may, from time to time, on the application of the holder of the licence and subject to the provisions of section 29 and section 30 cancel or vary any of the conditions attached to a licence under the provisions of this Act.

(5) The Minister may, by order, attach to a road service licence such conditions as he may consider necessary in the public interest and, in particular, may direct—

- (a) that the holder of the licence shall make such refund as the Minister may prescribe of the fare in the event of the holder being unable to carry a passenger for the whole or any part of the journey contracted for;
- (b) that every passenger shall be entitled to carry free of charge such quantity of personal baggage as may be prescribed;
- (c) for payment by a passenger of charges in respect of carriage of personal baggage in excess of the quantity prescribed under paragraph (b) at such rates as the Minister may prescribe;
- (d) that the holder of the licence shall ensure that where a person has paid for his carriage to any destination in a vehicle which he has been given to understand will leave the embarkation point at certain time, there will be accommodation for such person in such vehicle.

(6) Any term in any contract entered into between the holder of a licence granted under this Act and his customer which is less favourable to the customer than the condition attached to such licence under this section, or any other provision of this Act, shall be null and void.

**Variation
of licences**

29.—(1) On the application of the holder of a licence other than a short term licence, the licensing authority may at any time during its validity vary the licence by directing that additional vehicles shall be specified therein, or that vehicles specified therein shall be removed therefrom, or that the maximum number of motor vehicles or of trailers specified in the licence shall be increased or reduced:

Provided that in the case of an exclusive licence no variation shall be made without the prior approval of the Minister.

(2) The foregoing provisions of this Act as to applications for licences, the grant or refusal of licences, and the attaching of conditions to licences, shall apply in relation to the variation of any such licence:

Provided that the licensing authority shall be bound to grant an application for a variation consisting only of the removal of a specified vehicle from the licence, or of a reduction in the maximum number

specified as aforesaid or of the inclusion in the same carrier's licence of a goods vehicle in substitution for a specified vehicle or a vehicle of the same or of a less weight unladen or of the inclusion in the case of a road service licence in substitution for a specified vehicle, of a vehicle of the same or of a less passenger carrying capacity.

(3) Where it comes to the knowledge of the licensing authority that a vehicle specified in a licence has ceased to be used under the licence for any reason other than fluctuation in business it may vary the licence by directing that the vehicle shall be removed therefrom.

30.—(1) A licence may be revoked or suspended by the licensing authority on the ground that any of the conditions of the licence has not been complied with:

Revocation
or suspension
of licences
by licensing
authority

Provided that in the case of an exclusive licence no such revocation or suspension shall be effected without the prior consent of the Minister.

(2) In any case where a licence is revoked or suspended the licensing authority shall, if requested by the licensee, state in writing the grounds for the revocation or suspension.

(3) A licensing authority may, in lieu of revoking or suspending a licence, direct that any one or more of the vehicles specified therein shall be removed therefrom, or that the maximum number of motor vehicles or of trailers specified in the licence shall be reduced, or that the licence shall cease to apply in respect of certain routes and references in this or any other section of this Act to the revocation or suspension of a licence shall be construed as including a reference to the giving of a direction under this subsection.

31.—(1) The Minister may, by order, revoke or suspend any licence granted under this Act where, in his opinion, it is necessary in the public interest so to do.

The Minister
may revoke
or suspend
licences

(2) Where the Minister has revoked or suspended a licence under subsection (1), no licensing authority shall, for so long as such revocation or suspension remains in force, proceed to consider any application by the holder of the licence which has been revoked or suspended for the renewal or grant of a licence under this Act save with the prior approval of the Minister.

32.—(1) Subject to the provisions of this section any person who fails to comply with any condition of a licence held by him shall be guilty of an offence and shall be liable in the case of first offence to a fine not exceeding ten thousand shillings and in the case of a second or any subsequent conviction for such or similar offence, to a fine not exceeding twenty thousand shillings, and in addition thereto, the court may, in the case of a third or subsequent conviction for such or similar offence, order the forfeiture of the vehicle in relation to which the offence is committed, whether or not the previous offences were committed in relation to the same vehicle.

Penalty for
non-compliance
with
and exceptions
to the
conditions
of licences

(2) In the case of a goods vehicle licence, and notwithstanding that a vehicle is an authorized vehicle, the conditions of the licence shall not apply while the vehicle is being used for any purpose for which it might lawfully be used without the authority of a licence.

PART VI

OBJECTIONS AND APPEALS

Reasons may be advanced opposing certain applications or variations of licences

33.—(1) A licensing authority shall, subject to the provisions of this section, publish in the prescribed manner notice of an application to which this section applies specifying the time within which and the manner in which reasons may be advanced opposing the grant of the application.

(2) It shall be the duty of the licensing authority, on an application to which this section applies, and on payment of the prescribed fee (if any), to take into consideration any reasons opposing the application which may be advanced by any local authority in whose area the routes intended to be served are situated, or by persons who are already providing facilities, whether by means of road transport or any other kind of transport for the carriage of goods or passengers for hire or reward in the area, or between the places which the applicant intends to serve, on the ground that suitable transport facilities in that area, or between those places already exist, or that if the application were granted such facilities would be, either generally or in respect of any particular type of vehicles, in excess of the requirements, or would be contrary to the public interest, or on the ground that any of the conditions of a licence held by the applicant has not been complied with.

(3) Except as provided in subsection (4), this section shall apply to every application for the grant of a carrier's licence or a road service licence, or for the variation of such a licence by a direction that additional vehicles shall be specified therein or that the maximum number of motor vehicles or of trailers specified in the licence shall be increased, or that the area specified in the licence within which, or the places so specified between which, the vehicles can be used for the carriage of goods or passengers for hire or reward shall be varied or extended, not being—

- (a) an application which the licensing authority is bound to grant; or
- (b) an application for a licence to expire not later than an existing licence under which the vehicles to which the application relates are authorized to be used for the purposes of a business which the applicant has acquired or intends to acquire; or
- (c) an application in respect of which the licensing authority is of the opinion that, having regard to its trivial character, it is not necessary that any opportunity should be given for reasons to be advanced opposing the application.

(4) Reasons advanced opposing the grant of a short term licence shall not be considered—

- (a) where such licence is granted by a person authorized to do so under section 5; or
- (b) where such licence is granted by the licensing authority in respect of a vehicle already licensed under this Act.

(5) Where, on an application for the grant of a carrier's licence, the licensing authority proposes to grant the application in respect of vehicles other than those of which particulars were contained in the application, it shall publish notice of its proposal as if that proposal were an application to which this section applies, and thereupon the provisions of this section with respect to the advancement and consideration of reasons opposing an application shall apply accordingly:

Provided that it shall not be necessary for the licensing authority to publish such a notice if it is satisfied that the variation, subject to which it proposes to grant the application, will not materially increase the total carrying capacity of the authorized vehicles.

34.—(1) Any person who—

Appeals

- (a) being an applicant for the grant or variation of a licence, is aggrieved by the decision of the licensing authority on the application; or
- (b) having duly advanced reasons opposing any such application as aforesaid, being reasons which the licensing authority is bound to take into consideration, is aggrieved by the decision of the licensing authority thereon; or
- (c) being a holder of a licence, is aggrieved by the revocation or suspension thereof,

may, within the time and in the manner prescribed, appeal—

- (i) in the case of an appeal against a decision of the Central Licensing Authority, to the Minister;
- (ii) in the case of an appeal against a decision of a Regional Licensing Authority, to the Regional Commissioner of the region for which the Authority is established.

(2) On any appeal made under this section the Minister or, as the case may be, the Regional Commissioner may affirm, reverse or vary the decision of the licensing authority or may make such other order including an order for costs as may appear to him necessary and just.

35.—(1) The Minister or, as the case may be, a Regional Commissioner, Procedure sitting as appellate authority to decide any appeal under section 34 on appeal shall sit with two assessors selected from a panel of assessors maintained for that purpose.

(2) The decision of any assessor on any appeal shall not be binding upon the Minister or as the case may be, the Regional Commissioner.

(3) The proceedings on any appeal shall not, if the decision on the appeal is the decision of the Minister or, as the case may be the Regional Commissioner, be invalid by reason only of no assessor having been nominated or of the absence of any one or both of the assessors during the whole or any part of the proceeding or any other irregularity or defect in the proceedings.

36. The decision of the Minister or, as the case may be, of a Decision Regional Commissioner on an appeal under section 34 shall be final on appeal to and conclusive and shall not be subject to review by any court. be final

PART VII

LICENCES TO CO-OPERATIVE SOCIETIES

Licences
to be issued
to co-operative
societies
Acts 1968
No. 27

37.—(1) Notwithstanding anything in this Act contained, the Registrar of Co-operative Societies appointed under the Co-operative Societies Act, 1968 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 Act as being a society suitable to be granted a public carrier's licence or a road service licence under this Act.

(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 Act 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, unless it is satisfied that the service proposed to be operated by the co-operative society is not necessary or desirable in the public interest, including the interest or interests of persons requiring facilities for transport, grant to the co-operative society a carrier's licence or a road service licence, as the case may be.

(5) Where a licensing authority grants to a co-operative society a licence pursuant to the provisions of subsection (4) such grant shall be in accordance with the matters and conditions specified by the Registrar of Co-operatives under subsection (3):

Provided that the licensing authority may, where it considers desirable and after consultation with the Registrar, modify any of such matters or conditions.

PART VIII

OFFENCES AND PROSECUTIONS

Forgery of
licences, etc.
Cap. 16

38.—(1) If, with intent to deceive or mislead, any person—

- (a) forges, within the meaning of Chapter XXXIV of the Penal Code, or alters or uses or lends to or allows to be used by any other person a licence or any document, plate or mark by which the subject of the licence is to be identified as being licensed under this Act; or
- (b) makes or has in his possession any document, plate or mark so closely resembling a licence, or any such document, plate or mark as aforesaid, as to be calculated to deceive; or

(c) alters an entry in a record made under any provision of this Act, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

(2) If any person, for the purpose of obtaining the grant of a licence to himself or any other person, or the variation of a licence, or for the purpose of preventing the grant or variation of any licence or of procuring the imposition of any condition or limitation in relation to a licence, knowingly makes any false statement, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

39.—(1) Where a licensing authority has, in a road service licence, fixed the fare for any journey, no person shall be required to pay more than such fare for such journey nor shall he be required to pay any fee or commission to any person for arranging such journey.

Charging more than prescribed fare prohibited

(2) Where a licensing authority has in a road service licence fixed the fare for any journey any person who obtains from any person other than the licensee under the licence any fee or commission for arranging for any person to perform such journey shall be guilty of an offence and shall be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

PART IX

MISCELLANEOUS PROVISIONS

40. All fees payable under this Act or any regulations made here- under shall be paid into the general revenue of the United Republic.

Financial provisions

41. The Minister may prescribe fees payable in respect of the lodging of any objection under section 33, the grant or variation of licences, and in respect of appeals under section 34.

Fees

42. The Minister may make regulations for any purpose for which regulations may be made under this Act and generally for the purpose of carrying this Act into effect and, in particular but without prejudice to the generality of the foregoing provisions, may make regulations with respect to any of the following matters:—

General power of making regulations

- (a) the forms to be used and 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 and revocation of licences;
- (c) the preferential treatment to be accorded to applications for licences by public corporations and their subsidiary companies established for the provision of transport facilities;
- (d) the grant of licences, and the grant of copies of licences in the case of licences lost or destroyed;
- (e) the means by which vehicles are to be identified, whether by plates, marks or otherwise, as being authorized for use under this Act;

- (f) the custody of licences, the production, return and cancellation of licences on expiration, suspension or revocation, and the custody, production and return of documents and plates;
- (g) the notification to the licensing authority of vehicles which have ceased to be used under a licence;
- (h) the persons to serve as assessors on the licensing authority, and on appeals and reimbursement of their expenses;
- (i) the keeping of such records and the making of such returns by the licensing authority or by licensees as he may deem necessary;
- (j) the temporary use of any vehicle in substitution for an authorized vehicle which is not fit for normal use;
- (k) prescribing anything which, under this Act, may be prescribed;
- (l) providing for any matter which, in the opinion of the Minister, is necessary or desirable to provide in the interest of the transport industry in Tanganyika.

Power to
stop and
inspect
vehicles

43.—(1) A police officer, a member of a licensing authority or any administrative officer may search any vehicle, and for this purpose may stop such vehicle, if in motion, with a view to ascertain whether or not the provisions of this Act or of any regulations made hereunder are being complied with, and may demand for inspection the production of any licence, certificate, document or record of any description whatsoever which may, under the provisions of this Act or of any regulations made hereunder, 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 police officer, member or administrative officer may reasonably request in order to ascertain whether or not the provisions of this Act or regulations are being complied with.

(2) Any person who obstructs any police officer, member or administrative officer in the exercise of the powers conferred by this section, or fails to comply with any lawful order given by such police officer, member or administrative officer, or refuses to give any information when requested so to do by such police officer, member or administrative officer shall be guilty of an offence and shall be liable to a fine of ten thousand shillings or to imprisonment for one year or to both such fine and such imprisonment.

(3) Any police officer of or above the rank of Assistant Superintendent or any officer in charge of police having reasonable grounds for believing that any person has committed an offence against this Act and that such person will not attend the court in answer to any process which may be issued against him, may arrest such person without a warrant.

Power to
detain
vehicles

44.—(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 the provisions of this Act 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

this Act have been completed and until the identity of the person who is the user of the vehicle within the meaning of this Act has been established, and, in the event of proceedings being instituted against such person for a contravention of any provision of this Act the vehicle may be further detained until his conviction, acquittal or discharge in such proceedings.

45. No advocate or legal practitioner shall be entitled to appear or act for any party in any proceedings under this Act before a licensing authority, and, save with the permission of the Minister or, as the case may be, the Regional Commissioner, no advocate or legal practitioner may appear or act for any party in any proceedings on an appeal under section 34.

Appearance
by advocates

46. Notwithstanding anything in this Act contained, where an application has been or is made by any person for a licence under the provisions of this Act and has been refused, and if an appeal is made such appeal has been dismissed, no subsequent application made by the same person for a similar licence shall, except with the consent of the licensing authority which shall not be unreasonably withheld, be entertained or adjudicated upon by the licensing authority until a period of twelve months from the date of such application has expired.

Subsequent
application
after refusal
of licensing
authority
to grant
licence

47. The provisions of section 32 of the Traffic Ordinance shall not apply to any vehicle to which the Act applies.

Certain
provisions
of Traffic
Ordinance
not to apply
Cap. 168

48.—(1) The Transport Licensing Ordinance is repealed.

Repeal
and savings
Cap. 373

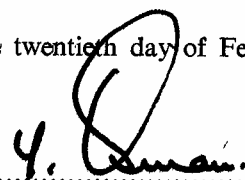
(2) For the avoidance of doubts it is hereby declared that the provisions of section 14 and of section 15 of the Interpretation of Laws and General Clauses Act, 1972 shall apply in respect of the repeal of the Transport Licensing Ordinance and its re-enactment by this Act.

Acts 1972
No. 30

(3) All licences, certificates and authorities granted under the Transport Licensing Ordinance and which are valid immediately before the commencement of this Act shall remain valid and continue in effect as if the same had been granted under this Act notwithstanding the repeal of this Ordinance.

(4) At any time within twelve months of the enactment of this Act the Minister may, by order in the *Gazette*, make such further transitional and consequential provisions as he may deem necessary upon the repeal and re-enactment of the Transport Licensing Ordinance by this Act.

Passed in the National Assembly on the twentieth day of February, 1973.


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Clerk of the National Assembly