

Chapter 367.
Licensing of Heavy Vehicles Act 1977.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 367.

Licensing of Heavy Vehicles Act 1977.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Licensing of Heavy Vehicles Act 1977,

Being an Act to control the licensing of heavy vehicles engaged in commercial carrying within a province and between provinces, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the Board**” means the Land Transport Board established under the *Land Transport Board Act 1968*;

“**certificate of registration**” means a certificate of registration of a motor vehicle granted under the *Motor Traffic Act 1950*;

“**the Chairman**” means the Chairman of the Committee;

“**the Committee**” means the Transport Committee established under Section 2;

“**the Controller**” means the Controller appointed under the *Prices Regulation Act 1949*;

“**heavy vehicle**” means a vehicle for which a certificate of registration is current that has a carrying capacity exceeding 4,000kg and includes a prime mover coupled to a trailer whose joint capacity exceeds 4,000kg;

“**highway licence**” means a licence issued for a heavy vehicle which plies for hire or reward on inter-provincial journeys;

“**inspector**” means an inspector appointed under Section 17;

“**inter-provincial journey**” means a journey between one province and another province;

“**label**” means a label issued with a licence for affixing to a vehicle;

“**licence**” means a licence granted under this Act;

“**licensed vehicle**” means a heavy vehicle the subject of a licence;

“licensing authority” means, in respect of—

- (a) a highway licence—the Board; and
- (b) a provincial licence, in relation to the area for which the licence is issued—
 - (i) the Provincial Government body; or
 - (ii) [Repealed by implication].
 - (iii) [Repealed by implication].;

“owner”, in relation to a heavy vehicle the subject of a hire-purchase agreement, means the hirer under that agreement;

“provincial journey” means a journey with its starting point and ultimate destination within the boundaries of the same province;

“provincial licence” means a licence issued for heavy vehicles that ply for hire or reward on provincial journeys;

“the Superintendent” means the Superintendent of Motor Traffic under the *Motor Traffic Act 1950*;

“this Act” includes the regulations made under this Act.

PART II. – TRANSPORT COMMITTEE.

2. TRANSPORT COMMITTEE.

(1) A Transport Committee is hereby established for the purposes of this Act.

(2) The Committee shall consist of–

- (a) the Departmental Head of the Department responsible for transport matters, who shall be the Chairman, or a person nominated by him; and
- (b) five persons, of whom at least one person represents operators of heavy vehicles and one person represents drivers of heavy vehicles, nominated by the Minister or his nominee.

3. PROCEDURE, ETC., OF THE COMMITTEE.

(1) The Chairman shall convene meetings of the Committee from time to time as required.

(2) At a meeting of the Committee–

- (a) the Chairman and two members are a quorum; and
- (b) all matters shall be decided by a majority of votes of members present and voting; and
- (c) the Chairman shall have a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(3) The Committee shall cause minutes of its meetings to be kept and shall, as soon as practicable after a meeting, forward a copy of the minutes to the Board.

(4) Subject to this Act, the procedure at a meeting of the Committee shall be as determined by the Committee.

4. FUNCTIONS OF THE COMMITTEE.

The functions of the Committee are to consider and recommend to the Board–

- (a) maximum freight rates; and
- (b) special safety equipment for heavy vehicles; and
- (c) fares that may be charged for passengers permitted to be carried on heavy vehicles.

PART III. – LICENCES, ETC.

5. APPLICATION FOR LICENCE.

(1) The Board shall, from time to time, after making such inquiries as it thinks fit, determine–

- (a) the routes or sections of routes; and
- (b) the type and availability of freight to be carried over a particular route or section of a route,

in respect of which an application for licence may be made.

(2) The Board shall publish in the National Gazette and in a newspaper circulating in the area particulars of–

- (a) the licences available; and
- (b) the licensing authority from whom the licences are available; and
- (c) any conditions to which a licence may be subject,

and shall invite applications for the issue of licences.

(3) A person may apply for–

- (a) a highway licence; or
- (b) a provincial licence; or
- (c) a highway licence and a provincial licence,

in respect of a heavy vehicle that he owns or operates for hire or reward.

(4) An application under Subsection (3) shall be made–

- (a) in respect of a highway licence–to the Board; or
- (b) in respect of a provincial licence–to the licensing authority for that province.

(5) An application under this section shall be in the prescribed form and shall be accompanied by the prescribed fee.

6. PUBLICATION OF NAMES OF APPLICANTS.

(1) The licensing authority shall, after receipt of applications for a licence, and before the granting of a licence, publish the names of the applicants in a newspaper circulating in the area.

(2) A person may lodge with the licensing authority an objection to an application within 14 days of the publication under Subsection (1).

(3) The licensing authority may, after making any enquiries that it thinks fit–

- (a) uphold an objection made under Subsection (2) and reject the application to which it relates; or
- (b) reject the objection.

7. LICENCE MAY BE GRANTED.

(1) Before deciding whether to grant or refuse an application for a licence the licensing authority shall consider—

- (a) whether the heavy vehicle to be licensed is suitable for the type of operation proposed by the applicant; and
- (b) whether the applicant has the financial ability to carry on the business of a heavy vehicle operation; and
- (c) any other matter relevant to the circumstances,

and the licensing authority may grant or refuse an application for a licence.

(2) Where there is more than one applicant for a licence for the same type of operation or route, the licensing authority shall give preference to the applicant—

- (a) whose income is solely derived from commercial carrying work; or
- (b) who is a citizen; or
- (c) that is a corporation to be regarded for the purposes of this Act as a citizen being—
 - (i) governmental bodies within the meaning of Section Sch.1.2(1) of the *Constitution* that are corporations; and
 - (ii) incorporated land groups within the meaning of the *Land Groups Incorporation Act 1974*; and
 - (iii) business groups within the meaning of the *Business Groups Incorporation Act 1974*.

(3) A licence granted under this section shall be subject to such conditions (if any) as the licensing authority thinks fit and endorses on the licence.

(4) This section does not authorize the licensing authority to grant a licence that entitles the holder, other than the State, of the licence to a monopoly in an operation or a route.

8. HEAVY VEHICLES TO BE LICENSED, ETC.

(1) A person who—

- (a) owns or operates or permits to be operated, a heavy vehicle for hire or reward without having first obtained a licence or permit under this Act in respect of that vehicle; or
- (b) owns or operates or permits to be operated a licensed vehicle for hire or reward—
 - (i) in an area other than the area for which the licence was granted; or
 - (ii) in contravention of a condition of the licence; or
- (c) owns or operates or permits to be operated a heavy vehicle for which a permit to operate has been granted under this Act, in contravention of a condition of the permit,

is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K100.00.

For a second offence—a fine not exceeding K200.00.

For a third offence—a fine not exceeding K500.00.

(2) Where the person who owns or operates a heavy vehicle licensed under this Act for hire or reward has been convicted of an offence under Subsection (1) more than three times, the licensing authority that granted the licence—

(a) may cancel the licence; and

(b) recommend the cancellation of the certificate of registration and the Superintendent may cancel the certificate.

(3) Where a licence for a heavy vehicle is cancelled under Subsection (2) the owner or operator of the heavy vehicle must, within 14 days of the cancellation, return the licence and produce the heavy vehicle to the licensing authority that issued the licence or an inspector, who shall ensure that the label is removed or defaced.

Penalty: A fine not exceeding K200.00.

(4) Where a licence for a heavy vehicle is cancelled under Subsection (2), an owner or operator of the vehicle who uses, or permits the vehicle to be used, for hire or reward after cancellation of the licence is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K100.00.

For a second offence—a fine not exceeding K200.00.

For a third or subsequent offence—a fine not exceeding K500.00 or imprisonment for one month.

(5) Where the owner or operator of a heavy vehicle has been convicted of an offence under Subsection (4) more than three times, the licensing authority may recommend cancellation of the certificate of registration, and the Superintendent may cancel the certificate.

9. DUPLICATE LICENCE.

Where the licensing authority is satisfied that a licence or label has been accidentally lost, defaced or destroyed it may, on payment of the prescribed fee, issue a duplicate licence or label.

10. TRANSFER OF LICENCE.

(1) Subject to Section 8, the licensing authority may, if it thinks fit, on the written application of the owner—

(a) approve the transfer of a licence issued for a heavy vehicle to another heavy vehicle; or

(b) approve the transfer of a licence issued for a heavy vehicle from one owner to another owner on the sale of the vehicle.

(2) The fee for a transfer under Subsection (1) is as prescribed.

11. TRANSFER SUBJECT TO APPROVAL OF SALE.

(1) Before the payment of any money or consideration under an agreement or arrangement for the sale of a licensed vehicle the owner of the vehicle shall—

- (a) notify the Board of the total price under the agreement or arrangement for sale; and
- (b) where the price includes an amount relating to any matter other than the vehicle—specify to the Board the amount and the consideration for the amount; and
- (c) forward a copy of the agreement or arrangement to the Board; and
- (d) furnish a valuation of the licensed vehicle or any other particulars or information relating to the sale that the Board may require.

(2) Where the Board approves an agreement or arrangement for the sale of a licensed vehicle under this section, it shall transfer the licence for that vehicle to the purchaser.

(3) A person who—

- (a) fails to notify the Board under Subsection (1)(a); or
- (b) furnishes the Board with information under Subsection (1) that is false or misleading in any material particular,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

12. RENEWAL OF LICENCE.

(1) A licence granted under this Act remains in force for a period of 12 months from the date of issue and may be renewed by the licensing authority from time to time for further periods each not exceeding 12 months.

(2) A renewal of licence under Subsection (1) may be on the same conditions as the original licence, or if the licensing authority so determines, on different conditions.

(3) The licensing authority may, where it is satisfied that the owner or operator of a heavy vehicle has—

- (a) committed an offence against this Act; or
- (b) failed to comply with a condition of the licence,

refuse to renew the licence.

13. PERMITS.

(1) The licensing authority may, where it thinks fit, issue to the owner or operator of a heavy vehicle a permit to operate.

(2) A permit issued under Subsection (1) shall be—

- (a) for a specified time; or
- (b) for a particular journey or particular journeys,

and shall be subject to any conditions specified by the licensing authority and endorsed on the permit.

(3) The fee for a permit is as prescribed.

14. CARRYING OF PASSENGERS PROHIBITED.

(1) Subject to this section, a driver of a heavy vehicle who, without reasonable excuse (proof of which is on him) permits more than two persons to be passengers on the vehicle is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K100.00.

For a second offence—a fine not exceeding K200.00.

For a third and subsequent offence—a fine not exceeding K500.00.

(2) The licensing authority may, on the application of the owner or operator of a heavy vehicle, in a case where special circumstances exist, permit the carriage of more than two persons, subject to such conditions (if any) as it thinks fit.

(3) The number of persons permitted to be carried and the conditions (if any) of their carriage shall be endorsed on the permit.

15. LICENCE FEES, ETC.

(1) Fees for licences, transfer of licences and permits issued by the Board shall be paid into the Consolidated Revenue Fund.

(2) Fees for licences, transfer of licences and permits issued by a licensing authority other than the Board shall be paid into the general revenue of the licensing authority.

16. APPEAL, ETC.

(1) Subject to Subsection (2), a person aggrieved by an act or decision of the Board or a Licensing Authority may, within 21 days of the act or decision, appeal to the Minister.

(2) A person aggrieved by a decision of the Minister may, within 30 days of the decision, appeal to a District Court Magistrate whose decision is final.

PART IV. – INSPECTORS.

17. INSPECTORS.

(1) The Board may, by notice in the National Gazette, appoint persons to be inspectors for the purposes of this Act.

(2) For the purposes of this Act, each member of the Police Force shall be deemed to be an inspector.

18. POWERS OF INSPECTORS.

An inspector may, at any time–

- (a) require the driver of a heavy vehicle to stop and produce the licence for the vehicle; and
- (b) inspect a licence or permit granted in respect of a heavy vehicle; and
- (c) request information from the driver, owner or operator of the vehicle concerning–
 - (i) the certificate of registration; and
 - (ii) the commencement and destination of a journey.

19. OBSTRUCTION OF INSPECTOR.

Any person who–

- (a) fails to stop a vehicle when required to do so by an inspector; or
- (b) hinders or obstructs an inspector in the execution of his duty; or
- (c) does not, when requested by an inspector to do so, give information concerning commencement or destination of a journey; or
- (d) impersonates an inspector,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

PART V. – MISCELLANEOUS.

20. GUIDELINES AS TO UNSUITABLE VEHICLES.

(1) The Minister may, from time to time, after consultation with the Board, by notice in the National Gazette, publish guidelines as to the suitability of a type or types of vehicles for the purposes of being licensed to operate under this Act.

(2) The guidelines shall set out–

- (a) the minimum requirements for heavy vehicles owned or operated for hire or reward; and
- (b) any matters that the Minister directs.

(3) A type of heavy vehicle that does not comply with the minimum requirements set out under Subsection (2) shall not be licensed under this Act.

21. PROCEDURE AND EVIDENCE ON INQUIRY.

(1) On making inquiries into any matter under this Act the licensing authority–

- (a) is not bound to observe strict legal procedure or to apply technical rules of evidence, but may admit and consider any information available; and
- (b) may accept evidence by statutory declaration in the case of a person whose attendance before it the licensing authority considers–
 - (i) unnecessary; or
 - (ii) would occasion undue hardship.

(2) Evidence taken in accordance with this section shall not be published to any person other than the licensing authority or the Minister.

22. FREIGHT RATES.

(1) The Board may, after consultation with the Controller and the Committee by notice in the National Gazette, fix and declare the maximum rates for the carriage of goods by licensed vehicles.

(2) The rates fixed under Subsection (1) may be made generally or in respect of a particular route.

(3) Where a rate has been fixed under Subsection (1) the owner or operator of a licensed vehicle, who charges in excess of that rate, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(4) Where the owner or operator of a licensed vehicle is convicted of an offence under Subsection (3), the Board may, if it thinks fit, cancel the licence.

(5) An application for a variation in a freight rate shall be made to the Chairman for consideration by the Committee.

23. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for—

- (a) restricting the hours of driving of licensed vehicles; and
- (b) prescribing the hours during which drivers of licensed vehicles may drive the vehicles without rest; and
- (c) regulating the licensing of heavy vehicles and the duration, suspension, cancellation, transfer and renewal of licences; and
- (d) prescribing special safety equipment for heavy vehicles; and
- (e) regulating the speed at which licensed vehicles may travel generally or on special routes; and
- (f) prescribing the forms of licences, labels and permits to be issued for the purposes of this Act and how labels shall be affixed; and
- (g) prescribing the matters in relation to which fees shall be payable and the fees to be paid; and
- (h) prescribing penalties of fines not exceeding K500.00 for offences against the regulations.

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