

CHAPTER 13:15
ROAD MOTOR TRANSPORTATION ACT

Acts 1/1999, 6/2000, 22/2001 (s. 4); S.I 262/2007.

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AN ACT to provide for the control of certain forms of road transportation; to repeal the Road Motor Transportation Act [*Chapter 13:10*]; and to provide for matters connected with or incidental to the foregoing.

[Date of commencement: 1st July 1998]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Road Motor Transportation Act [*Chapter 13:15*].

2 Interpretation

(1) In this Act—

“certificate of fitness” means a certificate of fitness issue in terms of section *thirty-one*;

“Commissioner” means the Commissioner of Road Transport referred to in section *three*;

“examiner” means an examiner appointed in terms of section *twenty-nine*;

“foreign licence” means a foreign operator’s licence referred to in section *twenty-one*;

“goods” means goods, wares and merchandise of all kinds, including livestock, water, sand and stone but excluding mail conveyed in terms of any contract with the Posts and Telecommunications Corporation established by section *three* of the Posts and Telecommunications Corporation Act [*Chapter 12:03*];

“goods vehicle” means a motor vehicle, including an articulated vehicle, constructed or adapted for the conveyance of goods, which has—

- (a) a carrying capacity of more than ten tonnes; or
- (b) in the case of a motor vehicle whose carrying capacity is ten tonnes or less but which is drawing one or more trailers, a combined carrying capacity of more than fifteen tonnes;

“inspection officer” means a person who is appointed or deemed to have been appointed as an inspecting officer in terms of section *thirty*;

“Minister” means the Minister of Transport and Energy or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“omnibus” means a motor vehicle or trailer designed to carry more than seven passengers;

“operate”, in relation to—

- (a) a vehicle, means to control the vehicle’s use on any road;
 - (b) a service, means to carry on the service or to operate a vehicle in the conduct of the service; and
- “operator” shall be construed accordingly;

“operator’s licence” means a licence referred to in paragraph (a) of subsection (1) of section *seven*;

“organized tour vehicle” means a motor vehicle or trailer used for the conveyance of tourists on an organized tour or safari;

“passenger transport service” means—

- (a) the carriage of passengers, whether for hire or reward or otherwise, in an omnibus; or
- (b) the carriage of passengers for hire or reward in a metered or unmetered taxicab; or
- (c) the conveyance of persons on an organized tour or safari; or
- (d) any other service that may be prescribed;

“route authority” means a route authority issued in terms of section *twelve*;

“stage carriage service” means a passenger transport service provided by an omnibus which conveys passengers or goods or both at separate fares or tariffs for a journey from one or more points specified in a timetable to one or more common destinations so specified and stops to pick up or set down passengers or goods or both along the line of route;

“taxicab” means a motor vehicle which has seating accommodation for not more than seven passengers and which is used to carry passengers for hire or reward;

“terminal day” means the 31st January, the 31st May or the 30th September;

“traffic Act” means the Road Traffic Act [*Chapter 13:11*];

“vehicle” means—

- (a) a goods vehicle; or
- (b) an omnibus; or
- (c) a taxicab; or
- (d) an organized tour vehicle; or
- (e) any other vehicle that may be prescribed;

“vehicle Act” means the Vehicle Registration and Licensing Act [*Chapter 13:14*].

(2) Any expression which is not specifically defined in this section and to which a meaning has been assigned in the traffic Act or the vehicle Act shall bear the same meaning when used in this Act. PART II

COMMISSIONER OF ROAD TRANSPORT AND OTHER OFFICERS

3 Commissioner of Road Transport and other officers

(1) There shall be a Commissioner of Road Transport, a Deputy Commissioner of Road Transport and such Assistant Commissioners of Road Transport as may be necessary for the proper administration of this Act, whose offices shall be public offices and shall form part of the Public Service.

(2) When exercising the functions conferred or imposed upon him by or under this Act, the Commissioner shall be subject to the directions of the Minister.

(3) The Deputy Commissioner and every Assistant Commissioner shall exercise, subject to the direction and control of the Commissioner, such of the Commissioner’s functions as the Commissioner may assign to them.

4 Persons to advise Commissioner

(1) The Minister may appoint one or more persons or representatives of associations involved in the business of transportation whom the Commissioner may in his discretion call upon to assist him in considering any application.

(2) A person appointed in terms of subsection (1) shall be paid, from moneys appropriated for the purpose by Act of Parliament—

- (a) such remuneration, if any, as the Minister, after consultation with the Minister responsible for finance, may fix for such persons generally; and
- (b) such allowances, if any, as the Minister, after consultation with the Minister responsible for finance, may fix to meet any reasonable expenses incurred by the person in rendering assistance to the Commissioner.

5 Commissioner to keep records

The Commissioner shall keep such records, books and registers as may be prescribed.

6 General powers of Commissioner

(1) In the performance of his functions under this Act, the Commissioner shall have power—

- (a) to instruct an inspecting officer to examine any vehicle and to report to him on its condition and suitability for the conveyance of particular goods or passengers; and
- (b) to conduct such investigations as he considers necessary to assist him to come to a decision regarding the issue, operation, suspension, cancellation, renewal or amendment of any licence, certificate of fitness or route authority in terms of this Act; and
- (c) to examine or cause to be examined any records pertaining to the operations of the holder of an operator's licence; and
- (d) generally, to do all things that are reasonably necessary to ensure that holders of licences and authorities issued in terms of this Act comply with the terms and conditions of their licences and authorities.

(2) For the purposes of an investigation referred to in paragraph (b) of subsection (1), the Commissioner shall have the same powers as are conferred upon a commissioner by the Commissioners of Inquiry Act [Chapter 10:07], other than the power to order a person to be detained in custody, and sections *nine to thirteen* and *five to nineteen* of that Act shall apply, *mutatis mutandis*, in relation to the investigation and to any person summoned to give or giving evidence at the investigation.

(3) Paragraph (b) of subsection (1) shall not be construed as authorizing the Commissioner or any other person to enter or search any premises without the consent of the owner or occupier of the premises, unless there are reasonable grounds for believing that such entry or search is necessary for the prevention, investigation or detection of an offence under this Act.

PART III

OPERATION OF GOODS VEHICLES AND PASSENGER TRANSPORT SERVICES

7 Requirements for operation of goods vehicles or passenger transport services

(1) Subject to this Act, no person shall operate— (a)

a goods vehicle on any road; or

(b) a passenger transport service on any road; unless—

- (i) he is the holder of an operator's licence authorizing the operation or service concerned; and
- (ii) where he is operating a stage carriage service, he is the holder of a route authority issued in respect of that service; and
- (iii) the goods vehicle which is being operated, or every vehicle with which the passenger transport service is being operated, as the case may be, is registered and licensed in terms of the vehicle Act; and
- (iv) there is a valid certificate of fitness in respect of the vehicle.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

(3) The court convicting a person of an offence in terms of this section may, in addition to imposing the penalty referred to in subsection (2)—

- (a) prohibit the person from driving a motor vehicle on a road for such period as it thinks fit, and Part VII of the traffic Act shall apply, *mutatis mutandis*, to such a prohibition as if it has been imposed in terms of the traffic Act;
- (b) in respect of a second or subsequent such conviction, make an order prohibiting the person from obtaining an operator's licence for a period not exceeding two years, or cancelling any operator's licence the person may hold.

(4) Where the court makes an order—

- (a) in terms of paragraph (a) of subsection (3), the court shall forthwith cause a copy of the order to be forwarded to the Registrar of Vehicles referred to in section *three* of the vehicle Act;
- (b) in terms of paragraph (b) of subsection (3), the court shall forthwith cause a copy of the order to be forwarded to the Commissioner.

8 Application for operator's licence

(1) Any person who wishes to obtain an operator's licence shall apply to the Commissioner in the prescribed form and manner—

- (a) specifying the type of operation or service for which he requires the licence; and
- (b) providing the Commissioner with such information and particulars as may be prescribed or as the Commissioner may reasonably require.

(2) Where an operator's licence is required to operate a goods vehicle or an omnibus, the applicant shall specify whether the service or operation concerned will be conducted wholly inside Zimbabwe or partly inside and partly outside Zimbabwe.

(3) An application in terms of subsection (1) shall be accompanied by—

- (a) a valid certificate of fitness in respect of the motor vehicle or trailer concerned; and
- (b) such insurance as is required in terms of the traffic Act for the intended use of the motor vehicle or trailer concerned; and
- (c) the prescribed fee.

(4) An application may be made for an operator's licence on behalf of a company or private business corporation in the process of formation in terms of the Companies Act [*Chapter 24:03*] or the Private Business Corporations Act [*Chapter 24:11*] as the case may be, notwithstanding that the proposed company or private business corporation has not been registered at the time the application is made.

9 Issue or refusal of operator's licence

(1) On receipt of an application in terms of section *eight* for an operator's licence, and after conducting such investigation as he considers necessary, the Commissioner—

- (a) shall issue the licence applied for, if he is satisfied that the applicant complies with such requirements as may be prescribed; and
- (b) subject to subsection (2), shall refuse to issue the licence applied for if he is not satisfied as provided in paragraph (a).

(2) Before refusing to issue an operator's licence in terms of paragraph (b) of subsection (1), the Commissioner shall afford the applicant a reasonable opportunity to make representations in the matter.

(3) Where he has refused to issue an operator's licence in terms of paragraph (b) of subsection (1), the Commissioner shall provide the applicant, on request, with a statement in writing of the reasons for the refusal.

10 Form and period of validity of operator's licence

(1) An operator's licence shall be in the prescribed form and shall specify— (a) the full names of the person to whom it is issued; and

- (b) the period of validity of the licence; and
- (c) the nature of the operation or service authorized by the licence; and
- (d) any conditions subject to which the licence is issued; and (e) such other particulars as may be prescribed.

(2) An operator's licence shall be valid for such period, not exceeding three years, as the Commissioner may fix when issuing it:

Provided that the Commissioner shall fix the date of expiry of every licence so that it falls on a terminal day.

11 Operator's licence not transferable

An operator's licence shall not be transferable.

12 Route authority

(1) Where a person has been issued with an operator's licence for the operation of a stage carriage service, he shall, before commencing the service, apply to the Commissioner for the issue of a route authority authorizing him to operate the service over a specific route.

(2) An application in terms of subsection (1) shall be made in the prescribed form and manner and shall be accompanied by the prescribed fee.

(3) On receipt of an application in terms of subsection (1), the Commissioner—

- (a) shall issue the route authority applied for, if he is satisfied that the applicant complies with such requirements as may be prescribed; and
- (b) subject to subsection (4), shall refuse to issue the route authority applied for if he is not satisfied as provided in paragraph (a).

(4) Before refusing to issue a route authority in terms of paragraph (b) of subsection (3), the Commissioner shall afford the applicant a reasonable opportunity to make representations in the matter.

(5) Where he has refused to issue a route authority in terms of paragraph (b) of subsection (3), the Commissioner shall provide the applicant, on request, with a statement in writing of the reasons for the refusal.

(6) A route authority shall be in the prescribed form and shall specify the route along which the applicant is authorized to operate a stage carriage service.

(7) A route authority shall remain valid for so long as the person to whom it is issued continues to hold a valid operator's licence authorizing him to operate a stage carriage service.

13 Publication of routes and fares and display of route authority

(1) As soon as practicable after being issued with a route authority in terms of section *twelve*, the holder of the authority shall cause to be published, once a week for two consecutive weeks in a newspaper circulating in the area in which he is to operate the stage carriage service authorized by the authority—

(a) a timetable approved by the Commissioner and showing the times and places at which any omnibus will stop on the route along which the stage carriage service will be operated:

Provided that this paragraph shall not apply in respect of a stage carriage service operated in an urban area under the jurisdiction of a local authority;

(b) a table of fares for specified destinations along that route.

(2) A person who operates a stage carriage service shall ensure that— (a) the timetable and table of fares referred to in subsection (1); and

(b) the route authority issued in respect of the stage carriage service; are displayed at all times in a prominent place in every omnibus that is being used to operate the stage carriage service.

(3) Subsections (1) and (2) shall apply, *mutatis mutandis*, in respect of any alteration in the route along which a stage carriage service is operated or in the places or times at which omnibuses stop along that route or in the fares chargeable in respect of that service.

14 Renewal of licences and authorities

(1) The Commissioner may renew an operator's licence or route authority upon application being made to him for such renewal by the holder of the licence or authority concerned.

(2) Sections *eight to twelve* shall apply, *mutatis mutandis*, in respect of any renewal referred to in subsection (1).

15 Amendment of licences and authorities

(1) Without derogation from his powers under section *seventeen*, the Commissioner may amend any operator's licence or route authority issued in terms of this Part in order to correct any error in it or to take account of any change in any particular recorded on it.

(2) The Commissioner may require the holder of any operator's licence or route authority to submit it to him to enable him to amend it in terms of subsection (1), and the holder shall forthwith comply with such a requirement.

(3) Before amending an operator's licence or route authority in terms of subsection (1), the Commissioner shall inform the holder of his intention to amend it and shall give the holder a reasonable opportunity to make representations in the matter:

Provided that this subsection shall not apply where the amendment is made at the holder's request.

(4) An application by the holder of an operator's licence or route authority for it to be amended in terms of subsection (1) shall be made in the prescribed form and manner and shall be accompanied by the prescribed fee.

16 Duplicate licences and authorities

(1) If the Commissioner is satisfied that any operator's licence or route authority has been lost, defaced or destroyed, he may issue to the holder a duplicate licence or authority, as the case may be, with the word "duplicate" endorsed thereon.

(2) Upon the issue of a duplicate licence or authority in terms of subsection (1), the original shall become invalid.

(3) For every duplicate licence or authority issued in terms of subsection (1), there shall be paid such fee as may be prescribed.

17 Power of Commissioner to suspend, cancel or amend licence or authority

(1) Subject to subsections (3) and (4), the Commissioner shall have power to suspend, cancel, amend or refuse to renew an operator's licence or route authority—

(a) if, during the period of validity of the licence, there have been convictions of two or more, or two or more convictions for any one, of the following offences in respect of the operation of any motor vehicle whose operation is authorized by the licence or authority—

(i) exceeding any speed limit fixed in terms of the traffic Act;

(ii) conveying more passengers than is specified in the certificate of fitness issued in respect of the vehicle;

(iii) contravening any regulation relating to the maximum gross mass of vehicles or the maximum force to be transmitted to the road or any specified area thereof by a vehicle in contact with a road;

- (iv) operating a vehicle which, upon inspection, is found to be defective in respect of the brakes steering, suspension, chassis, tyres or any prescribed safety feature;
- (v) operating the vehicle without there being in force any policy of insurance required in terms of the traffic Act;

or

- (b) if—
 - (i) it appears to him that any term or condition of the licence is not being observed; or
 - (ii) it appears to him that the holder of the licence has no access to parking or maintenance facilities in respect of the vehicles he operates; or
 - (iii) the holder of the licence conveys hazardous substances in a manner that is likely to cause danger to members of the public; or
 - (iv) any one or more of the vehicles used by the holder of the licence are not suitable for the operation or service for which the licence was issued; or
 - (v) in the case of an operator's licence which authorizes the conveyance of passengers, the holder of the licence or any employee of his has been convicted of any offence which, in the opinion of the Commissioner, discloses a disregard for the safety of passengers or other road users; or
 - (vi) it appears to him that the licence or authority was obtained through the holder making a false statement of material fact, which statement the holder knew to be false or did not have reasonable grounds for believing to be true; or
 - (vii) it appears to him that any document issued by him to the holder of the licence as been unlawfully altered or substituted; or
 - (viii) the holder of the licence has been convicted of an offence involving a contravention of paragraph (a) of subsection (1) of section *eighteen*.

(2) The Commissioner shall not suspend, cancel, amend or refuse to renew an operator's licence or route authority in terms of subsection (1) unless he has informed the holder of his intention to do so and has given the holder reasonable opportunity to make representations in the matter.

(3) Where the Commissioner has suspended, cancelled, amended or refused to renew an operator's licence or route authority in terms of subsection (1) he shall, on request, provide the holder with the reasons for such suspension, cancellation, amendment or refusal.

18 Obligations of holder of operator's licence

- (1) The holder of an operator's licence shall—
 - (a) at all times, in such form, manner and position as may be prescribed, maintain a current certificate of fitness and, where appropriate, a route authority firmly affixed to the vehicle to which it relates; and
 - (b) when required to do so, produce to an appropriate officer or police officer, within such time as may be prescribed, his licence and additionally, or alternatively, the certificate of fitness issued in respect of the vehicle operated by him; and
 - (c) if the Commissioner so directs, return to the commissioner for endorsement, amendment or for any other purpose any document issued in terms of this Part, and carry in the vehicle concerned such temporary document as the Commissioner may issue until such time as the original document is returned to him; and
 - (d) notify the Commissioner forthwith of any change in his postal address; and
 - (e) notify the Commissioner forthwith, in writing, if he ceases to provide any service in respect of which his licence is issued, and return the licence to the Commissioner; and
 - (f) if he proposes to cease or suspend a stage carriage service over any route or part thereof specified in a route authority held by him, forthwith inform the Commissioner of that fact in writing, giving reasons therefor, and apply to the Commissioner for an appropriate amendment of the route authority; and
 - (g) if any document issued to him in terms of this Part is lost, defaced or destroyed, forthwith notify the Commissioner of the circumstances of the loss, defacement or destruction and apply to the Commissioner for a duplicate of the document; and
 - (h) submit to the Commissioner in the prescribed form such information as may be prescribed relating to any vehicle operated by him in terms of his licence.

(2) For the purposes of section *thirty-nine*, the requirements of subsection (1) shall be deemed to be terms and conditions of the licence concerned.

19 Minister may suspend issue of operators' licences

- (1) The Minister may, by notice in the *Gazette*, suspend the issue of operators' licences in respect of— (a) all vehicles and services; or
 - (b) any class of vehicles or services specified in the notice over any route or within any area specified in the notice.

(2) The Minister may, by notice in the *Gazette*, withdraw a suspension referred to in subsection (1).

(3) A suspension referred to in subsection (1) shall apply to applications submitted to the Commissioner but not determined before the date of publication of the notice concerned:

Provided that if the applicant consents, the Commissioner may retain any such application for up to three months, for consideration in the event of the suspension being withdrawn.

(4) An applicant whose application is not considered as a result of a suspension referred to in subsection (1) shall be entitled to a refund of any fee he tendered with the application.

20 Commissioner may invite applications for provision of transport services

If, in the Commissioner's opinion, any route or area is in need of any type of service that could be provided by holders of operators' licences, he may, by notice in the *Gazette* and in such other manner as he considers appropriate, invite applications to operate the required service on that route or in that area.

PART IV

FOREIGN LICENCES

21 Circumstances in which Commissioner may issue foreign licence Where

the Commissioner considers that it is necessary, for the purpose of—

- (a) dealing with or forestalling any emergency; or
- (b) complying with any international treaty or agreement to which Zimbabwe is a party; to allow—
 - (i) a goods vehicle which is registered in a foreign country to be operated on any road within Zimbabwe; or
 - (ii) a passenger transport service to be operated on any road within Zimbabwe with a vehicle which is registered in a foreign country;

he may, subject to this Part, issue a foreign operator's licence to the person who is to operate such a vehicle or service.

22 Application for foreign licence

(1) Any person who wishes to obtain a foreign licence shall apply to the Commissioner in the prescribed form and manner—

- (a) specifying the type of operation or service for which he requires the licence; and
- (b) providing the Commissioner with such information and particulars as may be prescribed or as the Commissioner may reasonably require.

(2) An application in terms of subsection (1) shall be accompanied by—

- (a) such documents as may be prescribed; and (b) the prescribed fee.

23 Issue or refusal of foreign licence

(1) On receipt of an application in terms of section *twenty-two*, and after conducting such investigation as he considers necessary, the Commissioner—

- (a) subject to subsection (3), may issue the foreign licence applied for if he is satisfied that the circumstances referred to in paragraph (a) or (b) of section *twenty-one* exist and that the applicant complies with such requirements as may be prescribed; and
- (b) subject to subsections (4) and (5), shall refuse to issue the licence applied for if he is not satisfied as provided in paragraph (a).

(2) The Commissioner may fix such terms and conditions as he thinks fit upon the issue of a foreign licence in terms of paragraph (a) of subsection (1).

(3) If the Minister considers it necessary or desirable to do so in order to comply with any international treaty or agreement to which Zimbabwe is a party, he may direct the Commissioner to issue a foreign licence to any person who has made an application in terms of section *twenty-two*, and the Commissioner shall comply with any such direction.

(4) Before refusing to issue a foreign licence in terms of paragraph (b) of subsection (1), the Commissioner shall afford the applicant a reasonable opportunity to make representations in the matter.

(5) Where he has refused to issue a foreign licence in terms of paragraph (b) of subsection (1), the Commissioner shall provide the applicant, on request, with a statement in writing of the reasons for the refusal.

24 Form and period of validity of foreign licence

(1) A foreign licence shall be in the prescribed form and shall specify— (a) the full names of the person to whom the licence is issued; and

- (b) the registration number of the vehicle in respect of which the licence is issued; and (c) the period of validity of the licence; and

- (d) the nature of the operation or service authorized by the licence; and
- (e) any conditions subject to which the licence is issued; and (f) such other particulars as may be prescribed.

(2) A foreign licence shall be valid for such period, not exceeding one year, as the Commissioner may fix when issuing it.

25 Conduct permitted under foreign licence

Notwithstanding section *seven* but subject to the terms and conditions of his foreign licence, the holder of a foreign licence may operate the goods vehicle or passenger transport service to which his licence relates, without being the holder of an operator's licence.

26 Cancellation of foreign licence by Minister

(1) Where the Minister is satisfied, in regard to a foreign licence issued in accordance with a direction given by him in terms of subsection (3) of section *twenty-three*, that—

- (a) the reason for which the licence was issued no longer applies; or
- (b) the holder of the licence has failed to comply with any term or condition of the licence; the Minister may direct the Commissioner to cancel the licence, and the Commissioner shall forthwith comply with the direction:

Provided that, before giving such a direction, the Minister shall afford the holder of the licence a reasonable opportunity to make representations in the matter.

(2) No appeal shall lie against the cancellation of a foreign licence in terms of this section.

27 Application of certain provisions of Act to foreign licences

Sections *eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen* and *nineteen* shall apply, *mutatis mutandis*, in respect of foreign licences and the holders thereof.

28 Recognition of licences and other documents issued outside Zimbabwe

(1) In this section—

“international transport treaty” means an international treaty or agreement which provides for the recognition by member States of licences or other documents relating to road transportation which are issued in other member States.

(2) Subject to this Act, where the Minister is satisfied that any foreign State has made satisfactory arrangements for giving effect within its territory to an international transport treaty to which Zimbabwe is a party, he may by statutory instrument declare that State to be a reciprocating State for the purposes of recognizing within Zimbabwe any licence or other document which relates to road transportation and which is issued by that State in accordance with the international transport treaty.

(3) The Minister may, by statutory instrument, amend or revoke any declaration made in terms of subsection (2).

(4) The Minister may, subject to this Act and to the provisions of the international transport treaty concerned, make such regulations as he considers necessary for giving effect to any international transport treaty.

(5) Notwithstanding section *seven* but subject to any regulations made in terms of subsection (4), the holder of a licence or other document issued in a foreign State declared to be a reciprocating State in terms of subsection (2) may operate any goods vehicle or passenger transport service to which his licence relates, without holding an operator's licence, a foreign licence or a road authority in respect of such vehicle or service.

PART V

EXAMINERS, INSPECTING OFFICERS AND INSPECTION OF VEHICLES

29 Examiners

(1) Subject to the laws relating to the Public Service, the Minister may appoint examiners—

- (a) to investigate and report to the Commissioner on any matters which require his decision; and
- (b) to examine vehicles in terms of section *thirty-two*; and
- (c) to ensure generally that holders of licences and authorities issued in terms of this Act comply with the terms and conditions of their licences and authorities.

(2) The Minister shall cause every examiner appointed in terms of subsection (1) to be issued with a badge of office or a card or other form of identity in the form prescribed.

(3) Every examiner shall, whilst on duty, wear the badge of office or carry the card or other form of identity, as the case may be, issued to him in terms of subsection (2).

30 Inspecting officers

(1) Subject to the laws relating to the Public Service, the Minister may appoint inspecting officers to inspect and test vehicles for the purposes of this Act and to issue certificates of fitness therefor.

(2) Any person who is an inspecting officer for the purposes of the traffic Act shall be deemed to have been appointed in terms of subsection (1).

(3) The Minister shall cause every inspecting officer appointed in terms of subsection (1) to be issued with a badge of office or a card or other form of identity in the form prescribed.

(4) Every inspecting officer shall, whilst on duty, wear the badge of office or carry the card or other form of identity, as the case may be, issued to him in terms of subsection (2) or in terms of subsection (2) of section *seventyone* of the traffic Act, as the case may be.

31 Issue of certificates of fitness

(1) A person who wishes to obtain a certificate of fitness for a vehicle shall apply in the prescribed form to any inspecting officer and at the same time shall pay the prescribed fee.

(2) As soon as possible after the receipt of an application for a certificate of fitness, the inspecting officer shall examine the vehicle concerned and, if satisfied that it fulfils such conditions of fitness as may be prescribed, shall issue a certificate of fitness in the prescribed form and manner.

(3) An inspecting officer shall specify in the certificate of fitness the maximum number of passengers and additionally, or alternatively, the maximum mass of goods that is permitted to be conveyed in the vehicle concerned.

(4) A certificate of fitness shall be valid for the period stated therein, not exceeding such period as may be prescribed, and shall expire on the last day of a month.

32 Examination of vehicles

(1) A police officer, examiner or inspecting officer who has reason to suspect that any motor vehicle or trailer has ceased to fulfil the prescribed conditions of fitness may order that the vehicle be produced for examination by an inspecting officer at a specified time and place.

(2) If—

- (a) any failure or defect occurs in, or accident or damage occurs to, any vehicle in respect of which a certificate of fitness has been issued in terms of this Act, and the failure, defect, accident or damage is of such a nature that it may reasonably be expected to affect the safety of passengers in or on the vehicle or of persons on any road; or
- (b) any structural alteration is made to any vehicle in respect of which a certificate of fitness has been issued under this Act; the operator of the vehicle shall forthwith report the matter to an examiner or an inspecting officer, who may order that the vehicle be produced for examination at a specified time and place.

(3) If any order given in terms of this section is disobeyed, a police officer, examiner or inspecting officer, as the case may be, may prohibit the use of the vehicle concerned until the order is obeyed.

(4) If, on examination in terms of this section, a vehicle is found not to fulfil the prescribed conditions of fitness, the inspecting officer may suspend the vehicle's certificate of fitness and prohibit the use of the vehicle until such repairs, adjustments and alterations as may be necessary have been effected to his satisfaction.

(5) If a police officer, examiner or inspecting officer prohibits the use of any vehicle in terms of this section, he shall forthwith give notice of such prohibition, in the prescribed form, to the vehicle's operator and to the Commissioner.

(6) An operator of a vehicle who, without just cause, fails to report any failure or defect in, or accident, damage or alteration to, the vehicle when required to do so in terms of subsection (2) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection substituted by Act 22 of 2001]

(7) Any person who, without just cause, uses any vehicle in contravention of a prohibition in terms of subsection (3) or (4) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection inserted by Act 22 of 2001]

33 Power to stop and inspect vehicles and require information

(1) A police officer, examiner, inspecting officer or any person designated by the Minister by notice in the *Gazette* may at any time, for the purpose of enforcing the provisions of this Act, do any one or more of the following—

- (a) stop any vehicle which he knows or suspects is a goods vehicle or is being operated in the course of a passenger transport service;
- (b) require the driver of a vehicle referred to in paragraph (a) to furnish his name and address, the name and address of the vehicle's operator and particulars of any business in connection with which the vehicle is being used;
- (c) require any person who is in or on a vehicle referred to in paragraph (a) to furnish his name and address and to state whether or not any remuneration has been or is to be given by him in respect of his conveyance in the vehicle;
- (d) require the driver or any other person in or on a vehicle referred to in paragraph (a) to furnish the name and address of the sender and consignee of any goods being conveyed in the vehicle and to furnish details of the places between which any such goods are being conveyed;

- (e) require the driver of a vehicle referred to in paragraph (a) to produce any licence issued under this Act in respect of the vehicle;
- (f) require the driver of a vehicle referred to in paragraph (a) to produce for inspection any certificate of fitness issued in respect of the vehicle;
- (g) require the driver of a vehicle referred to in paragraph (a) to produce for inspection any records that may be required to be kept in terms of any licence issued under this Act in respect of the vehicle;
- (h) order the driver of a vehicle referred to in paragraph (a) to produce the vehicle for examination by an inspecting officer at a specified time and place; and, generally, satisfy himself that the vehicle is being operated in a proper manner and in terms of any licence or authority issued under this Act in respect of the vehicle.

(2) Subsections (3), (4) and (5) of section *thirty-two* shall apply in relation to an order given in terms of paragraph (h) of subsection (1).

(3) Without derogation from subsection (4), any person who without just cause fails to comply with any direction, requirement or order given to him in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

(4) If a driver fails to comply with any requirement referred to in subsection (1), the police officer, examiner, inspecting officer or appropriate officer, as the case may be, may detain the vehicle until the driver complies with any such requirement.

PART VI

APPEALS

34 Appeals against decisions of Commissioner

(1) Subject to section *twenty-six*, any person who is aggrieved by any decision, direction, order or action of the Commissioner in terms of this Act may appeal against the decision, direction, order or action to the Administrative Court.

(2) A notice of appeal in terms of this section shall be lodged with the Registrar of the Administrative Court and the Commissioner within thirty days of the date of the decision, direction, order or action appealed against.

(3) On an appeal in terms of this section, the Administrative Court may confirm, vary or set aside the decision, direction, order or action appealed against or give such other decision as in its opinion the Commissioner ought to have given, and make such order as to costs as it thinks fit.

(4) The Commissioner shall comply with any decision of the Administrative Court made in terms of this section.

(5) The Administrative Court Act [*Chapter 7:01*], shall apply in relation to the composition, procedure and powers of the Administrative Court on an appeal in terms of this section.

(6) Where an appeal has been noted in terms of this section against— (a) the suspension or cancellation of any licence or route authority; or

(b) the refusal to renew any licence or route authority; the licence or authority concerned shall, notwithstanding its suspension, cancellation or expiry, remain valid until the decision of the Administrative Court and, pending such decision, the Commissioner shall, where the appeal concerned is against a refusal to renew a licence or route authority, furnish the appellant with such temporary document as may be necessary in the circumstances.

35 Appeals against decisions of examiners, inspecting officers, etc.

(1) Any person who is aggrieved by—

(a) the refusal or failure of an inspecting officer to issue a certificate of fitness; or

(b) the suspension of a certificate of fitness; or

(c) any order given in terms of Part V prohibiting the use of any vehicle; may appeal to the Minister, who may give such order or direction in the matter as he thinks fit.

(2) An appeal under subsection (1) shall be made in such form and manner and within such period as may be prescribed.

(3) The decision of the Minister in an appeal under subsection (1) shall be final.

PART VII

ADDITIONAL OFFENCES AND PENALTIES

36 Conveyance of more passengers on vehicle than are permitted

(1) If more passengers are found on any passenger vehicle than are permitted to be conveyed on the vehicle in terms of this Act, the conductor of the vehicle or if there is no conductor, the driver of the vehicle, shall be guilty of an

offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

Provided that, if any person who is managing or superintending the operator's business is present at the time the offence is committed, he shall also be guilty of an offence.

(2) For the purposes of this section, a child under five years of age and not occupying a seat shall not be counted as a passenger, and two children over five years of age but under ten years of age shall be counted as one passenger.

37 Conveyance of passengers on vehicle not permitted to do so

If any person causes or permits a passenger to be conveyed on a vehicle whose licence authorizes only goods to be conveyed on the vehicle, he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section amended by Act 22 of 2001]

Provided that this section shall not apply to the conveyance of—

- (a) the operator or hirer of the vehicle; or
- (b) the owner of all the goods that are being carried on the vehicle; or (c) an employee or agent of a person referred to in paragraph (a) or (b).

38 Conveyance of excess goods

If the operator or driver of a goods vehicle causes or permits the vehicle to convey goods whose mass exceeds the maximum mass permitted to be conveyed on or in the vehicle in terms of any licence issued under this Act, he shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section amended by Act 22 of 2001]

39 Failure to observe terms or conditions of licence or authority

If the operator, driver or conductor of— (a) a goods vehicle; or

(b) a vehicle used in the operation of a passenger transport service;

fails to comply with any term or condition of any licence or authority issued under this Act in respect of that vehicle or its operation, other than a term or condition to which section *thirty-six*, *thirty-seven* or *thirty-eight* relates, he shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Section amended by Act 22 of 2001]

40 Touting for custom

If the operator, driver or conductor of an omnibus or any person acting on behalf of such operator, driver or conductor, by troublesome and frequent demands or by persistent following holds out the omnibus for hire to the public or acts in any way so as to cause annoyance or inconvenience to any other person, he shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Section amended by Act 22 of 2001]

41 Passenger entering full omnibus

(1) If any person is requested by the conductor or driver of an omnibus not to enter the vehicle, and thereafter enters or attempts to enter the vehicle when it is conveying the full number of passengers it is permitted to convey in terms of this Act, that person shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

(2) For the purposes of this section, a child under five years of age and not occupying a seat shall not be counted as a passenger, and two children over five years of age but under ten years of age shall be counted as one passenger.

42 Forgery of documents

(1) Any person who forges—

- (a) any licence, authority or other document that has been or may be issued in terms of this Act; or
- (b) any timetable or other document that has been or may be approved by the Commissioner in terms of this Act; shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

(2) For the purposes of this section, the forgery of a document consists in the making of a false document, knowing it to be false, with the intention that it shall in any way be used or acted upon as genuine, and making a false document includes making any material alteration in a genuine document, whether by addition, insertion, obliteration, erasure, removal or otherwise.

43 Non-payment of fare

If any person commits any of the following acts with reference to a vehicle used in the operation of a passenger transport service, that it so say—

- (a) hires the vehicle knowing or having reason to believe that he cannot pay the lawful fare, or with intent to avoid payment of the lawful fare; or
- (b) fraudulently endeavours to avoid payment of a fare lawfully due from him; or
- (c) refuses or fails to pay on demand a fare lawfully due from him; shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Section amended by Act 22 of 2001]

44 General penalty

[Section repealed by Act 22 of 2001]

PART VIII

GENERAL

45 Minister may prohibit use of certain vehicles

(1) Where the Minister considers it is necessary in the public interest to do so, he may, by notice in the *Gazette*, prohibit the use of any goods vehicle or omnibus or any class thereof—

- (a) on all roads or on any particular road or class of roads; and
- (b) either absolutely or subject to conditions or exceptions; as he may specify in

the notice:

Provided that the Minister may grant an exemption to any person from the operation of such prohibition subject to such terms and conditions as he may consider fit to impose.

(2) Before publishing a notice in terms of subsection (1), the Minister shall—

- (a) cause not less than one month's notice of his proposal to do so to be published in the *Gazette* and in such other manner as he may think appropriate, calling upon interested parties to submit written representations regarding the proposal to the Secretary of the Ministry for which he is responsible; and
- (b) give due consideration to any representations submitted in response to the notice.

(3) The Minister may, by further notice in the *Gazette*, amend or revoke a prohibition imposed in terms of subsection (1).

(4) Any person who contravenes a prohibition imposed in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

46 Minister may prohibit conveyance of certain goods

(1) Where the Minister considers it would be contrary to the public interest to permit the continued conveyance by road transport of any goods, he may, by notice in the *Gazette*, prohibit, for such period as he may specify, the conveyance of those goods—

- (a) on all roads or on any particular road or class of roads; or
- (b) either absolutely or subject to conditions or exception as he may specify in the notice:

Provided that the Minister may grant an exemption to any person from the operation of such prohibition subject to such terms and conditions as he may consider fit to impose.

(2) Before publishing a notice in terms of subsection (1), the Minister shall—

- (a) cause not less than one month's notice of his proposal to do so to be published in the *Gazette* and in such other manner as he may think appropriate, calling upon interested parties to submit written representations regarding the proposal to the Secretary of the Ministry for which he is responsible; and
- (b) give due consideration to any representations submitted in response to the notice.

(3) The Minister may by further notice in the *Gazette*, amend or remove a prohibition made in terms of subsection (1).

(4) Any person who contravenes a prohibition imposed in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

47 Relaxation of Act to facilitate certain works

(1) Where any works are being constructed, altered or maintained by or on behalf of the State or any body incorporated directly by any enactment, and the Minister considers that the efficient completion of the work would be

seriously affected if all or any of the provisions of this Act were to apply to or in respect of— (a) the area in which the construction, alteration or maintenance is being carried out; or

(b) any road giving access to that area; or

(c) any motor vehicle or trailer used exclusively in connection with the construction, alteration or maintenance; the Minister may, by notice in the *Gazette*, declare that the provisions concerned shall not apply to or in respect of that area, road or vehicle.

(2) The Minister may, by further notice in the *Gazette*, amend or revoke a declaration made in terms of subsection (1).

48 Licence to remain valid under certain circumstances

(1) Notwithstanding section *eleven*, where the holder of an operator's licence or foreign licence dies, is declared insolvent, assigns his estate under the law relating to insolvency or is declared incapable of managing his affairs or, being a body corporate, is placed under liquidation, his executor, trustee, assignee or curator or liquidator, as the case may be, with the permission of the Commissioner and subject to such conditions as the Commissioner may impose, may carry on the operations to which the licence relates on behalf of the holder thereof and shall have all the rights and powers of, and be subject to all the duties, obligations and penalties under this Act as if he were the holder of the licence.

(2) Where the holder of an operator's licence or foreign licence dies, is declared insolvent, assigns his estate or is declared incapable of managing his affairs or, being a body corporate, is placed under liquidation, the Commissioner may pending the appointment of an executor, trustee, assignee or curator or liquidator, as the case may be, authorize any person whom he thinks fit to carry on the operations to which the licence concerned relates and subsection (1) shall apply, *mutatis mutandis*, in relation to any such person.

49 No refund of certain fees

Subject to any regulations such as are referred to in paragraph (h) of subsection (2) of section *fifty-two*, no fee paid in terms of this Act or any other enactment shall be refunded upon the suspension or cancellation of any licence or authority in terms of this Act.

50 Recovery of fares in certain cases

(1) If the operator of a vehicle or his employee or agent agrees to convey a passenger and receives the fare or any portion of the fare for such conveyance before he has completed the journey agreed upon, he shall issue a printed ticket or receipt to the passenger in such form as may be approved by the Commissioner.

(2) If, after a fare or a portion of a fare has been received as provided in subsection (1), the vehicle concerned—

(a) fails to commence the journey on the day specified in its timetable or, where the vehicle is hired or is to be operated on an organized tour, within a reasonable time after the time agreed upon; or

(b) fails to reach its destination within a reasonable time after the time specified in its timetable or the time agreed upon, as the case may be, owing to a break-down or any fault or neglect of the operator, his agent or employee; the operator or his agent or employee shall, on demand, refund to the passenger the whole fare paid by him.

(3) Any person who fails to pay on demand any amount due in terms of this section shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

51 Evidence and presumptions

(1) Any document purporting—

(a) to be an extract from any register or record kept by the Commissioner; or

(b) to state facts obtained from records kept by the Commissioner or are known to him in his official capacity; and purporting to be certified by the Commissioner as a true extract or correct statement, as the case may be, shall be received in any court on production by any person and without further proof as *prima facie* evidence of the facts stated therein.

(2) In any prosecution for an offence under this Act involving the conveyance of a passenger or goods for hire or reward, where it is proved that the accused person conveyed a passenger in a vehicle on a road in such circumstances as afford reasonable grounds for suspecting that the conveyance was made for hire or reward in contravention of this Act, it shall be presumed, unless the contrary is proved, that the conveyance was made for hire or reward.

(3) In any prosecution for an offence under this Act, other than an offence in terms of section *seven*, where it is alleged that any vehicle was a goods vehicle or a vehicle used in the operation of a passenger transport service, the vehicle concerned shall be presumed, unless the contrary is proved, to have been a goods vehicle or a vehicle used in the operation of a passenger transport service, as the case may be, at the time the offence was allegedly committed.

(4) In any prosecution for an offence under this Act, it shall be presumed, unless the contrary is proved, that each of the following persons was the operator of any vehicle at the time of the offence was allegedly committed—

- (a) the owner of the vehicle;
- (b) the person in whose name the vehicle was registered in terms of the vehicle Act; (c) the driver of the vehicle;
- (d) in the case of a goods vehicle, the owner of any goods that are being carried on the vehicle at the time.

52 Regulations

(1) The Minister may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed in order to carry out or give effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the inspection of vehicles from time to time for the purpose of ensuring that they are of such construction and in such condition as complies with the requirements of this Act;
- (b) the use, for such period as may be prescribed and subject to such conditions as may be prescribed, of vehicles notwithstanding that no licence or authority has been issued in terms of this Act in respect of such use;
- (c) requiring the operator of any vehicle to display on the vehicle, in such form, manner and position as may be prescribed—
 - (i) his names and business address; and
 - (ii) the maximum number of passengers or mass of goods that may be conveyed in or on the vehicle in terms of this Act; and
 - (iii) in the case of a passenger vehicle, the destination of the vehicle; and
 - (iv) any signs required in terms of any other enactment;
- (d) the conditions upon which the conveyance of passengers or goods or both for hire or reward may be conducted and, where necessary, the prescribing of different conditions in respect of different classes of services, operations or vehicles;
- (e) requiring the operator of any vehicle or class of vehicle to provide the Minister with such information as may be prescribed relating to the operating costs of the vehicle or class of vehicles; (f) fees relating to—
 - (i) applications for and the issue of any licence, permit, authority or other document in terms of this Act; and
 - (ii) any service that may be performed in the interests of any applicant in terms of this Act;
- (g) on the advice of the Board of the Zimbabwe National Road Administration set up in terms of the Roads Act [*Chapter 13:18*] road user charges and transit fees payable by owners of vehicles in respect of which a licence has been or is required to be issued in terms of this Act;

[Paragraph amended by Act 6 of 2001]

(h) refunds of fees and charges paid in terms of this Act; (i) the detention of vehicles.

(2a) The money received in terms of paragraph (g) of subsection (2) shall be paid into the Road Fund set up in terms of the Roads Act [*Chapter 13:18*].

[Subsection inserted by Act 6 of 2001]

(3) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof, but no such penalty shall exceed a fine of level four.

[Subsection amended by Act 22 of 2001]

53 Repeal of Cap. 13:10

Subject to section *fifty-four*, the Road Motor Transportation Act [*Chapter 13:10*] is repealed.

54 Transitional provisions and savings

(1) In this section—

“fixed date” means the date fixed in terms of subsection (2) of section *one* as the date of commencement of this Act;

“repealed Act” means the Road Motor Transportation Act [*Chapter 13:10*].

(2) Notwithstanding any other provision of this Act—

- (a) any road service permit or temporary road service permit which was in force immediately before the fixed date in relation to any vehicle the operation of which, in terms of this Act, requires the issue of an operator’s licence shall continue in force for the period for which it was issued as if it were an operator’s licence, and may be amended, renewed, suspended or cancelled accordingly in terms of this Act;
- (b) any vehicle in respect of which a road service permit or temporary road service permit referred to in paragraph (a) has been issued may continue to be operated while the permit remains in force in terms of that paragraph, notwithstanding that no licence or route authority has been issued in respect of the vehicle in terms of this Act;

- (c) any emergency permit issued in terms of Part IV of the repealed Act and in force immediately before the fixed date shall continue in force for the period for which it was issued, and any provisions of the repealed Act or regulations made thereunder which applied to such a permit or to the operation of any vehicle thereunder shall continue so to apply in respect of any such emergency permit;
- (e) any regulation or notice which, immediately before the fixed date, was in force under the repealed Act shall continue to have force after that date, *mutatis mutandis*, as if it had been made under the appropriate provision of this Act, and may be amended or repealed accordingly;
- (f) any certificate of fitness or other document issued, order or direction given or other thing made, done or commenced under the repealed Act which had or was capable of acquiring force immediately before the fixed date shall continue to have the same force or to be capable of acquiring force, as the case may be, after that date, *mutatis mutandis*, as if it had been issued, given, made, done or commenced, as the case may be, under the appropriate provision of this Act;
- (g) where on the fixed date any matter for decision is pending before the Controller of Road Motor Transportation referred to in section *three* of the repealed Act, it shall be concluded by the Commissioner on or after the fixed date in terms of this Act;
- (h) where on the fixed date any review or appeal brought in terms of the repealed Act is pending before, or under consideration by, any court, the review or appeal shall be concluded by the court after the fixed date and, for such purpose, the provisions of the repealed Act shall remain in force.